

UNIVERSITY OF PRETORIA

Faculty of Law



THE IMPACTS OF CLIMATE CHANGE ON CHILDREN'S RIGHTS IN SOUTHERN MADAGASCAR.

**A thesis submitted in partial fulfilment of the requirements for the degree of
MASTERS OF LAW (LLM) IN HUMAN RIGHTS AND DEMOCRATISATION IN AFRICA**

by

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October 2021

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Dedication

To the children of Madagascar

Declaration

I, Rado Harintsoa Rakotosamimanana, student no. 218 054 92 declare as follows:

1. I understand what plagiarism entails and I am aware of the University's policy in this regard.
2. This dissertation is my own, original work. Where someone else's work has been used (whether from a printed source, the internet or any other source) due acknowledgement has been given and reference made according to the requirements of the Faculty of Law.
3. I did not make use of another student's work and submit it as my own.
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Date: 29 October 2021

Acknowledgments

If it had not been for the tremendous support and help from several sources, the months, weeks, and days spent working on my dissertation would have been exceedingly difficult. Most significantly, I would want to express my gratitude to God for His loving care, which has enabled me to accomplish all of this.

I owe a debt of gratitude to my supervisors, Prof. Benyam Mezmur and Dr. Elvis Fokala for their wisdom, guidance, and mostly patience over the months, weeks, and days I worked on it. Their constructive criticism and remarkable insights into my work pushed my thinking to new heights, allowing me to produce the final but perfectible thesis you can read here.

I am deeply thankful to Prof. Frans Viljoen, Director of the Centre for Human Rights, University of Pretoria for providing me with the chance to pursue a degree at the Centre for Human Rights, Prof. Magnus Killander and Dr. Ashwanee Budoo who have immeasurably supported my academic path. I would want to express my gratitude to the whole staff of the Centre for their assistance.

I want to express my gratitude to my family in Madagascar, who have been supportive. Their encouragement made the difference.

To the adventurous friends, we made this trip possible in an adventurous way. Thank you.

Last but not least, I would like to express my gratitude to the European Union through the Global Campus of Human Rights and the Royal Norwegian Embassy in Pretoria, South Africa for funding the Master's in Human Rights and Democratisation in Africa.

Misaotra indrindra | Thank you very much | Merci beaucoup

Table of Acronyms

ACPHR	African Charter on Human and People's Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AHRS	African Human Rights System
AU	African Union
BNGRC	Bureau National de la Gestion des Risques de Catastrophes
CRC (UN)	Convention on the Rights of the Child
ESC	Economic, Social and Cultural rights
GHG	Greenhouse Gases
GOM	Government of Madagascar
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IOM	International Organisation for Migration
IPCC	Intergovernmental Panel on Climate Change
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
WFP	World Food Programme
WHO	World Health Organisation

Chapter One: Introduction

1 Background

In contemplating the realm of equity and justice, climate change emerges as a profound social injustice, impacting every facet of life on our planet, particularly the human experience. Its far-reaching effects extend to the realms of civil, political, economic, and social spheres, amplifying the chasm between the affluent and the impoverished. The cherished concept of a 'life of dignity' is now under dire threat for both present and future generations. The essence of dignity lies in the unimpeded enjoyment of fundamental rights, such as the right to life and access to clean, safe drinking water. However, when these essentials are obstructed by the consequences of climate change, the joy of their realisation is transmuted into stark deprivation.

The global community, with a poignant focus on the African continent, confronts the repercussions of global warming, evident in the escalating frequency and intensity of storms, severe drought, and the encroachment of desertification. A glaring example of the devastating impact is witnessed in Madagascar, where the Cyclone Enawo struck with unparalleled ferocity in 2017. The aftermath of the cyclone was disastrous. It has been reported that 400,000 people were victims and 80,000 persons were displaced.¹

The spectre of climate change looms as a grave threat to humanity, sparing none from its far-reaching consequences. However, it is the children, with their developing bodies and heightened vulnerability, who bear the brunt of its impacts. Their fragile condition, laid bare in the wake of climate crises, not only compromises their basic rights but, at its most dire, jeopardises their very right to life. As the world hurtles towards a climate catastrophe, imperative attention must be directed towards safeguarding the rights of the child in the face of this impending emergency.

The science of climate change has revealed that the impact of greenhouse emission which is the trigger of climate change is a natural process and necessary to keep the world warm and liveable.² Unless the temperature of the earth would be colder and makes any form of life's development difficult.³ During the first Industrial Revolution, the climate situation has rapidly changed. The production of carbon dioxide increased, causing an increase in the global mean temperature. The warming process seen as beneficial to the lives on earth transformed into a problematic situation due to the human influence. If urgent action is not taken, the temperature rise will surely go from

¹ Madagascar cyclone Enawo, Cluster Abris/Habitat Madagascar

² M Oppenheimer & JK Antila-Hughes 'Science of climate change' in *The future of children* (2016)

³ Working Group I. (2021, August). *Climate change 2021* (Sixth Assessment Report). UNEP.

bad to worse and strongly affects the entire world. The effects of climate change on individuals will worsen with each additional degree of world average rising temperature⁴.

The years 2021 and 2022 have been designated as the years of collaborative effort to address the threat posed by climate change in Africa to human and peoples' rights.⁵ The main concerns about climate change are shifted to disadvantaged populations who can identify their vulnerability to climate change's impacts. Amongst these vulnerable groups are children who have been granted special protection at international, regional, and national levels.

The current alarming fact is that there are countries that are contributing to worsening global warming and countries that are bearing the brunt of climate change. These countries are mostly African countries and one of these are Madagascar. The island is bearing the heavy impacts of climate change. For instance, the rise of sea level is threatening the coastal areas or the severe drought affecting the southern region of the country.⁶ More than 25 million Malagasies are paying heavily the cost of climate degradation which is depriving them of enjoying their human rights.⁷

Children in developing countries are way more vulnerable to the effects of climate change.⁸ In Madagascar, children already have a lot to deal with widespread poverty and the fragility of access to health care systems, making it difficult for them to be climate resilient and climate change will very certainly aggravate.⁹ Adding to this, there is no clear policy working on how the country can address climate change.

States are required to address climate change under international human rights law¹⁰. Under the international children's rights law, there are principles that States have to observe, which are the best interest of the child (BIC), the survival and development, and the principle of participation. In the context of climate change, these guiding principles are at stake.

⁴ World Health Organisation https://www.who.int/health-topics/climate-change#tab=tab_1 (accessed 3 September 2021)

⁵ ACERWC <https://www.acerwc.africa/%20News/press-statement-on-the-occasion-of-the-33rd-assembly-of-the-african-union/>. (accessed 12 September 2021)

⁶ The climate reality project <https://www.climaterealityproject.org/blog/madagascar-ground-zero-climate-injustice> (accessed 10 October 2021)

⁷ U.S Aid for International Development <https://www.usaid.gov/madagascar/environment> (accessed 26 October 2021)

⁸ Akachi, Y; Goodman, D; & Parker, D *Global Climate Change and Child Health: A review of pathways, impacts and measures to improve the evidence base* (2009) UNICEF Innocenti Research Centre.

⁹ Hallegatte, S; Bangalore, M; Bonzanigo, L; Fay, M., Kane, T; Narloch, U; Rozenberg, J; Treguer, D; & Vogt-Schilb, A *Managing the Impacts of Climate Change on Poverty. Climate Change and Development Series* (2016)

¹⁰ Paris Agreement. (2015). In *Paris Agreement*. United Nations 3

Article 3 As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.

People have argued for long that children's well-being is best served when adults exercise only as much authority over them as necessary. An adult should only make decisions for children because of their inexperience and inability to discern their interests. But are the decisions in favour of children. To better respond to this question, there should be a focus on the BIC and how it works on every decision that has been made, by judges, government or policymakers. The BIC is an important premise for children's basic rights. It is guaranteed to be applied when decisions are made about children. In a report of the UNCRC, governments have been pointed out to minimise the importance of the BIC principle in their processes of decision-making with businesses that are polluting with hazardous substances and expose children to several health risks.¹¹ To enable the consideration of the BIC, States Parties must implement mechanisms and establish regulatory measures to guarantee that persons with the responsibility to make decisions about children examine the best interest norm as a precautionary measure.¹²

This BIC has been consistently left out in any decision-making regarding the possible impacts of climate change on Malagasy children. The administrative measures related to the rights of the child are generally weak and do not give specific on any protective measures. Conflicts are palpable between the national legislation and the ACRWC concerning the BIC. There are clear shreds of evidence of the threats that pose climate change on children and how it affects their basic rights.

As for the views of the child which is closely connected to the BIC. It emphasizes the value of treating each child as an individual with values and beliefs that differ from their own. Listening to children is a sensible way to learn about their interests. The principle is enshrined in articles 7¹³ under the ACRWC and 12 :1of the UNCRC.¹⁴ In Madagascar, the process of hearing the views of children has been in a larval stage. Even if there has been small progress in implementing the Children Parliament, it has not been institutionalised. Children's voices have never been brought that far when it comes to their rights and even worse on their concerns for climate change.

The other aspect of the principle of children's rights is survival and development. Directly linked to the right to life and understanding that children are developing human beings, all policies must consider their life perspectives¹⁵. This right to life is threatened by the impoverishment of the population and exacerbated by the impact of climate change.

¹¹ Committee on the Rights of the Child. (2016). *Report of the 2016 Day of General Discussion*. United Nations Committee on the Rights of the Child.

¹² African Charter On the Rights And Welfare Of the Child

https://www.achpr.org/public/Document/file/English/achpr_instr_charterchild (accessed 12 September 2021)

¹³ ACRWC art.7

¹⁴ As above

¹⁵ ACRWC n 15 above, 12

Despite their low contribution to the world's greenhouse gas emissions, coastal areas like Madagascar are being affected by climate disasters. Every year, the country is confronting rising sea levels and more extreme weather occurrences. Climate change is a real issue that affects the world with harmful consequences. Global warming that causes multiple damages to human lives continues to destroy and kill people. Whilst policies have been negotiated on an international level, some countries cannot afford the impact of climate change. The African continent is one of the most vulnerable continents that are not prepared to face it and do not have the means to be resilient. Madagascar appears as one of the most vulnerable countries in the world when talking about tackling climate change and yet contributes less to greenhouse pollution. The country experiences severe natural disasters and serious humanitarian crises. In the South of Madagascar, about a million people are suffering from famine and the internal displacement of people of the region. More than 300,000 Malagasy children live in precarious situations.

