

Role of Climate Change in Exacerbating Sexual and Gender-Based Violence against Women: A New Challenge for International Law

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Abstract. The advent of climate change era has been affirmed by various global processes including 21 May 2019 recognition by the Anthropocene Working Group of ‘human impact’ in bringing profound alterations on planet earth. It has emerged as the predominant ‘world problematique’. Though entire populations are affected by climate change, women and girls suffer the most. Due to their traditional roles, women are heavily dependent on natural resources. As already seen, as a consequence of natural disasters and during Covid-19 pandemic in 2020-21, women have faced heightened real-life challenges specially being vulnerable to different forms of sexual and gender-based violence (SGBV). They suffer from a lack of protection, privacy, and mental trauma. Women are exposed to SGBV due to weak or absence of social, economic, political security and the culture of widespread impunity to the perpetrators. There is double victimization of women both as human beings and because of their gender. Effect of SGBV is highly injurious and perpetual. A close study of four main areas of international law does not yield any international legal instrument that deals with SGBV against women during and after the climate change induced disasters. This is more ominous when growing evidence suggests role of climate change in exacerbation of SGBV against women and girls. Even texts of the three specific climate change treaties (1992 UNFCCC, 1997 Kyoto Protocol and 2015 Paris Agreement) do not address this issue. It has been given attention only through the decisions of the Conference of the Parties in recent years. Due to serious psychological and bodily harm SGBV causes to women, it needs to be explicitly factored in respective international legal instruments on climate change and disasters. Amidst ignorance, denials and lack of adequate attention as regards impact of climate change in exacerbating SGBV against women and girls from the scholars and decision-makers in the field, this study makes a modest effort to deduce and analyze – from scattered initiatives, scholarly literature in different areas, existing international legal instruments and intergovernmental processes – the growing causal relationship between climate change and SGBV against women and girls so as to suggest a way out for our better common future. It is a new challenge for international law that needs to be duly addressed in a timely manner.

Keywords: Climate change, women and girls, sexual and gender-based violence, eco-feminism, international law

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1. Introduction

Among the simmering global *problematique*, climate change has emerged as one of the predominant global factors that affects the lives on planet earth. The Anthropocene Working Group's (AWG) announcement on 21 May 2019 brought to the fore an unmistakable imprint of human activities in 'Anthropocene'¹ as the new geological epoch. The rising global temperatures cause sea levels to rise, and increasing extreme weather events result in natural calamities such as floods, droughts, storms and the spread of diseases. In fact, there is "much evidence of associations between climatic conditions and infectious diseases."² These profoundly impact upon human lives, especially on health, livelihood, and security.³

Natural disasters are regularly affecting different regions. These climatic or natural hazards are growing in range and intensity with climate change emerging as one of the important factors.⁴ Death, injury, destruction of homes, hospitals, schools, and other infrastructure are the common consequences of a natural disaster.⁵ Though the fight against climate change has become a struggle to protect our environment in general, for many of the women, it is also a direct cause of different forms of sexual and gender-based violence (SGBV).⁶

There is no specific international legal instrument to redress SGBV. Moreover, very sparse literature exists as regards role of climate change as a factor that exacerbates SGBV. The general laws relating to climate change and environmental protection do not address the gender issues specifically. Some related international legal instruments dealing with women's human rights applicable during peace, conflict, and post-conflict situations are implicitly dealing with the issue.⁷ It can be hypothesized that the existing international legal mechanisms are not adequate to address exacerbation of SGBV against women as a result of climate change. There is a need for a specific international legal instrument.

In view of lack of data, acceptance of growing evidence and availability of adequate international legal mechanisms, this study has sought to put together and analyse the facts, incidents, circumstantial evidence, processes as well as statements and decisions of the intergovernmental bodies. Therefore, the primary focus of this study is to analyse the inter-linkages and causal relationship between climate change and SGBV against women and girls. How does climate change exacerbate

SGBV against women? What are the relevant international legal instruments? How do we grapple with the challenge of SGBV in the era of climate change? These questions now haunt the scholars and the decision-makers alike. Hence, the study becomes timely and relevant with a scholarly gaze into the future.

2. Global Climate Change and SGBV

Climate change is rarely discussed in relation to violence against women. It has become a global common concern due to its role as a contributing factor in exacerbating SGBV. Though entire populations are affected by climate change, women and girls face double victimization as human beings as well as because of their gender.⁸ During emergencies, especially conflicts and disasters, women are at high risk of SGBV because of crisis in the family and society as well as due to sudden breakdown of family and community structures arising from forced displacement.⁹ As a result, women and girls become more vulnerable and face physical, sexual, psychological harm as well as denial of resources or necessary services.

In a telling comment on the ground reality of plight of women in crisis situations such as climate change induced disasters or Covid-19 pandemic since early 2020, a Russian draft-resolution (S/2020/1054) of 30 October 2020 sought to highlight vulnerability of women. This draft resolution did not find enough votes to be passed in the UN Security Council (UNSC). It provided:

Expressing grave concern about the disproportionate negative impact of the COVID-19 pandemic, notably the socio-economic impact, on women across the world, especially those in countries ravaged by armed conflicts, or in post-conflict situations, or affected by humanitarian crises.¹⁰

In the 2019 *Report on Women, Peace and Security*, the UN Secretary-General explicitly called for the urgent need to examine linkages between climate change and gender. The report observed that:

The global threat of climate change and environmental degradation is poised to exacerbate the already increasing number of complex emergencies, which disproportionately

affect women and girls. There is therefore an urgent need for better analysis and concrete, immediate actions to address the linkages between climate change and conflict from a gender perspective.¹¹

The Dominican Republic, as the UNSC President (for January 2019), organized an open debate on 25 January 2019 to address the impacts of climate-related disasters on international peace and security. However, only 5 out of 75 member States recognized gender considerations as an important issue while addressing the impacts of “Climate-Related Disasters on International Peace and Security.”¹² The issue is yet to be fully addressed and analysed under the *women, peace, and security* agenda or any other appropriate legal agenda.¹³ These assertions and exhortatory statements even within the UNSC still remain vague and guarded as regards ‘disproportionate’ effect of climate change and environmental degradation on women and girls. Ironically, it is a grim reality that the actual effect on women and girls is spoken in hushed tones and suffered by the victims in silence.