This situation is the only climate-change-induced situation in the world and affects the essential rights of humans, especially children's rights¹⁶. In Madagascar, children are severely affected by climate hazards and their vulnerability is assessed as one of the highest¹⁷.

Given the fact that many countries are now threatened by the impact of global warming, international organisations urge the international community to take action by reducing greenhouse gas emissions¹⁸. In Madagascar, the impact of climate change is mainly palpable in the south. The drought which is affecting food security, health, access to clean water, and education seems to be on the rise. Food insecurity affects 1.14 million people in the country¹⁹. As discussed earlier, this food insecurity is mainly caused by drought which has a strong impact on agriculture as the crops are limited due to the absence of rain and neither the Malagasy law nor the African human rights system has been effective in preserving the right to protecting the rights of humans in Madagascar from this kind of severe impacts of climate change.

There are undocumented deaths in the south and nearly 3,000 Internally Displaced Persons in the Grand Sud of Madagascar²⁰ and these are due to drought.²¹ The continued neglect of the

¹⁶ World Food Programme *Climate Change: An Assault On The Hungry Poor In Southern Africa*. https://docs.wfp.org/api/documents/WFP-0000131298/download/?_ga=2.31937847.821869513.1631477249-120861849.1631477249. (accessed 13 September 2021)

¹⁷ https://experience.arcgis.com/experience/0d9d2209bf104584a65e012b03b6d3f8/?data_id=dataSource_2-17b3a7be4c5-layer-1_427%3A112. (accessed 13 September 2021)

¹⁸ UN Environment. <https://www.unep.org/news-and-stories/press-release/global-assessment-urgent-steps-must-be-taken-reduce-methane> (accessed 13 September 2021)

¹⁹ World Food Programme. https://www.wfp.org/countries/Madagascar?utm_source=google&utm_medium=cpc&utm_campaign=12704015953&utm_content=123511674387&gclid=Cj0KCQjwqKuKBhCxARIsACf4XuER0LB5t8zVLV3T5u2bWSk7I4t2DvbULNNCUnrpM1i97IjRr-aiNoaAudJEALw_wcB&gclid=aw.ds. (accessed 24 October 2021)

²⁰ Displacement. <https://displacement.iom.int/reports/madagascar-%E2%80%94-rapport-de-suivi-des-d%C3%A9placements-ao%C3%BBt-2018?close=true>. (accessed 20 September 2021)

²¹ Displacement Tracking Matrix - Madagascar 2018. (2018). The United Nations Migration Agency.

Government of Madagascar on the current situation is a blatant infringement of Human Rights and a failure of its duties to protect the right to life under the UDHR, the ACHPR, the UNCRC, the ACRWC, and the Paris Agreement regarding the provision of information to prepare for any occurrences regarding climate change.²²

1.1 Problem Statement

Climate change is a real issue that affects the world with harmful consequences. Not only is it a reality in Africa but, there are immediate and long-term repercussions for the enjoyment of a variety of rights, including the right to life, health, water, food, and a place to live.²³ One of the recurrent questions when it comes to a safe climate is: how the African Human Rights System can protect and guarantee the rights and wellbeing of future generations from climate change's detrimental effects and how each African country can enjoy this safe climate policy and regulation. Global warming that causes multiple damages to human lives continues to destroy and kill people. Whilst policies have been negotiated on an international level, several countries are struggling because they cannot afford to respond to the impact of climate change. The African continent is one of the most vulnerable continents that are not prepared to face it and does not have the necessary means to work on adaptation or mitigation strategies. Madagascar appears as one of the most vulnerable countries in the world when talking about tackling climate change²⁴ and yet has a minimal carbon footprint. The country experiences severe natural disasters and serious humanitarian crises. In southern Madagascar, about a million people are suffering from famine and the internal displacement of people of the region. More than 300,000 Malagasy children live in precarious situations.²⁵

1.2 Research Objective

The primary objective of this research is to scrutinise the ramifications of climate change on children's rights and to propose viable strategies for the Malagasy government to integrate robust protective measures specifically tailored to address the adverse impacts of climate change on children.

1.3 Research Question

This thesis aims to unravel the intricate relationship between climate change and children's rights in Madagascar, with a specific focus on economic, social, and cultural rights, the best interest of the child, the right to participation, and the broader spectrum of children's human rights. Delving

²² The Paris Agreement. (2015). [E-book]. In *The Paris Agreement* (p. 4). The United Nations.

Article 4:6 The least developed countries and small island developing States may prepare and communicate strategies, plans, and actions for low greenhouse gas emissions development reflecting their special circumstances.

²³ AO Jegede 'Climate Change And the Future Generation Under the African Human Rights System: Fostering Pathways And Partnerships'. (2021) *Global Campus Policy Briefs*.

²⁴ V20: The Vulnerable Twenty Group. <https://www.v-20.org/members/madagascar/>. (Accessed 4 October 2021)

²⁵n 17 above

deeply into the research, the objective is to comprehensively evaluate the repercussions of climate change on children's rights and explore how policies and legal frameworks can be structured to ensure sustainability for future generations. The following research questions will guide the inquiry:

- In what manner does the Malagasy government implement measures to safeguard children's rights within the context of climate change?
- To what extent does the efficacy of Malagasy legislation ensure the protection of children's rights in the face of adverse impacts stemming from climate change?

1.4 Methodology

The predominant methodology employed in this study involves a desktop research approach, spanning from the examination of normative frameworks to the analysis of the tangible impacts of climate change on children's rights. While the overarching nature of this work is descriptive, offering a comprehensive overview of the subject matter, certain sections will adopt an analytical stance. This analytical lens is strategically applied to enhance the depth of understanding and provide nuanced insights into the intricate interplay between climate change and its ramifications on the rights of children. The synthesis of normative principles and empirical analysis contributes to a more holistic comprehension of the multifaceted issues addressed in this research.

1.5 Clarification of Terminology

Definition of a child

Under the International²⁶ and Regional Legal Framework,²⁷ a child is an individual aged below 18 years old. According to the UN CRC, a child is a person below the age of 18; unless the laws of a particular country set the legal age for adulthood at an earlier stage. Article 2 of the ACRWC stipulates that every person who has not yet attained 18 years old is a minor, without distinction of grounds of sex. The national legislation joins these frameworks in its provision under the Law on the rights and protection of children.²⁸ Although the concordance of the definition of the child to an international source, the Malagasy context suffers from major contradictions. The notion of childhood differs from the Malagasy socio-cultural concept. Children are called « zaza » in the Malagasy official language, and it can go beyond the age of eighteen, some people are called « zaza » in their late twenties. When pushed further, the definition of a child is biased because of the practice of child marriage in some regions of Madagascar. Girls are trafficked or sent to marriage once they reach puberty age, -that is under 15- because they are considered adults, these

²⁶ Convention On the Rights of the Child (1989).

²⁷ The African Charter On the Rights And Welfare Of the Child (1990)

²⁸ Dispositions Générales. (2008). In *Loi 2003-027 du 20 août 2007 sur les Droits et la Protection des Enfants* (p.1). Journal Officiel de la République de Madagascar - 3 163. Article 2 Un enfant s'entend de tout être humain âgé de moins de 18 ans.

are the issues not covered by the Law on the rights and protection of the child. That is the case of the « Moletry » tradition in the northwest of the country, in which the Tsimihety tribe trades their 13-year-old daughters with zebus to old men. Adulthood is defined by the physical appearance of the person but also by the decision of the parents and/or the ones who can decide on their behalf.

Climate Justice

Climate justice is used to refer to the legal dimensions of climate change. When talking about climate justice, the ideas turn around connecting climate change consequences to the notions of social justice. Human Rights are most likely to be affected by climate change. It will have a direct impact on some individuals and places more than others, including sea-level rise, intense weather, and flooding. To achieve climate justice, the primary focus has to be on the protection of human rights

Kere

"Kere" is a term from southern Malagasy vernacular, denoting a famine induced by drought. The inaugural occurrence of "kere" was recorded in 1985. Extensive research indicates the recurrence of 16 "kere" episodes in the Grand Sud of Madagascar, each spanning one to three years. The impact of "kere" compels the population of the Grand Sud to seek refuge in areas with milder climates, where they can attempt to rebuild semblances of a dignified life. The International Organisation for Migration (IOM) has identified "kere" as a primary driver of migration, prompting individuals to relocate. This drought-induced famine has resulted in casualties among both adults and children, with the exact number of fatalities remaining unaccounted for.

In recent missions, the World Food Programme sets all the red lights and addressed a call to action for developed countries to take the necessary measures to reduce the emission of carbon dioxide and to think of reparation to the victims of their actions²⁹.

1.6 Literature Review

To begin with the literature review, the thesis will focus on the numerous international treaties and national legislation that controls the rights of children on the continental level and specifically in Madagascar, and how climate change impacts human rights. Here, I will bring the focus on children's rights. Two international instruments have been adopted and enforced to realise children's rights at the global level with the UN CRC and at the regional level with the ACRWC. The latter is more developed than the global instruments because it has to address the particular

²⁹ The Invisible Crisis: WFP Chief Appeals for the World Not To Look Away As Families Starve In Madagascar | World Food Programme. (2021, June 23). The invisible crisis: WFP Chief appeals for the world not to look away as families starve in Madagascar | World Food Programme. <https://www.wfp.org/news/invisible-crisis-wfp-chief-appeals-world-not-look-away-families-starve-madagascar>.

situations of Africa dealing with the rights of the child, namely Female Genital Mutilation, Apartheid, or child soldier. Viljoen, in this regard, mentioned that the likelihood of children being victims of human rights abuses outweighs the likelihood of adults in many ways. Children are equally vulnerable to any form of injustice perpetrated, whether on the African Continent or a global scale.³⁰ Nielsen added to this the evolving situation of children's rights in Africa by enforcing the African Children's Charter. The idea of promoting the rights of the child on the African Continent is not a new concept. Africa's childhood has been torn by several disasters like disease, famine, or armed conflict (a conflict that recruits child soldiers). It brings wellbeing and security of the child as a primary concern.³¹ Today, the challenges in children's rights are taking wider dimensions like climate change. Works of literature linked the consequences of climate change to Human Rights, as indeed, some rights guaranteed in the international and regional instruments are threatened by the negative impacts of climate change. In this perspective, Knox discusses the intertwinement of human rights and the environment. This linkage is important to be mentioned because, the possible degradation of the environment can affect the rights of human beings, and primarily the right to life.³² Knox added that there is a need to clarify the role of businesses in their involvement in environmental degradation since the pursuit of economic growth cannot compromise the right of an individual to live in a healthy environment, and most importantly the decisions that States make regarding the environment should not threaten the enjoyment of Human Rights.

Kasimbazi aligns with Knox in underscoring the significance of the right to inhabit a healthy environment, deeming it the third tier of human rights and a fundamental prerequisite for the fulfilment of broader Human Rights. He contends that the concept of a "healthy environment," albeit relatively recent, intertwines with the impact of climate change on civil, political, social, and cultural rights. States bear the responsibility of shielding their populace by ensuring the dissemination of public and transparent information and, crucially, by making decisions that do not compromise human rights. This human-rights-based approach has been adopted by policymakers and other stakeholders, evolving from a general human-rights approach to one specifically tailored to the rights of children, thereby mitigating the adverse effects of climate change on people's rights.

³⁰ F Viljoen Supra-national human rights instruments for the protection of children in Africa: the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child (1998) 3 *The Comparative and International Law Journal of Southern Africa* 199–212.

³¹ J Sloth-Nielsen 'Children's Rights and the Law in African Context' in Routledge (ed) *Children's Rights in Africa* 4.

³² J Knox Human Rights, Environmental Protection, and the Sustainable Development Goals (2015) *Washington International Law Journal*

Karin Arts clarifies this link between children's rights and climate change³³ in three ways, first because the number of childhood population in the world, added to the youth population equals the majority of the population in the world, which makes them the most affected by it, and especially in developing countries. The case of the very young population in Madagascar can be taken here as an example.³⁴ Second, children are fragile compared to adults so they can be easily affected by the impacts of climate change. The intensifying cold weather can affect their health and triggers respiratory diseases.³⁵ The third link is the long effects of climate change. Children and future generations will be exposed to its negative impacts and disproportionately. Additionally, children's rights, as a distinct component of Human Rights, cannot be understood in isolation from their political, economic, and social contexts. To ensure the security and well-being of their inhabitants, sovereign governments are required to carry out their role.

Madagascar has abdicated its role as a guardian of human rights, particularly concerning children. One key factor contributing to this neglect is the adoption of a governance model resembling predation, wherein leaders prioritise personal gain and power over their obligation to protect human rights. Evident signs of patrimonialism are discernible, with leaders often embracing a « politique du ventre »³⁶, symbolising a pursuit of personal benefits and interests over the welfare of the populace.

There are numerous documents on climate change and how it affects human rights, but these documents rarely focus on children's rights and even less on children in Africa. Climate change's impact on children's rights in Madagascar cannot be underestimated. Madagascar is considered to be one of the world's most vulnerable countries to climate change³⁷.

Protecting the rights of the child is a duty of each State parties of the ACRWC., however, some gaps need to be addressed in the ACRWC as it can influence the implementation of the national policy or regulations. When talking about climate change, the events of displacement appear quite often. Mezmur and Adeola argue the detrimental effects of displacement on children and how it affects the enjoyment of their rights as children. These rights might include the right to health, the right to adequate food or the right to life as the latter is dependent on any other economic and social

³³ K Arts Children's Rights and Climate Change. In *Children's Rights and Sustainable Development: Interpreting the UNCRC for Future Generations (Treaty Implementation for Sustainable Development)* (2019)pp. 216–235 Cambridge University Press.

³⁴ Institut National de la Statistique, World Bank Group, United States Agency for International Development, & UNICEF. (2018). *Madagascar Multiple Indicator Cluster Survey*. UNICEF.

³⁵ World Health Organization. (n.d.). *Global Health Observatory Data Repository*. <https://apps.who.int/gho/data/view.main.ghe3002015-CH9?lang=en> (accessed 24 October 2021)

³⁶ François, B. (1990). Bayart (Jean-François), *L'Etat en Afrique. La politique du ventre*, Paris, Fayard, ("L'espace du politique"), 1989. *Politix*, 9, 94-96.

³⁷ The Vulnerable Twenty Group. <https://www.v20.org/members/madagascar/> (accessed 24 October 2021)

rights. One of the challenges that Internally Displaced Children face is the absence of a law that can protect them from any harm that may occur during the displacement.³⁸ The case of Madagascar is discussed in Chapter Four concerning the children forced to be displaced due to climate change.

Jegade's analysis of the nexus between climate change and how it can impact future generations draws the lack of clarity in the interpretation of the existing instruments³⁹ - protection of the future generations- Though there are uncertainties in the legal frameworks on how the instruments can protect future generations, Jegede stressed that climate change is undeniable, as are its negative consequences, and there is a certitude that climate change will erode rights in Africa, both now and in the future.

Whatever the effects of climate change are, the current generation can save the future generation so they can sustainably enjoy resources. According to IPCC reports, Madagascar would face higher stress, lower rain-fed agriculture harvests, rising extreme poverty and hunger, deterioration of the environment, and a rise in desert and semi-arid terrain. Severe climate phenomena, such as drought, floods, and weather events, are also anticipated to become more common and intense across the country. Mezmur and Adeola discuss the lack of clarity on Article 23(1) of the Kampala Convention when using the term « appropriate measures » for the protection of IDC and should follow the guiding principles of protection of IDC⁴⁰.

1.7 Limitations of the study

The study has certain limitations that warrant consideration. Firstly, the research was conducted within a relatively brief timeframe, spanning from the beginning of September to the end of October. This compressed schedule imposes constraints on the depth and breadth of the investigation into climate change and its repercussions on children's rights in Madagascar. The condensed period may have influenced the comprehensiveness of the findings, allowing for only a snapshot rather than a comprehensive exploration.

Secondly, the geographical scope of the study is confined to specific regions of Madagascar, notably the impact on children's rights in the Grand Sud. Other regions with potentially distinct climate change impacts on children are not covered due to the diverse nature of these impacts

³⁸ BD Mezmur, & R Adeola (2021). The protection of Internally Displaced Children in Africa: A doctrinal Analysis of Article 23(4) of the African Children's Charter (2021) *Journal of African Law*, 65 115–129.

³⁹ Jegede, A. O. (2021, January 1). *Climate Change And the Future Generation Under the African Human Rights System: Fostering Pathways And Partnerships*.

⁴⁰ BD Mezmur & R Adeola, as above.

across the country. A more extensive investigation involving various regions would demand additional time and resources, which were not feasible within the confines of this study.

Furthermore, the dynamic and evolving nature of climate change poses a challenge. The study acknowledges that certain aspects might be overlooked, given the continuous evolution of climate change dynamics. Climate change is an ongoing and multifaceted phenomenon, and the research timeframe might not capture the most recent developments or emerging trends. Therefore, the study recognises the need for continuous attention to climate change and children's rights, emphasizing that the work should be perceived as an ongoing project requiring sustained scrutiny and adaptability to new information.

1.8 Chapter Breakdown

Chapter One serves as a comprehensive introduction to the thesis, laying the groundwork for the study's context and focus. The primary focus of this chapter is the examination of climate change, with a specific emphasis on elements crucial to human rights, particularly those pertaining to children in Madagascar, notably within the southern region of the country.

Moving on to Chapter Two, a detailed exploration of the multifaceted effects of climate change is undertaken. This section delves into how international, regional, and national instruments address the intersection of climate change and children's rights. It begins with a succinct overview of climate change, followed by an in-depth analysis of its relationship with human rights, shedding light on the intricate connections between climate change and the human rights of children.

Chapter Three, building upon the insights gained in the second chapter, narrows its focus to the case study of southern Madagascar. Here, a meticulous examination unfolds, scrutinizing the specific impacts of climate change on the well-being of children residing in the southern regions of the island.

The fourth and final chapter serves as a culmination of the research, offering a comprehensive summary of the findings. Additionally, this chapter provides strategic recommendations for fortifying and implementing legislation, with a specific focus on addressing the far-reaching impacts of climate change.

Chapter Two: Understanding children's rights and climate change

2. Introduction

This chapter seeks to comprehend the intersection of children's rights and climate change by examining pertinent international, regional, and national legal frameworks concerning the safeguarding of children's rights in the Malagasy context. Following its independence, the Republic of Madagascar actively engaged with the international community to protect the rights of its citizens, signing, ratifying, and incorporating numerous international treaties into national law.

After the colonial period, the landscape of children's protection has known better days since the adoption of the first instrument promoting and protecting Human Rights: UDHR. The incorporation of Human Rights in its Constitution, guided by the UDHR was the first step, thereafter, the signature and ratification of the International Covenant on Civil and Political Rights⁴¹, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Rights of Persons with Disabilities⁴². These treaties were ratified to safeguard the rights of individuals. Children's rights are included in these.

On a continental level, the ratification of the African Charter by the Malagasy government was a further step to this commitment to protect Human Rights⁴³. This was followed by the signature and ratification of the African Children's Charter which shows a determination from the State of Madagascar that children's rights are fundamental rights that every child has to enjoy.

Also, understanding the science of climate change and the rights of the child entails considerations of how laws and policies are related to the rights and climate change. Policies and laws should be placed on comprehending the effect of climate change and its repercussions on human rights and children's rights in particular. Many reasons are amplifying the effects of climate change, but one that has been listed as the major factor is environmental degradation.⁴⁴ The improper use and management of natural resources are aggravating the situation and children are experiencing it⁴⁵.

⁴¹ https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtmsg_no=IV-4&src=IND (accessed 28 October 2021)

⁴² https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-15&chapter=4&clang=en (accessed 28 October 2021)

⁴³ ACHPR <https://www.achpr.org/statepartiestotheafricancharter> (accessed 28 October 2021)

⁴⁴ Warner K; Hamza M; Oliver Smith A; Renaud F, & Julca A (2009). *Climate Change, Environmental Degradation and Migration*(2009) Springer Publishing.

⁴⁵ *The World Counts*

https://www.theworldcounts.com/stories/consequences_of_depletion_of_natural_resources (accessed 11 October 2021)

We must concede that when dealing with the exploitation of natural resources, human rights and environmental concerns are very often overlooked in the pursuit of short-term profitability and financial gain.⁴⁶

With a focus on the legislative and policy frameworks that govern the protection of children's rights against the negative impacts of climate change, this Chapter examines the relevance of each instrument identified in the context of climate change.

2.1 The International and Regional Instruments on the Protection of Children's Rights

2.1.1 The International Instruments

The Republic of Madagascar, in its commitment to upholding the principles of Human Rights, has formally ratified a constellation of international treaties. These treaties, epitomizing pivotal instruments within the realm of international human rights law, stand as substantial sources of guidance and obligation. The binding nature of these treaties is exclusively conferred upon the parties that have voluntarily ratified the respective documents. This nexus between ratification and legal obligation underscores the Republic of Madagascar's dedication to adhering to the prescribed standards and principles enshrined in these international agreements, thereby contributing to the global discourse on the safeguarding of Human Rights.