In fact, the 2019 report of the Intergovernmental Panel on Climate Change (IPCC) on ‘Global warming of 1.5 degrees’¹⁴ sought to address the consequences of an increase of natural disasters and subsequent devastation in communities all over the world. It underscored that “gender-based violence (GBV) risk becoming an even bigger problem if it is not properly tackled.” Similarly, the 2016 report of the CARE International observed that “in most disasters, women, and girls are worst affected.”¹⁵ In 2020, the International Committee of the Red Cross (ICRC) has addressed the gravity of effect of climate change and conflicts. It has observed:

Climate change is cruel. While it will be felt everywhere, its most crippling effects will be borne by the world’s most vulnerable. We witness every day the impact of climate shocks and environmental degradation on conflict-affected communities. Their ability to adapt is being radically eroded by violence and instability. These shocks cost lives.¹⁶

According to ICRC estimates, by 2050, 200 million people would yearly need international humanitarian aid especially in 20 countries most vulnerable to climate change and remain mired in conflicts.

3. How Does Climate Change Exacerbate SGBV?

SGBV prevails in each region of the world. Its perversity is shown by the fact even in the third decade of the 21st century, SGBV remains a taboo, spoken in whispers and suffered in silence.¹⁷ Though women, men, and LGBTIs are subjected to SGBV, majority of the victims remain women and girls.¹⁸ In many of the cases, women’s social positions are determined on the basis of the societal roles of men and women that are rooted in gender inequality. Women inherently face gender discrimination and remain excluded from decision-making processes.

Women and girls are subjected to various forms of SGBV within and outside the family. In such circumstances, change of environment by external phenomena –such as climate change – pushes them into a more vulnerable position. The existing gender inequalities heighten much more during contingencies or emergencies such as disasters and pandemics, calamities and conflicts¹⁹ especially when climate change results in gender-differentiated impacts.²⁰ The CARE’s 2020 report has underscored that “all forms of gender-based violence against women and girls spike during disaster and conflict” and the “climate extremes exacerbate existing inequalities, vulnerabilities and negative gender norms.”²¹

The growing worldwide evidence shows that SGBV against women increases during and after disasters.²² For example, in Darfur, low rainfall and recurrent droughts have been increasing food security and scarcity of natural resources. The UN Secretary General’s remarks to the Security Council on 23 February 2021 have graphically underscored the climate-related security risks that are devastating for girls and women who are forced to walk far to collect drinking water that exposes them to SGBV.²³ Minor girls are forced to get married due to shortage of food that is a result of climate change in a country such as Malawi. In 1997 and 2010, women, including evacuees and volunteers, faced sexual and physical violence in the aftermath of earthquakes in Japan. In 2005, the percentage of SGBV against women increased highly in the United States after Hurricane Katrina. During droughts and prolonged dry spells, Ugandan women faced domestic violence, child marriage, rape, female genital mutilation (FGM), and other harmful practices. According to a 2011 joint study of United Nations

Environment Programme (UNEP), International Centre for Integrated Mountain Development (ICIMOD), and Centre for International Climate and Environmental Research (CICERO), the trafficking of girls and women and other forms of SGBV have considerably grown due to disasters in South Asia, especially in Nepal.²⁴

The periods of disasters including climate change related migrations or displacement have also shown women and girls face more domestic and sexual violence. This assumes acute form when families have been displaced and forced to live in camps or any other place that lacks privacy. Women and girls report a high level of sexual violence during sleep, washing, bathing, and dressing in emergency shelters, tents, or camps. Poor and marginalized women have less adaptive capacities due to fewer resources and lesser access to law, policy and decision-making processes in the wake of climate change induced disasters, displacements and conflicts. Hence, women and girls suffer more and easily get exposed to SGBV.²⁵

Apart from this, women and girls suffer high levels of mortality and morbidity during the crisis. Due to their traditional roles, women are heavily dependent on natural resources. The scarcity of natural resources due to climate change and natural disasters forces women and girls to go far and take different risks to collect food, water, or firewood. This situation places an economic burden on the women and girls; as a consequence, they become vulnerable to various forms of SGBV within and outside the family.²⁶ In 2016, UNESCO highlighted violence against women in the context of climate change thus:

Noting the myriad of ways in which climate change disproportionately affects women, whether via disasters or climate-induced displacement causing highlighted sexual trafficking or the search for water and firewood resulting in increased rapes.²⁷

Thus, existing gender inequalities get heightened and new forms of SGBV emerge during and after disasters or climate change induced emergencies. Such effects are not only destructive but also perpetual. The resultant SGBV against women and girls is akin to the situation during armed conflicts.²⁸

According to a 2003 study published by World Health Organization (WHO), “changes in infectious disease transmission patterns are likely major

consequences of climate change.”²⁹ It shows that diseases change their behavior and migrate to new areas due to climate change. The food crisis due to climate change pushes human beings to find alternative sources of food that increase the chance to come into contact with animals that cause infectious diseases, for example, SARS, H5N1 avian flu, H1N1, and Covid-19 (since 2020).³⁰ In fact, climate change pushes human beings into a more vulnerable position to face pandemics like Covid-19 or other diseases. As a result, there is a crisis of the clean environment, food, water, and other essential services to fight pandemic and epidemic.³¹

SGBV against women grows considerably during emergencies including epidemics or pandemics. Older women, girls, disabled women are likely to have additional risks. Domestic violence, intimate partners’ violence, and child sexual abuse grow considerably during such contingencies. According to the UN Women’s report *shadow pandemic: violence against women and girls and COVID-19* (2020), violence against women and girls especially domestic violence or intimate partner’s violence has risen sharply because of COVID-19 that has been causing absence of money, security and other necessary services.³²

Another interlinkage has been established by the United Nations (the Secretary-General’s remarks on 23 February 2021); ICRC (on 17 September 2020) and the International Union for Conservation of Nature (2020) regarding climate change, scarcity of natural resources, conflict or war and SGBV.³³ It has been emphatically stated that women bear the greatest burden of climate emergencies and they do not enjoy equal rights. In turn, it places them at great risk of SGBV.

UNEP’s 2009 report titled from *conflict to peace building: The role of natural resources and the environment*³⁴ has graphically shown the close connection between natural resources related conflicts and the environment.³⁵ Unsustainable use of natural resources combined with environmental degradation like climate change contributes to the outbreak of conflict. Thus, many of the conflicts are caused by environmental degradation and climate change.³⁶ Similarly, climate change and natural disasters cause damage and scarcity of natural resources that lead to further conflicts.