2.1.1.1 The Universal Declaration of Human Rights

The protection of the children's rights emerges from the protection of human rights, as children's rights are human rights. The UDHR, adopted in 1948, is an attempt to safeguard the rights of individuals after the wars that the world knew which cost lives.

Though the UDHR was not binding, States committed to stick to it and enshrined in their law-making process, often including it in their Constitutions. In order to complement this non-binding instrument, several treaties were signed and drafted afterwards, including the ICESCR that the State of Madagascar signed and ratified in 1971, the ICCPR signed and ratified in 1969 and the UNCRC in 1990. These treaties tied the signatories to the realisation of Human Rights, including children's rights.

2.1.1.2 The International Covenant on Economic, Social and Cultural Rights

The ICESCR is one of the binding documents enshrined in the UDHR and covers how signatories should address these rights in their policies.

⁴⁶ *Business and Human Rights: A progress Report*. (2000). Office of the High Commissioner for Human Rights.

The two covenants of the UDHR are interdependent, the breaching of the first will affect the effectiveness of the second. If a State fails to provide clean water to its population, it will lead to diseases and certainly death for the children and the most vulnerable. Not only are their ESC rights infringed, but there is a clear violation of the right to life as well.

The ICESCR has particular aspects that State parties have to abide by 1) the obligation to protect, 2) the obligation to implement and 3) the obligation to respect.

When the state complies with the duty to respect, it is required to abstain from implementing or tolerating laws or practices that are harmful to the integrity of people. As a result of this duty to respect, people are shielded against any arbitrary interference with their ESC rights.

When applied to the issue of children's protection, the duty to respect the rights of children with access to safe drinking water necessitates a state's refraining from interfering with the enjoyment of that right by the children.

As for the duty to protect, article 12 under the ICESCR provides that States take the necessary measures to prevent third parties from any interference with the enjoyment of the ESC rights⁴⁷.

To this end, States are required to make sure that third parties meet the applicable rules that govern Human Rights. Applicable rules can be policies or legislation guaranteeing access to healthcare or equal opportunities to work. If we relate this to the rights of the child and the enjoyment of a safe climate or environment, the State must ensure that businesses observe sustainable business practices that can adversely impact the rights of the child during their developmental phase.

The last duty of the State in the ESC rights is the duty to implement. Implementing has to do with policing. States must give a space for the protection and promotion of ESC rights and, thus Human Rights. This space is related to a national sphere where there can be a debate of legal and political strategies aligned with the protection of rights.

2.1.1.3 The United Nations Convention on the Rights of the Child

The ratification by the Republic of Madagascar in 1991 of the UN CRC demonstrates the will of the Malagasy government to give the Human Rights of children a chance. Even if the CRC is not explicit enough regarding the protection of children from the impact of climate change, its only avenue where the UNCRC addresses climate change as an issue affecting children's health is in the General Comments 15. Alternatively, it provides some articles that can be used to realise this protection

⁴⁷ ICESCR art. 12

but it makes no clear reference to climate change whatsoever. For instance, if we relate Article 6 under the CRC which is the right to life to the impacts of climate change, the State of Madagascar must protect this right and this respect to the environment where the child is developing. Environment here does not have this *stricto sensu* of the family but generally: family, and the interactions with natural resources.

However, the protection –and promotion– of the rights of child are based on 4 guiding principles:⁴⁸

- a. Non-discrimination
- b. The best interest of the child
- c. The rights to survival and development
- d. The right to be heard

If affixed again to the protection from the impacts of climate change, each guiding principle has its relevance.

After a thorough examination of the UNCRC, it articulates that indeed, the vast majority of UNCRC provisions may be adversely impacted in some manner by climate change, and State parties are required to take reasonable steps to mitigate, such detrimental consequences.

Beyond the guiding principle that governs the whole Convention, its article 24 on the right to the enjoyment of the highest attainable standard of health⁴⁹ binds the States Parties to guarantee the economic, social and cultural rights of the child, including the access to safe drinking water and the protection of the children against the threats caused by pollution and environmental degradation. It is undeniable that the guarantee of a highest attainable standard of health cannot go alone without the insurance that the child has been provided with a harmless environment. John Knox emphasises this aspect as a right that needs to be enshrined in the human rights protective instrument which is the right to a healthy environment.⁵⁰

The obligation of the States Parties to prepare children for a sustainable society via their education is also outlined under article 29 of the Convention. In order to do so, it should educate children how to live in a peaceful manner that is respectful of the environment.

⁴⁸ Unicef UK *UN Convention on the Rights of the Child (UNCRC)* <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/> (accessed 25 October 2021)

⁴⁹ UNCRC art. 24 (1989)

⁵⁰ n 30 above

The UNCRC under its General Comments mentions as well the duty of the States parties to link up the right to education to the development of respect for the natural environment, which ensures the child's development as a whole. Child development is dependent on the environment where s/he grows and the thriving or the degradation of the latter has a considerable consequence on the child.⁵¹

2.1.2 The Regional Instruments

The African history took the example of the UN, in order to realise the protection of Human Rights on the Continent. It even captured the gap in the international instruments and addresses in the African context. This occurred in the African Children's Charter where the issues of Female Genital Mutilation, Apartheid or child soldiers were vehemently pinpointed.

2.1.2.1 The African Charter on Human and Peoples' Rights (African Charter)

The African Charter has been ratified by the Republic of Madagascar in 1992. Its inception marks the beginning of an era in the discussion of African human rights. It has been considered as the first regional instrument to include civil and political rights with socioeconomic rights and commits to the promotion of human rights. The African Charter established the African Commission on Human and Peoples' Rights, tasked to advance human and peoples' rights⁵².

Compared to regional human rights treaties, the African Charter's preamble is significantly different. The main goal was to establish a Charter that was influenced by African legal thought and practice. The Charter has clauses relating to the right to a decent environment, among other things. It occurs in article 24:

All peoples shall have the right to a general satisfactory environment favourable to their development.

This provision shall guarantee that not only adults but also children, are protected by the ACHPR, under the African Human Rights System.

If the African Charter appears not to be explicit in the context of climate change, Resolution 271 of 2014 of the African Commission started to focus on the impacts of the climate crisis and encourages the investigation of States Parties on their climate change imprints. The issue is that state parties are not reporting on their status of climate change's impact on human rights⁵³, and

⁵¹ UNCRC GC n°1 (2001)

⁵² The African Charter, Art. 45

⁵³ Jegede, A. O. (2018). Climate change in the work of the African Commission on Human and People's Rights. *University of Fort Hare*, 31.

there has not any analysis report on the impact of climate change on the Continent since the adoption of the first resolution.⁵⁴

2.1.2.2 The African Charter on the Rights and Welfare of the Child (African Children's Charter)

The ACRWC is a complementary document to the UN Convention on the Rights of the Child in terms of its provisions, and it concentrates on problems that are relevant to African children. Apart from the African Charter, the ACRWC is the other document with a treaty monitoring body inside the African Human Rights System. The Republic of Madagascar has ratified the African Children's Charter in 2005 and incorporated the spirit of the Charter in its law on the rights and protection of the child. While dealing with climate change, the African Children's Charter does not address any responses or mitigation. Like the UNCRC, it deals with rights that might be affected by climate change.

Article 14 :1 under the ACRWC states:

Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.

The ACRWC encompasses all civil, political, economic, social, and cultural rights that may be harmed by climate change. During its 35th ordinary session, the Committee of the ACRWC established a working group that deals on children's rights and climate change. This mechanism is in line with the agenda 2040 that brings Africa fit for children. In their different missions, the working group has a mandate to set standards and establish initiatives to raise awareness of wellbeing of children as well as to ensure the safeguard of their rights. The hope is to see governments that have signed the African Children's Charter to integrate climate change and children's rights in their reporting as a mandatory requirement.

Also, the African Children's Charter mentions the responsibilities of the child in his/her country and community. This notion of responsibility, which differs from the UNCRC can engage the child in actions that protect his/her environment and contribute to counter climate change.⁵⁵

2.1.2.3 The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

The Republic of Madagascar has signed in 2014, it did not ratify though. A key goal of the Kampala Convention is to prevent people from being arbitrarily relocated⁵⁶. In other words, protecting

⁵⁴ The African Commission Resolution 153 of 2009

⁵⁵ ACRWC art.15

⁵⁶ The Kampala Convention, Art.4 :4

those who have been displaced internally because of climate change must be seen as a way to safeguard against arbitrary relocation.

Even if there is a strategy that addresses the drought⁵⁷ in the Grand Sud of Madagascar, there is no clear vision of how the IDPs should be addressed. While being a signatory of the Convention, the Malagasy government has to work on proper preparation for climate-related catastrophes, which includes the establishment of early warning systems. Article 4(2) of the Kampala Convention emphasises:

‘States parties shall devise early warning systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures and, where necessary provide immediate protection and assistance to internally displaced persons.’

This drought has been documented since 1985 and there must be a preparedness policy to avoid the damages that occurred during the displacement. And speaking of damages, state parties have to provide remedies to the victims by urging national authorities to create an effective legal framework that provides reasonable and equitable compensation. Article 12:2 stipulates:

‘States Parties shall establish an effective legal framework to provide just and fair compensation and other forms of reparations, where appropriate, to internally displaced persons for damage incurred as a result of displacement, under international standards.’

2.2 Understanding Climate Change

Understanding climate change means, seeing it in the scientific approach. Climate Scientists and policymakers agree that in today's world, the issue of climate change affects almost everyone.

It has been mentioned in the introductory part of Chapter One that global warming is mainly caused by human activities. Many sceptics relate that climate change is a natural process and that anthropogenic aspects of it are just a myth as we are moving slowly toward uncertainties because climate behaviours are unpredictable⁵⁸. This « half » understanding of the situation is partly due to the difficulties of discerning the terms weather and climate. People's inability to recognise the distinction between the two words leads them to attempt to minimise the effects of climate change on their lives. The term "weather"⁵⁹ refers to the actual behaviour of the Earth's oceans and

⁵⁷ Bureau National de la Gestion des Risques et Catastrophes. *Plan Opérationnel de Soutien aux Populations Affectées par la Sécheresse - Grand Sud: Anosy, Androy et Atsimo Andrefana*.

⁵⁸ H Labohm Climate Scepticism in Europe. *Energy & Environment* (2012) 23(8), 1311–1317.

⁵⁹ Leiserowitz, A. (2012). Weather, Climate, and (Especially) Society. *Weather, Climate, and Society*, 4(2), 87–89.

atmosphere over a specific short time, as for climate⁶⁰, it denotes a statistical behaviour of weather over extended periods, such as decades.

In this context, climate change refers to a rise in normal temperature in which this rise changes the features of climate and weather systems.⁶¹

2.2.1 Keeping the temperature below 1.5° Celsius.

Based on the science of climate change, a temperature rise will affect and damage the ecosystem: more severe drought and desertification, melting of glaciers, and scarcity of resources like water. The challenge is then to keep it less than the current temperature and this will be mainly done by reducing the GHG which is the factor of depleting everything – ozone layer, etc...-. It has to start with negotiating with polluters to reduce their emission of carbon dioxide and working on binding instruments that can monitor and evaluate this emission⁶². The main issue is that developed countries continue to blatantly pollute and ignore the fact that developing countries are highly paying the consequences of their pollution, and the world has to know that the carbon dioxide emitted at a given period will affect the future generation as it can stay in the atmosphere, even a millennium from now.⁶³

Understanding climate change will engage to question of how the environment works. It goes without saying that forest plays a role as the lungs of the earth, absorbing carbon dioxide and emitting oxygen, as well as the ocean, which works as cooler, captures a significant amount of the planet's warming thermal radiation⁶⁴.

Scientifically, the earth would be a desolate desert devoid of life in the absence of greenhouse gas.⁶⁵ The climate of the Earth has varied throughout time and will continue to alter.

⁶⁰ Buonocore, M. (n.d.). *What is climate? What is climate change?* Climateurope. (Accessed 10 October, 2021), <https://www.climateurope.eu/what-is-climate-and-climate-change/>

⁶¹ As Above n 5

⁶² Guldberg, O. H., Jacob, D., & Taylor, M. (2014). *Impacts of 1.5°C of global warming on natural and human systems* (No. 5). Intergovernmental Panel on Climate Change.

⁶³ The Atmosphere: Getting a Handle on Carbon Dioxide. Climate Change: Vital Signs of the Planet. <https://climate.nasa.gov/news/2915/the-atmosphere-getting-a-handle-on-carbon-dioxide/> (accessed 11 October 2021)

⁶⁴ NASA Science <https://science.nasa.gov/earth-science/oceanography/ocean-earth-system/climate-variability#:~:text=The%20oceans%20influence%20climate%20by,for%20years%20to%20millions%20of> (accessed 11 October 2021)

⁶⁵ D Williams Kweku; O Bismark; A Maxwell ; K Desmond ; KD Benjamin; OM Ewurabena; A Theophilus & B Beryl. Greenhouse Effect: Greenhouse Gases and Their Impact on Global Warming (2018) Journal of Scientific Research and Reports. 17. 1-9

Climate change is very likely to occur and can be highly damaging, according to scientists, and affects regions of the world differently. Whilst the impacts are predictable, the time of impacts is quite uncertain⁶⁶. For instance, it is known that there will be an intensified drought in some regions, but scientists cannot predict when it will happen as nature is doing what it can until it can't keep it. The term « Highly damaging » used earlier means that climate change will harm human and environmental ecosystems across the majority of the globe and that no countries will be spared. On a human level, children will be the most affected as they are in the developmental stage of their lives.

2.2.2 Policy of Climate Change

Working on a policy combat climate change relies more on the objective to reduce the emission of GHG on a global scale. The agenda has been set, instruments elaborated, and countries engaged themselves in meeting this agenda. Beyond this less harmful emissions goal, encouraging signatories to use alternative energy, notably clean energy is part of the policy.

Intergovernmental Panel on Climate Change

The IPCC is keeping an Agenda 2030 which aims at cutting the GHG emissions across the globe between 80% and 95%. By doing so, the world can keep the global temperature below 1.5° Celsius which is the minimum acceptable to avoid heavy consequences of global warming. This policy is mainly addressed to the developed countries that contribute more to polluting the atmosphere with carbon dioxide.

According to IPCC, maintaining the rise of global temperature below 1.5°C will make any adaptation strategy easier extreme occurrences will become less intense and frequent, and the world will experience fewer negative consequences as a result⁶⁷. The situation reveals that we are far from reaching the global goal as developed countries consciously continue to emit GHG⁶⁸.

From the angles of policymakers, climate change can be defined differently. The Intergovernmental Panel on Climate Change (IPCC) classifies climate change as climate variations, resulting from natural unpredictability or as a consequence of human involvement⁶⁹, and the

⁶⁶ LM Berliner (2003). Uncertainty and Climate Change (2003). *Statistical Science*, 18(4), 430–435.

⁶⁷ Groupe d'Experts Intergouvernemental sur l'Evolution du Climat *Global Warming of 1.5°C*. Intergovernmental Panel on Climate Change. (2018)

⁶⁸ D Helm Climate-Change Policy: why has so little been achieved? (2008) *Oxford Review of Economic Policy* 24(2), 211–238.

⁶⁹ IPCC, 2012: Glossary of terms. In: Managing the Risks of Extreme Events and Disasters to Advance Climate Change. A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change (IPCC). Cambridge University Press, Cambridge, UK, and New York, NY, USA, pp. 555-564

UNFCCC stresses more on the human impacts on the environment which is a real burden to the natural climate variation that is already ongoing.

United Nations Framework Convention on Climate Change – Kyoto Protocol

The Kyoto protocol is the UNFCCC's action plan. Developed and emerging countries commit to cut greenhouse gas (GHG) emissions. These countries that ratify the Protocol are required to implement policies and actions aimed at mitigating their emissions and to provide periodic reports on their progress⁷⁰.

The Kyoto protocol puts a greater burden on industrialised countries based on the Common but Differentiated Responsibility principle (CBDR)⁷¹. This responsibility is placed on them as a result that developed countries are primarily responsible for high levels of GHG emissions in the atmosphere.

Though responsibilities were placed on the developed nations, the situation remains at a standstill and the climate crisis is accelerated. Kyoto Protocol listed 37 countries⁷² that are bound to reduce their CO₂ emissions but some countries that are polluting more are not on this list, for instance, China which is one of the most GHG emitters in the globe and making Asia the first continent to pollute the atmosphere with CO₂.⁷³

The Paris Agreement

The below 1.5°C, and 2°C objective is born from the Paris Agreement. The ideal is to keep the effort to maintain global mean temperature below 1.5°C, and this is to avoid the dangerous impact of global warming. The Paris Agreement is the first legally binding instrument that deals with climate change under the UNFCCC. The Convention binds States parties in a 5-year period of climate action to communicate their plans to reduce the GHG emission by 2020 and demonstrate their strategies to mitigate the impacts of climate and their adaptation policy.⁷⁴

⁷⁰ United Nations Treaty Collections. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-7-a&chapter=27&clang=en (accessed 28 October 2021)

⁷¹ CBDR is a legal principle stating that different countries have varying degrees of obligations when it comes to resolving global environmental issues like climate change (accessed 11 October 2021)

⁷² M Fitzmaurice; M Ong; D. M., & P Merkouris (2010). Research Handbook on International Environmental Law In *Common But Differentiated Responsibilities(2010) comm* (p. 161). Edward Elgar Publishing.

⁷³ Our World in Data. <https://ourworldindata.org/annual-co2-emissions> (accessed 11 October 2021)

⁷⁴ A Savaresi The Paris Agreement: A New Beginning? (2015) *Journal of Energy and Natural Resources*.

The first 5-year cycle of the Agreement has passed, and the effort provided so far is not enough and requires consistency from States parties to make a follow-up and monitor the progress of each State party.⁷⁵

The mitigation strategy

States parties in the Paris Agreement are bound to communicate their 5-year strategy to reduce the GHG emission in order to make the effect of climate change less harmful to humans.⁷⁶ The mitigation strategy is a process in which countries have to set the bar the highest possible and go beyond the former achievement.

The adaptation policy

The world is already facing the impacts of climate change and several rights are affected. To reduce the vulnerability of people and exacerbate the inequalities amongst populations, the Paris Agreement recommends that States develop a climate-resilient programme which teaches people to adapt their situation to what they know about climate change. For the adaptation policy to be successful, it requires from a State, a strong involvement in public information. For instance, the adaptation strategy for intense cyclones in coastal areas cannot be effective if the population does not know about the cyclone, its intensity, and its frequency.

2.2.3 Climate Change in the Islands

Some specific areas or topographies are more prone to the negative effects of climate change. For example, islands, including Small Islands and the Developing States, are the most vulnerable to climate change. The effects are seen on the rise of the sea level and climatic changes like temperature variation, and precipitation⁷⁷. In addition to the floods of islands, sea-level rise is projected to exacerbate coastal erosion and several coastal groundwaters have high salinity levels, which will affect natural ecosystems. In other words, there will be major changes in the spatial position of population and species that will force humans to migrate as a result of a lack of available resources.⁷⁸ Children are victims of these forced displacements, and Mezmar mentions

⁷⁵ GP Peters; RM Andrew; JG Canadell; S Fuss; RB Jackson; J Korsbakken; C le Quéré & N Nakicenovic (2017). Key indicators to track current progress and future ambition of the Paris Agreement. *Nature Climate Change* (2017) 7(2), 118–122.

⁷⁶ Paris Agreement, art.4

⁷⁷ A Thomas; A Baptiste; RM Koller; P Pringle; & K Rhiney Climate Change and Small Islands Developing States. Annual Reviews (2020)

⁷⁸ Brookings. <https://www.brookings.edu/research/the-climate-crisis-migration-and-refugees/> (accessed 12 October 2021)

that the development of a child on the move is seriously affected and that laws must be strict in protecting them⁷⁹.

2.3 The Environmental Rights

Human Rights and environmental degradation recently garnered broad attention as the world is running into a climate catastrophe which affects their basic rights, especially access to water, food, or the right to health. We must concede that when dealing with the exploitation of natural resources, Human Rights and environmental concerns are very often overlooked in the pursuit of short-term profitability and financial gain.⁸⁰ The deterioration of the environment jeopardises human's ability to exercise their rights. In the environmental degradation discourse, we hear very often climate change as a consequence that affects human wellbeing. Both are interrelated as climate change will be exacerbated by misuse of natural resources.

The African Charter talks about a «satisfactory environment » in its article 24. Unlike the UDHR, the ACPHR has enshrined the right to a general satisfactory environment favourable to the development of all peoples⁸¹. Read together with article 16 of the African Charter, the significance of a clean and safe environment, which is intimately connected to economic, social, and cultural rights inasmuch as the environment impacts the human's living condition and wellbeing.