As a consequence of climatic changes and conflicts, there is exacerbation of SGBV against women. Often, like in any traditional war, SGBV

has been used as a weapon to control natural resources as well as to defeat the opponent groups during conflicts. The result ultimately remains the same: women's bodies become the battleground.³⁷

4. Women-Environment Umbilical Link & Eco-feminism

UNEP's landmark 2016 study on the *Global Gender and Environment Outlook*³⁸ shows that (since early 1970) scientists, including social scientists, researchers, and civil society organizations have spoken about close inter-linkages between gender and the environment. There have been different movements and activities that have brought the issue of women-environment linkages to the forefront of the global discourse. For instance, the *Chipko* movement (began on 24 April 1973), wherein the local village women hugged the trees to prevent their commercial felling at the cost of the local environment. It was an ecological movement for the protection and preservation of forests in the sub-Himalayan region. The movement invoked slogans such as "Ecology is permanent economy"³⁹ and "What do the forests bear? Soil, water, and pure air." In essence, it was women's movement that demanded their share in the environmental decision-making process.⁴⁰ In 1987, the *Chipko* movement was awarded the "Right Livelihood Award."⁴¹

In the 1970s and 1980, movement to save the Silent Valley (that gives second highest rainfall in India) in the Western Ghats of peninsular India, became an important environmental movement wherein a female Malayalam poet Sugatha Kumari, played a key role in saving the tropical rainforest from hydro-electric dam project. It brought to the fore crucial connection between rainforest and fears of climate change. In 1984, the movement led to the preservation of the Silent Valley as a National Park.⁴²

In August 1979, after the accident at the Three Mile Island nuclear plant in Pennsylvania (USA), a 12-women member group from northeastern started raising their voice against it. They spoke about ecological feminism. It focused on the relationship between women, ecology, feminism, and non-violence. The group organized an event in 1980 on 'women and life on earth' (a conference on eco-feminism) that brought together six hundred women from the northeastern USA.⁴³ It made the term eco-feminism⁴⁴ popular globally. Though the

term was used for the first time by Françoise d'Eaubonne, it became buzzword in protests against environmental destruction. Thus, whenever women raised their voices against environmental destruction, they became aware of the connection between violence against women and nature.⁴⁵

The 'women and life on earth' event agreed on a unity statement that formed a basis for their joint struggle. They connected the exploitation and brutalization of earth and violence against women, including physical, psychological, and economic violence. It was stated that the human-made historical divisions of race, poverty, class, age and sexual preference kept women apart and politically powerless. The future solutions included the end of militarism, a future based on a feminist perspective, a growing understating and appreciation of racial, sexual, and ecological diversity. The conditions of survival identified were decentralized communities based on interdependence, self-reliance, and other basic ecological principles that are not abstractions.⁴⁶

Another famous women's peace movement was 'the women's Pentagon Action' that took place during 16-17 November 1980. Around 2,000 women surrounded the Pentagon in Washington, DC. The unity statement of Pentagon Action was:

We are gathering at the Pentagon on November 17 because we fear for our future lives. We fear for the life of this planet, our earth and the life of our children who are our human future . . .⁴⁷

In fact, they wanted a system based on sustainable development, e.g., use of renewable energy, sustainable use of natural resources that belong to communities and not for corporations, end of violence against women as a weapon of war.

The 1982 *Navdanya* movement, led by environmental activist Vandana Shiva, started to empower women against globalization. It was an eco-feminist movement that focused on the farming system organized by women farmers. It brought into being an organization *Navdanya* to promote biodiversity conservation and organic farming to provide market for the women farmers and promote quality food for the consumers.⁴⁸

The Pentagon Action was again revisited on 15 November 2016 in Western Massachusetts.⁴⁹ They identified two threats to life on earth 'climate change' and 'nuclear weapon'. It addressed seminal issues such as women empowerment and watershed movements,⁵⁰ the culture of rape and SGBV,⁵¹ the

connection between war and climate disruption (war and warming)⁵² as well as violence, war and gender.⁵³

A close connection came to be established between 'war and warming' by highlighting war for fossil fuel and climate change resulting from global warming. The use of fossil fuels by the military and during conflicts causes enormous pollution that impacts climate change. There is a gross inequality in the budgets earmarked for the military and the renewable sources of energy. It is reflected in very small amounts spent on environmental protection and climate change as compared to huge expenditures on armaments and militarization that also contribute to environmental degradation. Hence, it has been felt that:

bigger spending in all involved countries on high-tech weapons, deploying more forces, and more military joint exercises will exacerbate climate change emissions and heighten the potential for nuclear war, risking another kind of climate change-nuclear winter.⁵⁴

In the emerging scenario, there appears a close connection between climate change and warfare. At the same time, climatic changes result in human suffering, environmental degradation, violence and further resource related conflicts. For instance, Syrian people have faced the worst drought during 2006 to 2011. War and climate change induced severe water scarcity have cumulatively led to governance failure that, in turn, further accentuated the existing brutal conflict endangering and worsening lives especially of women. The terminology ecofeminism became popular (in 1970s and 1980s) with these women led movements driven by feminism, peace, and the ecological issues.⁵⁵

If we closely examine, the aims and objectives of ecofeminism have been institutionalized under the umbrella of the United Nations. For instance, UNEP launched a major 2016 study (The Global Gender and Environment Outlook) at the second session of the UN Environment Assembly⁵⁶ as well as it was literally legalized by inclusion of gender into it. This has been affirmed in 2019 (decision 3) COP25 of UNFCCC on *Enhanced Lima Work Program on Gender and its Gender Action Plan*.⁵⁷

It is in the abovementioned context of the history of eco-feminism that the recent focus on the interconnectedness on climate change and SGBV

against women needs to be understood. In a 2014 book *Ecofeminism* has sought to explain the crucial linkage between environmental destruction and violence against women. It has succinctly observed:

Whenever women acted against ecological destruction or/and the threat of atomic annihilation, they immediately became aware of the connection between patriarchal violence against women, other people and nature, and that in defying this patriarchy we are loyal to future generations and to life and this planet itself. We have a particular understanding of this both through our natures and our experience as women.⁵⁸

Hence, they inter-connected technology, harmful developmental practices amounting to 'war against nature', SGBV against women, and endangering of sustenance of the future generation. It has come to be reflected in both theories as well as visible practically since women increasingly face SGBV in the aftermath of a natural disaster.⁵⁹ Thus, it clearly emerges that climate change along with other external factors contribute to and exacerbate SGBV against women and girls (see Fig. 1).

This figure underscores various dimensions of the challenge of climate change and how it vividly transgresses and exacerbates SGBV against women and girls. It identifies international legal instruments that need to incorporate the issue of climate change & SGBV linkage explicitly.

5. Existing International Law Mechanisms

There is no international legal instrument directly dealing with SGBV against women; SGBV during and after natural disasters, and SGBV caused and exacerbated by climate change related factors. Moreover, there is no specific international convention on the management of natural and manmade disasters. International legal mechanisms dealing with environment and climate change do not address the reality of issues and effects of sexual violence against women. Some international instruments are dealing with international human rights of women applicable both during peace and conflicts.⁶⁰ For instance, the Convention on the Elimination of All Forms of Discrimination against

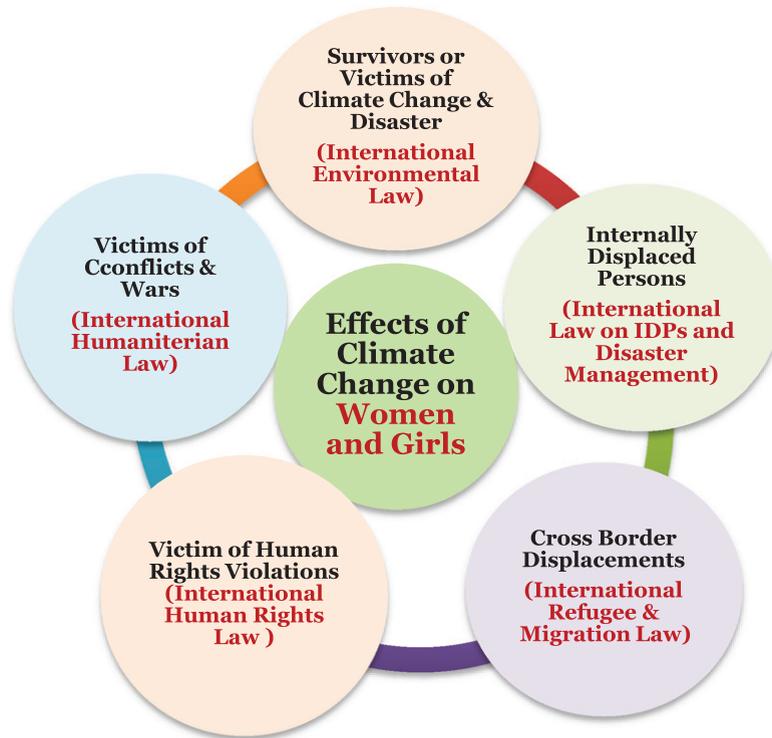


Fig. 1. Showing Effects of Climate Change in Exacerbating SGBV against Women and Girls.

Women (CEDAW); the Refugee Convention 1951; the UN Security Council resolution 1325 (2000) are all, in general, applicable to the women affected by climatic changes. Apart from it, the issue could be addressed within the corpus of international humanitarian law. The following legal analysis seeks to examine the role and the relevance of existing international legal instruments in addressing the effect of climate change in exacerbating SGBV against women and girls through four principal areas of international law: (A) international environmental law (B) international human rights law (C), international refugee law and (D) international humanitarian law.

5.1. A. International Environmental Law

In March 2019, the 4th session of the UN Environmental Assembly (UNEA) in Nairobi adopted a landmark resolution (UNEP/EA.4/L.21) on *Promoting gender equality and the human rights and empowerment of women and girls in environmental governance*. This resolution recognized – little vaguely – the crucial effect of climate change ‘disproportionately’ on women:

Considering that women and girls are often disproportionately affected by the impact of climate change and other environmental issues, including, inter alia, deforestation, loss of biodiversity, desertification, pollution and natural disasters, owing to existing gender inequality; and recognizing the active and meaningful role of women as key agents of change in developing innovative solutions to climate change and promoting sustainable and inclusive consumption and production.⁶¹

It affirmed the importance of women’s rights in the implementation of environmental policy and law, especially in the area of climate change. It is considered that women and girls are *disproportionately* affected by climate change. It seems that usage of this word reflects calculated ambiguity regarding response and responsibility of the states in mitigating effects of climate change and working out effective mechanisms to prevent and eliminate SGBV against women. This holds significance in view of gradual gender mainstreaming across environmental policies, programs, human rights commitments, and actions taken within different multilateral environmental

agreements (MEAs). In this process, the UNEP has now recognized the works of the Commission on the Status of Women (conclusion of CSW 2016, 60th Session) and resolution of the Human Rights Council (HRC, resolution 37/8) to strengthen its arguments. That provides reasonable corpus of processes, instruments and institutional *gravitas* to establish that women and girls' human rights are violated due to the harmful effect of climate change.⁶²

On 15 April 2019, in an address at the press conference held at the UN Office in Nairobi, Marta Eugenia Juárez Ruiz, the Costa Rican Ambassador to Kenya pertinently observed:

Women play a critical role in moving today's society towards environmental sustainability. At the same time, women and girls are disproportionately affected by climate change, the loss of biodiversity, pollution, natural disasters often owing to existing gender inequalities.⁶³

In 2016, UNEP and strategic partners worked on the project entitled the *Global Gender and Environment Outlook* (GGEO) to bring gender issues into the heart of environmental assessment and decision making.⁶⁴ It focused on the multidimensional relationship between environment and SDG 2030. The primary purpose was to use gender-based assessment framework and traditional environmental assessment approach of the Drivers-Pressure-State-Impacts-Responses (DPSIR) methodology together to identify differentiated impacts of environmental degradation and climate change on women. There are seventeen indicators that have been used to work on the issues and collection of gender-disaggregated data. Thus, these are the mechanism initiated by the UNEP, which do not *per se* have a force of law.

5.1.1.1. (i) Role of Multilateral Environmental Agreements

The following sections have examined as to how some of the multilateral environmental agreements (MEAs) have addressed the impact of climate change on women and girls. Within the limits of time and space, this paper seeks to analyze three of the MEAs that were designed in the wake of the 1992 Rio Earth Summit: 1992 UN Framework Convention on Climate Change (UNFCCC); 1992 Convention of Biological Diversity (CBD) and 1994

UN Convention to Combat Desertification (UNCCD).