Human rights treaties, starting with the UDHR, have introduced the notion that a State is responsible for providing an equitable relief for rights violations. There are multiple environmental courts and tribunals around the globe and there must be one in countries where the violations of environmental and human rights are noticed. The presence of such institutions can be a relief for the citizens to make sure their rights are protected.

The pursuit of environmental justice is an ongoing process that goes along with the promotion of social justice. For these reasons and more, a healthy environment is critical to attaining Sustainable Development Goals. Ecosystems provide us with the most fundamental requirements of existence, which is mainly the right to life and health, particularly to those who are most at risk. As a result, in order to achieve the Sustainable Development Goals, it is necessary to integrate the protection of human rights and the protection of the environment into all laws and policies.

⁷⁹ International Detention *Coalition*. International Detention Coalition 'UN Committee on the Rights of the Child and Migrants Workers Committee to address issue of children in context of migration' <https://idcoalition.org/news/un-committee-on-the-rights-of-the-child-and-migrant-workers-committee-to-address-issue-of-children-in-context-of-migration/> (accessed 20 October 2021)

⁸⁰ n 3 above.

⁸¹ African Commission on Human and Peoples' Rights Legal instruments. <https://www.achpr.org/legalinstruments/detail?id=49>.

2.3.1 Procedural rights in the context of climate change

In environmental rights, the procedural rights are considered a human rights-based approach which is recognised as basic rights. These are enshrined in the national environmental law of the state parties. For instance, the Aarhus Convention binds state parties to be transparent in the information related to environmental governance, access to environmental justice and public participation in decision-making that concerns the citizens.⁸² This inclusion approach will prevent the State from making decisions that can affect negatively human rights by contributing to environmental degradation.

2.4 The vulnerability of children regarding climate change

Children's rights are broad, and globally defined as basic demands for achieving human dignity and equity, in other words, it is the Human Rights of the Children.

Beyond the beliefs that children are the possessions of their parents /or adults, the U.N CRC came to the historic conclusion of a protracted battle to recognise children as complete human beings⁸³. Seen as complete human beings, children have the right to enjoy every provision enshrined in the UDHR or the ACPHR. The UN and AU recognised that children have a particular vulnerability, so there must be an instrument which can protect them from any form of harm and it decided to work on a declaration of the human rights of children in which, the responsibilities towards children were outlined⁸⁴.

Yet, the connection between human rights in general and children's rights, in particular, is fraught with conflict, and there is frequently misunderstanding regarding the nature of children's rights. As a result, there is a widening divide between human rights and children's rights, both theoretically and practically.

The very essence of child rights is their human rights which means that children have the right to be treated as human beings⁸⁵. The rights of every child are the same, regardless of any factors such as age, race, gender, wealth, or origin. The Declaration of the Rights of the Child (CRC) reaffirms these rights as relevant to international law.

Apart from the physical aspect, which makes them fragile, the diverse economic, social and cultural factors of children lead them to more vulnerability and inequalities. The way a child from

⁸² V Koester The compliance committee of the Aarhus Convention: An overview of procedures and jurisprudence (2007) *Environmental Policy and Law* 83–91.

⁸³ W Vandenhole; E Desmet; D Reynaert & S Lembrechts (2017). *Routledge International Handbook of Children's Rights Studies* (2007) (1st ed.)

⁸⁴ H Kosher; A Ben-Arieh & Y Hendelsman (2017). 'The History of Children's Rights' in *Children's Rights and Social Work* Springer Publishing 15

⁸⁵ As Above n22

a northern country faces from the other one who is from a southern country. This means that everyone faces it digs deeply into the breach. For example, a middle-income family in the United States can afford air conditioning to face the heatwaves but a family in an African country will struggle to afford one apparatus to face heat. Climate change exacerbates poverty and keeps the children in this vulnerable situation more affected. Access to education might be difficult as there are priorities that a family has to consider before sending their children to school. In an area where crop failures happen, the main task of the whole family can be divided into two, finding food and finding money to buy food. In the scarcity of goods and services, including food, prices are likely to increase. This interrelated situation between food and education is frequent in African countries.

Each of these demands must be upheld, including the concept of treating all children fairly, equally, and with dignity. Per the child rights convention, laws must be non-discriminatory and always in a child's best interests.

Taking the lead from the United Nations, the African Union adopted the African Charter for the Rights and Welfare of Children in 1990, to promote children's rights in Africa. This is the only regional Charter on children's rights⁸⁶. This document reflects unique African values, for example, the idea that children have both rights and responsibilities. Some issues distinctive to the African context are addressed by the Convention, issues which are not addressed by global instruments like the UN CRC.

Climate change is a social injustice, mostly to children. Their rights to life, survival and development will be impacted. And it does not have the same impact on adults, as the latter have already reached their full potential to grow.

2.5 Conclusion

In this chapter, I examined five points that are essential to understand how climate change and children's rights are tightly linked. As mentioned, it is a human crisis, thus a children's crisis. Going in-depth with the science and the policy of climate change would have given a perspective on how rights can be protected and policies reinforced so the adaptation/resilience processes would be easier for humans. Children are fragile and there must be a focus, based on this children-fragility to strengthen what has been done. Child protection is a challenging task to achieve alone. It requires collaboration with different entities and create a coalition for a better coordination. This collaboration mentioned by the UNCRC is a response to how can child protection workers realise the rights of the child jointly. The UNCRC reminds that children should have the protection of his

⁸⁶ Machel Trust. <https://gracamacheltrust.org/2018/07/06/closer-look-the-african-charter-on-the-rights-and-welfare-of-the-child/> (accessed 28 October 2021)

or her family, society and the State. The Law 2007-023 joins the CRC idea to make protection a priority.

In its preamble, the UNCRC reinforces the role of the family as a protector and in which the child can grow and this should even be applicable in the climate change issue.

Protection against climate change in the family or in the community also means conveying the concerns of climate change. Unfortunately, in many Malagasy households, people do not understand the fundamental concepts of climate change. Some even, have never heard about it.

Prevention and eradication as stated above require as well effective awareness and communication campaigns so children can participate in the process of climate response.

Linking climate change to children's –human- rights is a logical continuation of research that has been held previously.

Chapter Three: Climate change-related challenges to achieving children's rights in southern Madagascar.

3. Introduction

As introduced in Chapter One, climate change has been considered our generation's defining problem of human progress. A certain number of rights and specifically children's rights are under jeopardy as a result of it, including the right to life, the right to food, the access to clean water, and the right to education.

International organisations set out frameworks for countries in the world to attain the realisation of human rights and live on a sustainable planet. Besides, the usual normative known frameworks to promote and protect human rights, there is another instrument that is closely connected to the process of sustainability, thus dignity: The 2030 Agenda for Sustainable Development⁸⁷.

The Agenda 2030 is a non-binding common roadmap that addresses sustainable development as a core principle. The agenda which works towards human and economic growth as well as climate change issues covers 17 Sustainable Development Goals –SDGs- that member States should observe for the realisation of peace and prosperity on a global scale.

Protecting the rights of the child is a measure that has been already acknowledged by the Malagasy substantive law. Children's protection has been equivocal in the Malagasy context and has developed slowly. The first attempt of child protection was back before the colonial period where adults had a traditional conception of children and how they should be protected. Initially, a child was considered as an individual who continues the family heritage, thus requires the protection of the adults. This role of protection is not the sole duty of the biological parents but other adults in a given community.

3.1 The National Instruments on the Protection of Children's Rights

Madagascar has various legal instruments and policies that are revolving around children like the Loi 2007-022 on marriage and matrimonial regime, the Loi 2019-008 on Gender-Based Violence, the Loi 2016-018 on the measures and applicable procedures to the children in conflict with the law and National Youth Policy, but the focus will be on the Constitution of 2010 and the Loi 2007-023 on the rights and protection of the child.

3.1.1 The Constitution of 2010

The Madagascar Constitution of 2010 is the fourth Constitution that marks the fourth Republic. The first Constitution dates back before the independence, 1959 which still was under

⁸⁷ United Nations Department of Economic and Social Affairs. Retrieved October 17, 2021, from <https://sdgs.un.org/goals> (accessed 20 October 2021)

French influence⁸⁸. On the proclamation of independence, in 1960, Madagascar walked through the second Republic, named the Democratic Republic of Madagascar⁸⁹, in which it was liberated from French influence and worked on a new Constitution⁹⁰.

Madagascar regimes went through several political crises which led to the end of a regime and the rise of a new one. For example, the Second Republic was made possible because of a revolutionary movement in 1972 in which, the social democrat tendency was overthrown by the revolutionary party. The country was torn by political turmoil⁹¹ and known Constitutional changes in 1959, 1975, 1992, and 2010. The 1992 Constitution has been reviewed two times⁹².

Due to these instabilities, affecting Human Rights and marking the absence of the rule of law, Madagascar is considered a fragile State⁹³. Ranked from 86th in 2008 to 58th in 2021, Madagascar's political situation is unstable.

Despite the difficult situations, the Constitution of Madagascar has always enshrined in its provision the concept of human dignity and the protection of Human Rights. The protection of the rights of the child is even mentioned in the preamble.

The guarantee of civil and political rights, as well as economic, social, and cultural rights, is captured in the previous and current Constitution. Even if the Constitution stipulates these rights the breach is still there. In Article 19, the Constitution states the State guarantees the protection of the right to health of each individual, but access to decent healthcare is challenging in Madagascar. The distance from one's place to a medical centre in a remote area is difficult as many people have to walk to get there⁹⁴

Madagascar has acknowledged children's rights in its constitution, but there are still breaches. Children's rights remain at stake. The State of Madagascar is bound to ensure education as mentioned in Article 1⁹⁵ under the Charter but the country is facing challenges in schooling children,⁹⁶ especially in remote zones. Applying the ACRWC in Madagascar is not only about

⁸⁸ Madagascar was officially a State but it is still a « Membre de la Communauté », which means that France still holds the country under the French Constitution of 1958.

⁸⁹ Democratic Republic of Madagascar 1975 - 1992

⁹⁰ Constitution de la Deuxième République de Madagascar

⁹¹ Major political crises in 1972, 1991, 2002 ; Political coup in 2009 .

⁹² Revision of the Constitution in 1998 and 2007.

⁹³ Fragile States Index <https://fragilestatesindex.org/country-data/> (accessed 14 October 2021)

⁹⁴ U.S Agency for International Development. <https://www.usaid.gov/madagascar/global-health#:~:text=Over%2060%20percent%20of%20Madagascar's,are%20unavailable%20in%20some%20areas> (accessed 15 October 2021)

⁹⁵ UNCRC, art.1 Every child shall have the right to an education.