5.1.1.1. a. UNFCCC: The UN Framework Convention on Climate Change (UNFCCC), 1992,⁶⁵ and the Kyoto Protocol 1997⁶⁶ did not specifically address gender issues. The Conference of the Parties (COP) to the UNFCCC later brought in the gender issues. It can be traced to decision 36 of the COP 7 (2001) that was specifically titled as: "Improving the participation of women in the representation of parties in bodies established under the UNFCCC or the Kyoto Protocol."⁶⁷ It recalled the provision of the 1995 Beijing Declaration that stressed women's empowerment and their full participation in climate change decision-making. It was the initiatives of the women's organizations, and civil society that brought gender issues to the forum of the UNFCCC. As a result, the Women and Gender Constituency (WGC)⁶⁸ was established in 2009 as UNFCCC's one of the nine stakeholder groups for women's rights. Subsequently, this advocacy of WGC was supported by the UN entities and the Executive Secretary of the UNFCCC.⁶⁹ Subsequent COPs (for space constraints, only a few COPs have been referred here) have drawn relevant references from decisions of other institutions on role of women in combating climate change.

Decision 1 of COP 16 (2010)⁷⁰ referred to resolution 10/4 of the UN Human Rights Council on human rights and climate change. It recognized the adverse effect of climate change as an obstacle to the effective enjoyment of human rights. It recognized the need for gender equality and the effective participation of women for taking action regarding all the aspects of climate change.⁷¹ It affirmed enhanced action on adaptation based on the 'gender-sensitive' approach.⁷² The developing countries were requested to consider gender while taking any environment-related action plans or strategies.⁷³ It considered *women as a vulnerable group* to address the inter-linkage between climate change response and social and economic development by the developing countries.⁷⁴

In 2012, COP 18 (decision 23)⁷⁵ sought gender-balanced participation of women in UNFCCC negotiations and the representation of Parties in various climate change bodies. It acknowledged women's empowerment in the context of global climate change regulatory processes to inform and respond to 'gender-responsive climate policy.'⁷⁶ It was

followed up at 2014 COP 20 (decision 18)⁷⁷ that led to the ‘Lima work program on gender’.⁷⁸ It underscored the coherence between the participation of women, the adoption of gender-responsive climate policies, provisions of the CEDAW and the Beijing declaration. It has used soft terminologies such as the ‘need’, ‘request to the secretariat’, and ‘encourages the parties’. However, the Lima decision did not define the ‘gender-responsive climate change policy’ in this decision.

The advent of the 2015 Paris Agreement (COP 21, decision 1)⁷⁹ acknowledged climate change as a common concern of humankind. It has emphatically required the parties to consider gender equality and women’s empowerment while taking any climate related action.⁸⁰ It was expected to take into account the goal of gender balance (Article 15 (2))⁸¹ and called for gender-responsive action under Article 7.5.⁸² Subsequent COP meetings have embarked upon more focused attention to more gendered approach. As a result, 2016 COP 22 (decision 21)⁸³ underscored the importance of coherence between gender-responsive climate policies and the balanced participation of women. It requested for a special subsidiary body for implementation of the gender action plan, gender-related decisions and mandates under the UNFCCC (paragraph 27). As a corollary, the 2017 COP 23 (decision 3)⁸⁴ brought in the “Gender Action Plan” (GAP) to address the requirement of gender-responsive climate policy. GAP was added as an annexure to this decision. It reiterated the call for (as per decision 21 of the COP 22) special subsidiary body to implement GAP for gender-responsive policy and mainstreaming gender in the implementation of the UNFCCC⁸⁵ as well as in the climate policy and action at all levels.⁸⁶ During 2018 COP 24,⁸⁷ a workshop report was presented on “the differentiated impacts of climate change and gender-responsive climate policy and action, as well as policies, plans and progress in enhancing gender balance in national delegations.”⁸⁸ The UNFCCC Parties confirmed their commitments to review and strengthen the GAP, and Lima work program on gender as a part of COP 25.⁸⁹

As a result of series of decisions of the previous COPs, the 2019 COP 25 (decision 3) spelled out a detailed report on “Enhanced Lima Work Programme on Gender and its Gender Action Plan.”⁹⁰ The decision acknowledged the need for mainstreaming gender through all relevant targets and goals in the UNFCCC work, importance of

Lima work program on gender and GAP. It recognized that climate impacts women differently because of historical, multidimensional, and gender inequality factors. Moreover, the design and implementation of gender-responsive climate action are based on capacity building, knowledge management, sharing of experience to relevant actors.⁹¹ Now it has decided to review Lima work program at the sixty-first session of the Subsidiary Body for Implementation in November 2024.⁹²

5.1.1.2. b. UNCCD: The UN Convention on Combating Desertification, 1994 (UNCCD)⁹³ has recognized women’s role and knowledge in addressing climate change. It has stressed the role of the women in the regions affected by drought or desertification as well as for equal participation in combating desertification. Article 5 (d) of the UNCCD⁹⁴ provides for obligations of the States to facilitate participation of women and youth in mitigating the effects of drought. Article 10 and Article 19 describe women and girls as resource users. However, the UNCCD also does not deal with the issue of SGBV as a direct outcome of desertification or drought.⁹⁵

At the 2015 COP 12 (decision 29) came out with the Ankara initiative⁹⁶ that called for specific actions regarding mainstreaming gender in implementing the UNCCD.⁹⁷ It reiterated the growing global understanding that women are subjected to discrimination and violence, remain underrepresented in political and economic decision-making processes and as such lag behind in achieving the goals of SDGs and LDN.⁹⁸ As a follow up, the 2017 COP 13 (decision 30),⁹⁹ decided to “pledge to address gender inequalities which undermine progress in the implementation of the Convention.” It included ‘gender-responsive’ implementation at all levels. In fact, COP 13 became a benchmark with the adoption of UNCCD’s Strategic Framework 2018–2030 comprising gender equality, women’s empowerment and gender-responsive implementation.¹⁰⁰ The usage of soft normativity through terms such as request, invites, acknowledge, emphasize¹⁰¹ provide persuasive tools within a global convention that has a “hard shell with a soft belly.”¹⁰²

5.1.1.3. c. CBD: The Convention on Biological Diversity (CBD)¹⁰³ has recognized the “vital role that women play in the conservation and sustainable use of biological diversity” and affirmed the “need

for the full participation of women at all levels of policy-making and implementation for biodiversity conservation” (*Preamble* to 1992 CBD and 2010 Nagoya Protocol). The gender consideration is important to stop the loss of biodiversity and loss of important traditional knowledge and experience that have a close link with food security (Articles 12, 21, 22, 25 of Nagoya Protocol).¹⁰⁴ The COP-10 (decision X/19, 2010), specifically emphasized the importance of gender mainstreaming in all program of work under the Convention.¹⁰⁵

5.1.2. (ii) *Declarations and agendas*

Principle 20 of the 1992 Rio Declaration on Environment and Development,¹⁰⁶ accepted that women have a vital role in environmental management and development. Hence, the full participation of women needs to achieve the goals of sustainable development.¹⁰⁷ World Summit on Sustainable Development (WSSD), Johannesburg (2000),¹⁰⁸ reaffirmed the commitments of Agenda 21.¹⁰⁹ Chapter 24 of the Agenda 21 deals with “Global action for women towards sustainable and equitable development” that ensures equal access and full participation of women in decision making and analysis regarding the structural linkage between gender relations, environment, and development. It also states about taking measures regarding the environment and gender impacts analysis.”¹¹⁰ Some objectives are proposed for the national Governments that provide to consider adoption, strengthen, and implement legislation to prohibit all forms of violence against women. Agenda 21 ensures that gender should be taken into consideration and fully integrated into policies, programs and activities. It calls for taking urgent action by the countries to prevent impacts of environmental degradation on the lives of women in rural areas of developing countries.¹¹¹

As these growing number of instruments seek to factor in role of women, they are still treated as victims and one of the most vulnerable groups. They need to be accepted as crucial in addressing the challenge of climate change. Even as the participation of women in actual decision-making processes is not mandatory, they remain at the receiving end and disproportionately face adverse impacts of environmental degradation including climate change. Both the Rio declaration and Agenda 21 are non-legally binding international instruments. They at best remain soft

instrumentalities as they call for ‘women should be fully involved in decision making, and so on.’¹¹²

The Hyogo Framework for Action (HFA), 2005–2015, was adopted at the World Conference on Disaster Reduction (Kobe, Japan). It sought to consider gender perspective in disaster planning and response (Paragraph 13.d). Still, the meaning and mechanisms of gender perspective have not been made clear.¹¹³

5.1.3. (iii) *Environmental events*

A High-Level Roundtable on Gender and Climate Change, 2007¹¹⁴ organized by the Council of Women World Leaders (CWWL), the Women’s Environment and Development Organization (WEDO), and Heinrich Boll Foundation. The round table entitled ‘how a changing climate impacts woman’ was the first such landmark event that directly addressed the linkage between gender equality and climate change. The policy recommendations on gender and climate change were distributed among the participants that was endorsed by forty organizations globally. It was discussed that climate is not gender-neutral, and the UNFCCC does not address the issue. The linkage between gender and climate change was underscored as a matter of human rights, justice, and human security.¹¹⁵ However, it calls for an international and national legal framework that need to address gender issues by including letter and spirit of the principal international human rights instruments including CEDAW so as to give a new dimension to the structure of international environmental governance.

At the WEDO conference, the delegates addressed some issues that focused on the disproportionate impact of climate change on women and girls. It is the sovereign states that need to analyze and identify gender-specific impacts and protection measures relating to disasters and environmental changes. This process would require so, the right based approach as compared to existing charity-based approach that regards women as mere victims. In fact women’s vulnerability in the face of climate change calls for realization of fundamental human rights of women and girls.¹¹⁶

Notwithstanding above churning at the WEDO roundtable, the agenda of the Bali COP 13 of UNFCCC did not include the issue of adverse impact and vulnerability of women in the face of climate change.¹¹⁷ In view of such vagaries and

vicissitudes of intergovernmental processes, it appears, high time to have a specific global instrument to address the direct and indirect impacts of climate change on women and girls. It calls for proper analysis and identification of gender-specific impact and protection measures in the event of floods, droughts, diseases, heat waves, and other global environmental contingencies. It would require a strategy, investments and gender-specific measures as a part of overall climate change regulatory processes.¹¹⁸

5.1.4. (iv) Climate change, pandemic and violence against women

The 1995 Beijing Declaration and Platform for Action sought to probe impacts of environmental degradation, including climate change on women¹¹⁹ especially since it leads to health emergencies, including pandemic.¹²⁰ During and after disasters or pandemics, women suffer the worst forms of violence and abuse both within and outside of their homes.¹²¹ In the wake of COVID-19 lockdowns since early 2020, studies by the UN Women and others show exacerbation of violence against women and girls including sexual, physical, and psychological violence.¹²²

5.2. B. International Human Rights Law

The Committee on the Elimination of Discrimination against Women (CEDAW Committee), in general recommendation no 37 (2018)¹²³ on ‘gender-related dimensions of disaster risk reduction in the context of climate change’, has addressed the issue relating to the impacts of climate change on women. It has emphasized that “women and girls experiencing greater risks, burdens and impacts” and such situations of crisis “exacerbate pre-existing gender inequalities and also compound intersecting forms of discrimination.” There are specific categories of women who are more vulnerable such as indigenous, disabled, old, adolescents and refugees. During and after the disaster, women and girls face a heightened risk of gender-based violence, especially sexual violence. In view of this the GR 37, called for full and effective participation of women all levels of climate-related decision making as a right.¹²⁴

Both States and non-State actors are required to take effective measures to mitigate climate change and disaster and ensure protection of the fundamental human rights of affected women. It has

required the State Parties for submission of reports to the Committee under Articles 21 (1) and 18 of CEDAW to ensure both general and specific obligations relating to women’s human rights and climate change.¹²⁵ It has specifically mentioned the objective, scope and mechanisms that are indicated under other international environmental law mechanisms, e.g., Rio Conference, the Sendai Framework, COPs of the UNFCCC and, so on. Though the GR 37 has used the terms that are gender-responsive and gender-sensitive, yet they are not defined. It has followed the method of problem-based recommendation whereas the situation calls for a solution-based specific global mechanism.