⁹⁶ *Education*. (n.d.). UNICEF Madagascar. <https://www.unicef.org/madagascar/en/programme/education> (accessed 15 October 2021)

enacting the instruments, it is about working on different policies to guarantee the effectiveness of the legislation on a national scale.

3.1.2 The Law on the Rights and Protection of Children (Loi 2007-023)

During the colonial period and before the adoption of the Law on the Rights and Protection of the child, Malagasy legislations were under the influence of the French administration, which means that the French legal system has to be applied in every situation. In the French context, a child is seen as a not capable individual to enjoy his or her rights. S/He is seen as an individual that needs to be attended to and protected by an adult. This French notion goes against the UNCRC, as the latter speaks about the recognition of the enjoyment of these rights by the child.

The 2007-023 Malagasy system of child protection is a combination of the UNCRC and the ACRWC, but before this, the protection was only addressed to children in conflict with the law. The spirit of this system is that a child is born good but the environment where s/he lives can define his or her attitude towards life. If a child is having a conflict with the law, it is because an adult might have influenced him or her to break the law. In this case, the children must be protected from negative adult influences. Durkheim advances the theory that an individual's behaviour is a reflection of community attitudes⁹⁷.

The protection of the children's rights according to the Malagasy legislation 2007-023 engages the State to develop a prevention strategy against any form of mistreatment towards a child. It aims at limiting any damages (psychologically or morally) related to mistreatment and eventually eradicates the issue. When talking about prevention, it has to do with children whose rights are still respected.

The impact of climate change on children is mistreatment and affects their dignity. To prevent this issue, State must work on climate response and reflect on how the decisions are for their best interests.

The protection engages as well the State to end the situation of mistreatment. Sometimes, when the situation could not be controlled at the moment of prevention, there is still a chance to redress it stopping the spread.

⁹⁷ H Wallon (1959). Le Développement Social de l'Enfant. In *Psychologie et Education de l'Enfance* (1959) pp. 297–308

In the southern region of Madagascar, more than 1 million persons are suffering from food insecurity⁹⁸ due to drought and the government should find a solution to stop the haemorrhage. The region of the Grand Sud is an arid area and what the zone needs is water.

3.2 The realisation of the four guiding principles of the CRC in the Malagasy context

Every Malagasy child should be able to exercise their rights equally; the right to life and health that is promoted in the Capital city should be the same in the other regions of Madagascar. Even if climate is affecting children (especially those in rural areas) disproportionately, the rights shall be available to everyone⁹⁹. Beyond the non-discrimination principle, every child needs special assistance to enjoy their rights since they are vulnerable. Article 3 :1 of the Convention talks about the prioritisation of the child's best interests, whether performed by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies¹⁰⁰. But what is practically the best interest of the child in the Malagasy context? Regarding the management of climate change, the policies and decisions that Malagasy authorities should make are based on the interest of the child, i.e., the laws and regulations should not contradict the well-being of the children and not harm their lives. When reading the Malagasy law on the rights and protection of the child, the BIC is not set out clearly and can jeopardise any decisions taken for the sake of children. There must be a clear mention of it in the legislation, like the South African Children's Act¹⁰¹ which describes clearly the BIC standard. If we go back to the ESC rights, the right to life is provided, and it is incorporated again in the CRC and extended with the notion of development. More than simply giving children the right that their lives are not harmed, the provision also contains the right to growth and survival¹⁰². Another premise of the CRC In this process of protecting children's rights is the commitment of State parties to guarantee the rights of the child to be heard. Regarding climate change issues, to make informed choices on environmental decisions, state parties should consult with children and take their opinions and experiences into consideration. Another convention concept, about honouring children's opinions, expresses a critical aspect. Listening to the children is the only way to determine their best interests¹⁰³.

⁹⁸ UNICEF France <https://www.unicef.fr/article/sud-de-madagascar-la-malnutrition-des-enfants-devrait-quadripler> (accessed 15 October 2021)

⁹⁹ UN CRC, art.2

¹⁰⁰ UN CRC, art.3 :1

¹⁰¹ Children's Act N 38 of 2005

¹⁰² UN CRC, art.6 :2

¹⁰³ Article 12 :1 UN CRC, art.12 :1 Governments must seek the views of children on matters affecting them and take them seriously

3.3 Climate Change and the Right to Life

Article 4 of the African Charter states:

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of his right.

This provision ties the Malagasy government to ensure decent lives for its citizens and guarantees reasonable healthcare to everyone. If read together with article 14 :1¹⁰⁴ of the same Charter, the right to life is dependent on the right to health and health services.

The latest infant mortality documented in Madagascar was back in 2019, with a rate of 36.47 per 1,000 children¹⁰⁵. This means that almost 100 children die every day in the country. 20% of the death is caused by pneumonia, diarrhoea, malaria, and malnutrition¹⁰⁶.

When linked to climate change, pneumonia is proven to be triggered by air pollution¹⁰⁷. Children are more prone to chest infections and have a more difficult time recovering. Children's exposure to air pollution via inhalation is especially harmful since their lungs are weak and continue growing until they reach the age of around 18. Medical research reveals that children are breathing rapidly unlike adults, which increases the amount of toxic air that they inhale.

As for diarrhoea, it is mainly caused by insufficient access to safe drinking water and adequate sanitation¹⁰⁸. In arid southern Madagascar, poor¹⁰⁹ people increasingly use hazardous water sources when supplies grow limited. Water scarcity is due to climate change, this is why the people in the south need to ensure water security.

Malaria is the third factor of infant mortality in Madagascar and is considered a vector-borne disease due to climate change¹¹⁰. The geographic predominance of malaria is moving and

¹⁰⁴ ACRWC art.14:1 Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual life.

¹⁰⁵ Child Mortality Estimates <https://childmortality.org/data/Madagascar> (accessed 16 Octobre 2021)

¹⁰⁶ U.S. Agency for International Development <https://www.usaid.gov/madagascar/ending-preventable-child-and-maternal-deaths#:~:text=More%20than%2020%20percent%20of,and%20other%20nutrition%2Drelated%20factors> (accessed 16 October 2021)

¹⁰⁷ TK Takaro; K Knowlton; & JR Balmes). Climate Change and Respiratory Health Medscape. https://www.medscape.com/viewarticle/810224_3 (accessed 16 October 2021)

¹⁰⁸ The Borgen Project. <https://borgenproject.org/the-fatal-4-top-diseases-in-madagascar/#:~:text=For%20those%20in%20Madagascar%2C%20lack,ground%20where%20ancestors%20are%20buried>. (accessed 16 October 2021)

¹⁰⁹ www.unicef.org/madagascar/en/press-releases/multidimensional-poverty-affects-two-three-children-madagascar-according-results+&cd=16&hl=fr&ct=clnk&gl=za (accessed 16 October 2021)

¹¹⁰ JE Suk Climate change, malaria, and public health: Accounting for socio-economic context in past debate and future research.(2016) WIREs Climate Change.

expanding to higher elevations – highland malaria¹¹¹ as a result of rising temperatures. The other danger is that there is a risk of malaria re-establishing itself in malaria-free regions¹¹². The case of Antananarivo, which is a highland and re-affected by malaria again after being declared malaria-free can be mentioned as an example. Flooding due to precipitation and humidity fosters the growth of mosquito nests, especially the malaria vector.

3.4 The right to a safe, healthy and sustainable environment in Madagascar

Madagascar, which is among the top ten most susceptible nations to climate change, is a country where environmental deterioration is caused by humans. Poverty and population growth are the most significant drivers of severe catastrophic degradation in developing countries. Every year, an average of 99,000 hectares of tropical forest are lost to deforestation.¹¹³ Forests are huge carbon sinks. As they develop, trees take in carbon dioxide from the air and store carbon from this process. When burned, carbon dioxide is released into the atmosphere and accelerates the impacts of climate change. Concretely, children are more at risk from environmental problems than adults, and particularly the poor.

Climate catastrophes have long-term damage to children. To begin with, catastrophes may have a direct impact on the development –physical and psychological- of children. For example, food shortages may induce malnutrition in children and commonly cause a certain inability to attain a sufficient height increase. The impact of malnutrition in the Southern region of Madagascar is discussed in Chapter Four. Furthermore, catastrophes may obstruct access to medical treatment for diseases and in developing countries, which have poor access to health care, the situation is even worse. The development of vector-borne diseases in Madagascar has increased the number of children killed by malaria. Malaria remains in the top five causes of death in the country, affecting mostly children and pregnant women in particular.

There is a strong emphasis placed on how environmental degradation hinders people and communities from enjoying lives of dignity. In the face of a deteriorating global ecological collapse, advancing the right to a healthy environment serves as a critical conventional way for the protection of nature.

Recognising the connection that humans rely on healthy ecosystems that can purify their air or absorb carbon dioxide, legally or constitutionally- will significantly bolster human rights. The

¹¹¹ ReliefWeb <https://reliefweb.int/report/kenya/highland-malaria-takes-kenya-mountain-towns-surprise> (accessed 17 October 2021)

¹¹² D. Fontenille, I. Rakotoarivony, Reappearance of *Anopheles funestus* as a malaria vector in the Antananarivo region, Madagascar, *Transactions of The Royal Society of Tropical Medicine and Hygiene* (1988), 82(4) 644–645.

¹¹³ U.S. Agency for International Development. <https://www.usaid.gov/madagascar/environment>

ideal situation is having it enshrined in the Constitution. Countries that have constitutional guarantees of a healthy environment have more progressive environmental policies and tend to achieve well on the criteria for sustainable development¹¹⁴.

3.5 Climate Change and the Economic, Social and Cultural Rights of the Children in Madagascar

3.5.1 Right to Health

Article 24¹¹⁵ of the UN CRC and article 14¹¹⁶ of the ACRWC both highlight the significance of health. Children, on the other hand, confront a wide range of obstacles when it comes to enforcing their right to health.

Children's rights to health are based on components like availability, affordability, quality, and equity. They are mostly thwarted by inappropriate healthcare systems which fail to respond to these criteria¹¹⁷. In Madagascar, while infant mortality is improving, it remains a significant issue. Health and life are intertwined. Life is dependent on health and accessibility to health services. Life of dignity encompasses the insurance that children are guaranteed good health in holistic ways. 20% of infant mortality in Madagascar is related to pneumonia¹¹⁸.

Infectious illnesses may spread quickly if people are living in filthy circumstances or do not have access to clean drinking water. In 2013, after the cyclone Haruna hit southwestern Madagascar, the impacts were devastating. 16 health centres were destroyed, which made access to health services difficult, and the number of children infected by a vector-borne disease like malaria or infectious diseases like dysentery and childhood diarrhoea because of water contamination increased.