The 1995 Beijing Declaration and Platform for Action (paragraphs 246–258) addressed the issue of environment and women that called for involvement of:

women actively in environmental decision-making at all levels; integrate gender concerns and perspectives in policies and programmes for sustainable development; and strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environment policies on women.¹²⁶

It sought to interconnect impacts of environmental degradation, including climate change and women. Though the main focus was on the health and displacement of women, still it made sense as to how environmental degradation and climate change inequitably make an impact upon women and girls.¹²⁷

In 2009, the Human Rights Council (HRC) adopted a resolution on human rights and climate change. It has been recognized that the effects of climate change will be felt most acutely by the people who are already vulnerable because of gender, age, disability, and so on. It has been recognized that climate change is a global problem. Hence, a global solution is required with active international cooperation and effective implementation of the UNFCCC.¹²⁸ In 2008, resolution 7/23 was adopted by the HRC on human rights and climate change. It did not mention anything about gender or violence against women. Instead, climate change was identified as a threat to the full enjoyment of human rights. Inference can be made that human rights include the human rights of women also.¹²⁹

In 2009, the Office of the United Nations High Commissioner for Human Rights reported on the relationship between climate change and human rights (A/HRC/10/61).¹³⁰ The UN Sustainable Development Goals for 2015–2030 cover gender equality and climate change and disaster risk reduction. In 2015, the Third International Conference on Financing for Development in Addis Ababa also adopted a document to address gender equality and women's rights regarding climate change and disaster risk reduction.¹³¹

5.3. C. International Refugee Law

The 1951 Refugee Convention does not include climate change induced refugees.¹³² In 2018, the UNGA adopted the *Global Compact on Refugees* that implicitly brought within its ambit the climate-induced refugees:

Resources and expertise to strengthen access to justice and the security and safety of women and girls, including to prevent and respond to all forms of violence, including sexual exploitation and abuse, sexual- and gender-based violence and harmful practices, are called for.¹³³

UNHCR has recognized that “climate environmental degradation and natural disasters increasingly interact with the drivers of refugee movements.”¹³⁴ The concept of ‘climate refugee’ does not yet exist in international refugee law. Hence, the definition of ‘refugee’ does not include climate as a factor or *climate-induced refugees*.¹³⁵ Women migrants and refugees become vulnerable to SGBV. They face SGBV during their journey, in the shelter home either in their country of origin or country of destination or host country.¹³⁶ The UNHCR has called for an end all forms of SGBV against the refugees and focused upon the needs of the survivors.¹³⁷

The UNHCR is taking care of refugees, however, it does not include environmental refugees or climate refugees or migrants. What is the status of the climate-induced refugees in international law? What law would be applicable to them? When they are within the territory of their States of origin, it is the responsibility of the States to provide protection to the climate-induced migrants. It could be provided protection under the existing legal and institutional mechanism and/or by enacting a

specific law. Once they cross the border of their State of origin, they become vulnerable since the 1951 Refugees Convention does not apply to them and they are also unable to seek support from the UNHCR. This remains one of the grey areas of international law.¹³⁸

Still, there is a hope that the UNHCR could provide practical help and succor as indicated in the Strategic Directions 2017–2021.¹³⁹ It could comprise different commitments regarding ‘climate change and disaster displacement’ (CCDD). The UNHCR now prefers to describe them through this new category of CCDD – not as refugees. The displacement may be the internal displacement or cross border displacement. Notwithstanding this, if climate induced displacement is linked to conflicts and violence, the victims need to be covered under the 1951 Refugees Convention.¹⁴⁰

In a seminal 2017 study on *legal considerations on refugee protection for people fleeing conflict and famine-affected countries*, the UNHCR sought to explain and find a way on the ground that: “When they do not fall within the criteria for refugee status, they should be granted a complementary protection status where applicable under national law.”¹⁴¹ It is contended that such climate-induced migrants should not be forced to return to their country of origin. In fact, they need to have a legal basis to stay for a defined period on the basis of temporary arrangements that can be periodically renewed.

The UNHCR is working with the collaboration of different NGOs, UN agencies, and institutions.¹⁴² It appears to seek a new norm of international law that could provide a basis for such climate-induced migrants to get justice. As a corollary, during 2013 to 2016, the UNHCR facilitated an advisory group on *Climate Change and Human Mobility* as well as contributed in this respect to the work of the UNFCCC and its subsidiary bodies.¹⁴³

The UNHCR has played an important role in the development of the ‘Guiding Principles on Internal Displacement’.¹⁴⁴ These principles provide protection for the Internally Displaced Persons (IDPs) in both natural and human-made disasters. This soft instrumentality provides for protection to IDPs (Section III; Principles 10–23) that includes special category of Internally Displaced Women (IDW). It is significant that several of the principles focus of impact and protection for women victims of climate-induced disasters: (i) rape, mutilation, and other forms of SGBV (Principle 11)¹⁴⁵ (ii)

provides special attention to the victim of sexual abuse (Principle 19)¹⁴⁶ (iii) involvement of women in planning and management of their relocation (Principle 7).¹⁴⁷

The *Sendai Framework for Disaster Risk Reduction* (2015–2030) was adopted at the Third UN World Conference on Disaster Risk Reduction on 14 to 18 March 2015.¹⁴⁸ It sought to address the promotion of gender equality and universally accessible approaches during the response and reconstruction phases. It also highlights the role of the stakeholders in encouraging participation of women in effectively managing disaster risks and implementing gender-sensitive disaster risk reduction and resettlement in a post-disaster situation. Though it has included women, it did not specifically raise the issue of SGBV against women during and after a disaster.¹⁴⁹

Similarly, the World Humanitarian Summit 2016 and Agenda for Humanity¹⁵⁰ have addressed cross border displacement resulting from disasters. The Summit called for gender equality, empowerment of women, and women's rights during disasters as a pillar of humanitarian action. It focused on adopting international, national, and regional legal frameworks by 2025 to protect displaced people who do not have refugee status under the 1951 Refugee Convention. It has called for the empowerment of girls and women and the full and equal participation of women in the decision-making processes.¹⁵¹ The New York Declaration for Refugees and Migrants (2016) also fills in the gaps as regards international protection system for refugees and migrants. It includes climate-induced migrants (Global Compact on Refugees, 2018).¹⁵² The declaration contains some commitments that include protection of human rights of all refugees and migrants irrespective of their gender; prevent and respond to SGBV¹⁵³

5.4. D. International Humanitarian Law

It is now increasingly clear that climate change does exacerbate vulnerability and inequality during armed conflicts. The combined effect of climate change and conflicts has a highly detrimental effect on the people especially on women and girls. Since perennial conflicts destabilize the established systems and processes that could provide vital instruments for combating climate change. The

ICRC President, Peter Maurer's visit to the Sahel in 2020 showed that people of conflict-affected regions often face growing risks of flood and drought. These natural disasters and climate change force them to move away from their homes to find new livelihoods. Thus, climate change has become one of the exacerbating factors that multiply suffering and vulnerability, especially of women and girls during armed conflicts. In the emerging scenario, climate change needs to be considered one of the important international humanitarian challenges. In 2019, the ICRC, with the support of the Red Cross Climate Centre, convened a series of climate round tables to address the issue. It focused on revising the 1994 ICRC guidelines for military manuals and instructions on the protection of the environment in times of armed conflict.¹⁵⁴ As observed by Peter Maurer, ICRC President:

There is a lot of energy to find solutions, but we must help people strengthen their ability to cope with the effects of climate change and violence, as this explosive mix is not going away any time soon.¹⁵⁵

In a significant move in 2013, the United Kingdom and Sweden jointly gave a *Call to Action on Protection from Gender-Based Violence in Emergencies* that aimed to change the way gender-based violence has been addressed in most humanitarian operations through collective actions of numerous partners as well as drive change and foster accountability within the humanitarian arena. It comprises different forms of gender-based violence, especially against women and girls during conflicts and disasters. The action plan includes guidelines for internal institutional policies, inter-agency system regarding the issue.¹⁵⁶

In Part 3 above of this study (How Does Climate Change Exacerbate SGBV?), interlinkages have been suggested between climate change, scarcity of natural resources, conflicts and SGBV. It is an established fact that women and girls face different forms of SGBV during armed conflicts. The institutionalized recourse by armed groups to SGBV as a weapon of war came to the fore vividly in the award of 2018 Nobel Peace Prize.¹⁵⁷ As a corollary, women and girls who are subjected to SGBV as resulting from climate change and conflicts need to be provided protection under international humanitarian law.¹⁵⁸ Though the Fourth Geneva Convention (1949) and the two Additional Protocols (1977) provide protection of women against rape

and other forms of sexual violence during armed conflicts, however, such IHL protection is based on an outdated notion of 'honour'. Hence, it requires specific provisions that deal with rape and other forms of sexual violence against women. The concept 'honour' is a gender biased term,¹⁵⁹ especially since SV has been used against women as a 'weapon of war.' It shows that IHL is too weak to address the rights-based approach. The current IHL fails to cover all forms of SV against women. It also does not address sexual violence as a weapon of war.

6. The UN Resolutions

The resolutions of the UN Security Council especially 1325 of 2000 and other related resolutions under the rubric of "women peace and security"¹⁶⁰ as well as the UN General Assembly and SC's "twin" resolutions GAR 70/262 (2016) and SCR 2282 (2016) can provide a potent instrument to address the collective challenge of 'climate change, natural resources, conflict, and SGBV'. It can be addressed both under the agenda items (i) women, peace and security (ii) sustaining peace. It has been accepted that climate change is likely to accentuate natural resource-related conflicts around the world. In view of this, incorporation of gender perspective needs to be given a top priority in concerted processes of conflict prevention and peacebuilding. The priority attention given by the UNSC in resolution 2467 of 23 April 2019 is a positive indicator of this. As a corollary, participation of women and gender-responsive climate action plans need to be part of specific response mechanisms within the UN system and beyond. It is high time to clarify the meaning and contours of gender-responsive climate actions, put in place robust institutional mechanisms and prioritize specific focus on SGBV in concerted action within the UN system and beyond.¹⁶¹

7. The Road Ahead

In view of the above discussion, it appears that many of the challenges are yet to be identified as regards the status of climate-induced displaced people. Are they internally displaced people, refugees or stateless people? This is a prerequisite in view of growing evidence of climate change

exacerbating SGBV against women and girls both during times of peace and conflicts. In cases of internally displaced people, it is the responsibility of the respective States to provide requisite legal and institutional protection. However, in cases of cross-border displacement including climate-induced, situation becomes complicated due to apparent normative gap in providing protection especially to the women victims. As already seen earlier, the existing protection regime under IEL, IHRL, IRL and IHL are very weak and grossly inadequate specially to meet the challenge of SGBV against women that is now exacerbated by climate change. Since harmful effects of climate change in causing heightened sexual violence against women and girls has assumed serious dimensions, it calls for attention of the scholars and decision-makers to squarely address the growing global menace.¹⁶²

It now appears that there is a lack of gender-specific expertise on climate change and sustainable development issues at the international, regional, and national levels. That presents a collective challenge for all, especially relevant international institutions engaged in addressing gender dimensions of climate change. The United Nations Development Program (UNDP) has developed a series of gender and climate change training modules and policies to address this issue. It includes disaster risk reduction, energy, finance and gender-sensitive climate change response.¹⁶³

Therefore, the growing evidence and significance of exacerbation of SGBV from climate change induced events, requires: (i) explicit determination of the status of the climate change-induced displaced people (ii) need for *lex specialis* in the form of a global convention to address SGBV against women that will include climate change-induced and exacerbated violence (iii) need for a global institutional structure to forge close coordination among various institutions in the areas of environment, human rights, refugees and humanitarian realms, within and outside the UN system to provide well-coordinated protection to women and girls (iv) the UN member states need to adopt a special law to address situations and effects of climate induced disasters exacerbating SGBV against internally displaced women. (v) There should be gender-sensitive disaster management plans and full participation of women in the decision-making processes so as to ensure rights-based protection and justice.

8. Conclusion

It appears clear that women face different forms of SGBV during and after all the disasters including climate change-induced events. They are victimized doubly due to their gender. It calls for an urgent international (and national) legal and institutional mechanism to squarely address this challenge that has serious implications for the national societies, maintenance of international peace and security as well as for the international legal protection under environmental, human rights, refugee and humanitarian law systems.

The role of climate change in exacerbating SGBV against women needs to attain priority attention especially at UNGA, UNSC, ICRC, UNHCHR, OHCHR, UNDP, CEDAW Committee and UNEP to address the growing challenge in a timely and effective manner. An indication of such a pathway can be found in the adoption of Gender Action Plan (GAP) and the Lima Work Programme on Gender (LWPG)¹⁶⁴ at COP 25 of the UNFCCC (Madrid, December 2019). It is hoped that other agencies will follow this approach and work in concert to bring to fruition a time-bound plan of action to address climate change-induced and exacerbated SGBV against women and girls for our better common future. We only hope that the conscientious scholars, the UN system and the decision-makers of the sovereign states and other relevant international institutions will take this new challenge for international law and diplomacy seriously.

Endnotes

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