In normal situations, the right to health is difficult to be attained, which is even worse in climate crisis time. This violates children's rights to life and health. Children under the age of five bear the brunt of the illnesses caused by climate change. The reason for this is that they are particularly vulnerable because of their unique sensitivity throughout their early years of life – 0 to 18 years old-.

¹¹⁴ D Boyd (2012). The Constitutional Right to a Healthy Environment. *Environment: Science and Policy for Sustainable Development*. 54. 3-15.

¹¹⁵ UN CRC, Art.24 « Every child has the right to good quality health healthcare and a clean environment »

¹¹⁶ ACRWC, Art 14 « Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health »

¹¹⁷ U.S Agency for International Development. <https://www.usaid.gov/madagascar/global-health> (accessed 17 October 2021)

¹¹⁸ As Above n 4

Mental health is as important as physical health as well. Children may experience trauma as a result of property loss, separation from family, death of a caregiver or relocation. Climate change can affect the mental health of children for many reasons, but especially for those who are forced to move from their homes.

In the Malagasy Health Act¹¹⁹, the explanatory memorandum links the right to health and access to adequate health services to Article 25 of the UDHR and Article 12 of the ICESCR. It recognises the duty of the State to provide healthcare to its population. The Health Act sets out eight core programmes that the Ministry of Public Health has to achieve concerning its commitment to respect the international instruments ratified by the government. In these eight core programmes, the State of Madagascar has to provide quality health services to all, the reduction of infant and juvenile mortality, the improvement of nutrition and food security, and the provision of safe drinking water to the population. This access is somehow threatened by various obstacles in practice. It is difficult because of the lack of funding for health centres, and cannot guarantee quality service to patients, but at the same time, the scarcity of health centres in rural areas is vast. A child who is suffering from acute malnutrition and needs urgent care may take hours to reach the nearest centre¹²⁰. The health system in Madagascar presents loopholes that deprive the population from receiving adequate care. As a result, some patients might be rejected to get sufficient treatment because of this lack of funding and infrastructure even if the Malagasy Health Act mentions under Article 262 bis that health is the right of everyone and the duty of the State which is guaranteed by the economic and social policy of the country. The case of *Soobramoney v Minister of Health*¹²¹ relates to this access to adequate healthcare and health services. The applicant is suffering from kidney failure and does not have enough financial resources to continue his renal dialysis. He requested the State renal unit to admit him to get free of charge renal care but his demand was declined for the reason that there is no sufficient resource to attend him to this unit. The High Court and the Constitutional Court rejected his claim under the right to life and emergency care, as the Constitution provides details on the emergency care criteria and his case even life-threatening cannot be considered as an emergency. This case reminds of the situation in southern Madagascar where children and adults can be refused care due to the absence of equipment, human resources or infrastructures and threaten the right to life of individuals, but the State can consider as irrelevant.

¹¹⁹ Code de la santé publique 2011/002

¹²⁰ *Global Health | Madagascar | U.S. Agency for International Development* n 121 above, 41

¹²¹ *Soobramoney v Minister of Health (Kwazulu Natal)* (1997)

3.5.2 Right to Food

Access to food is critical to our health since it provides us with all the nutrients that the body needs. Restriction to access to it is a serious infringement on the enjoyment of many rights, such as the rights to life and health.

The right to food, which is part of the ESC rights differs from food security. Right to food is entitled to an individual as described by the UN Special Rapporteur Jean Ziegler, as follows:

“The right to food is the right to have regular, permanent and unobstructed access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free from anxiety.¹²²”

The second sustainable goal of the 2030 Agenda is « no hunger » and read together with the statement of the Special Rapporteur engage the Malagasy State to ensure food security across the country. The reality of food security is alarming in the country, specifically in the southern region, where more than one million people are suffering from food insecurity. 2021, is a tough year for the people of the south as the drought is hitting hard on the region, driving to the destruction of crops¹²³. Due to the food shortages, people are eating locusts and zebu's leather to survive¹²⁴.

To ensure food security and sustainable agriculture, the government of Madagascar has to work on the provision of water. Indeed, the role of the State is to provide humanitarian assistance, which entails providing essential supplies such as food, water, and other health services, sanitation, but again as discussed in Chapter One, the State –of Madagascar- has to ensure, which is beyond adhocism. This duty to implement a policy that guarantees sustainable agriculture and food security in the Grand Sud region is of great importance, especially to those who are living in the area.

When talking about the right to food, the government has to think of food availability and accessibility, which is comprised of living a life of dignity as a human being¹²⁵. Crop production drops have hampered food access and availability, resulting in more families suffering food

¹²² The Question of Palestine. <https://www.un.org/unispal/document/auto-insert-187548/> (accessed 17 October 2021)

¹²³ World Food Programme <https://www.wfp.org/stories/southern-madagascar-hunger-looms-climate-change-destroys-crops> (accessed 17 Octobre 2021)

¹²⁴ BBC News. <https://www.bbc.com/news/world-africa-58303792> (accessed 17 October 2021)

¹²⁵ KHavas & M Salman Food security: its components and challenges (2011) *International Journal of Food Safety, Nutrition and Public Health* 4(1), 4.

shortages compared to the last four years. The guarantee given in right to food ensures food security.

The Constitution of Madagascar is not explicit on the right to adequate food, though it covers the economic, social and cultural rights. The obligation of the State by ratifying the ICESCR engages itself to free the population from famine.¹²⁶ This obligation is far from being achieved as the rate of people suffering from hunger and food insecurity is increasing. The right to food is enshrined in the Malagasy Health Act and is included in its core programme but it remains silent. The Act provision is not specific in the strategies to implement, and its realisation remains at stake.

Also, the GoM should observe the right to property enshrined in the UDHR under Article 17¹²⁷. Access to land is a human right that can guarantee food security if it is well distributed. The case is that in Madagascar, due to the lack of clarity on the land reform, property becomes a divisive matter, exposing access to land at risk.¹²⁸ If affixed to this obligation, the Law 2021-06 does not address properly the issues of land tenure in Madagascar. Property rights have always combined law with traditions¹²⁹, so it creates conflict and abuse. The legal reform of land tenure has to be clear as it will increasingly help to develop the possibility of food security.

3.5.3 Water Security

Southern Madagascar is already facing severe water scarcity as a consequence of inadequate and unpredictable rainfall. Changes in rainfall patterns and the occurrence of floods can affect the amount and quality of water.

Water insecurity can be divided into different parts:

- The increase in precipitation in some regions of the country
- The scarcity of water – exemplified by southern Madagascar-
- The rise of sea level in coastal areas

The increase in precipitation

The increase of precipitation is leading to frequent flooding and affecting crops and contaminating water which may raise the chance of developing illnesses such as diarrhoea, to which children are especially susceptible. As mentioned earlier, the main cause of diarrhoea in Madagascar is

¹²⁶ ICESCR art. 11:2

¹²⁷ The right to own property belongs to everyone, whether they are an individual or a group, and no one's property may be taken away from them without their consent.

¹²⁸ Entraide et Fraternité 'La politique foncière à Madagascar : Tour d'horizon, enjeux, défis et perspectives' (2018)

¹²⁹ As above

contaminated water, it might be caused by floods and bringing waterborne disease or by the lack of having sanitation facilities and hygiene habits. Most of the remote zones in Madagascar are prone to water insecurity, in terms of accessibility, affordability, and availability.

The scarcity of water

Climate change's effects on the access to and availability of water have a disproportionate impact on children who are responsible for water collection. Children, mostly girls must travel distances collecting water. The impact of the water scarcity is palpable on schooling, as many girls water collectors do not go to school because of the long-distance travel from home to a source, and even threatening their right to health because their families do not have access to clean water, children in these communities are at risk of contracting waterborne illnesses.

Access to water is SDG 6, in which human and economic growth cannot be realised if the basic need is not reached. With more than 58% of Malagasies cannot have access to clean water, humanitarian agencies are struggling to meet the need of the population and still counts on the international community to contribute.

Sea-level rise

In Chapter Two, we have discussed that the melting of glaciers causes a rise in sea level across the globe and affects mainly islands. Excluding the fact that some islands –SIDS- may drown in the rise of sea-level, there is another fact related to the increased salinity of freshwater which harms the habitat of aquatic species and makes marine resources unavailable to people who are living from it, mainly fishermen. This unavailability of resources can lead them to move to another place where they can survive.

The explanatory memorandum of the Water Act provides that the inequitable access to water triggers social, economic and sanitation issues¹³⁰ The Act does not provide how an individual can individual access to clean water irrespective of his/her economic or social background. Right to water is human rights and based on the explanatory memorandum, a State has to fulfil its duty to provide water to the population. In the case opposing Hopcik Investments to the Minister of environment of Zimbabwe, the State, or through its ramifications have the obligation to provide water to the population of the community. In this Zimbabwean case, the enacted Water Act validates the duty bearer to give access to potable water¹³¹.

¹³⁰ Code de l'eau 98 029 du 20 janvier 1999

¹³¹ Hopcik Investments (Pvt) Ltd. v Minister, Environment, Water & Climate & Another (2016)

3.5.4 Right to Education

The Constitution of Madagascar, under article 24¹³² sets out the gratuity of schooling in the country, generally speaking. But the gap between implementation and law is wide.

Children's right to education is hampered by a lack of food. Apart from having one of the world's worst education policies, children in Madagascar's south do not attend school owing to a shortage of food and the dropout rate has risen due to starvation and bad health.

Children may need to miss school to help their parents with some work. Some are required to assist their parents in raising income which might be for food¹³³, or sometimes for food because schooling requires some modest contributions that parents cannot necessarily afford.

Child labour, in normal times, is already a serious issue in the country, and the effects of climate change exacerbate it in a way that the rate of school dropout increases. During natural disasters, education is at stake: schools can be destroyed and the child cannot go. In a flooded area, it is quite difficult to reach the school, as in several Malagasy remote places, children have to walk for kilometres to reach their schools. The Ministry of National Education has to cover the accessibility to schools even in a crisis. Article 11(3)(d) mentions the obligation of the Government of Madagascar to encourage the school attendance of children regularly. Its compliance with this obligation is failing and infringes on the rights of the child to get access to education. Children should not be deprived of their rights to be educated and most importantly participate in environmental initiatives that have an impact on their lives.

The other obligation of the GoM which is stipulated under article 11(2)(g) and should engage children in the protection of the environment is failing as well due to the absence of legislation governing education during the natural disaster period. The greater effort of the government must be deployed and taken to minimise the dropout and absenteeism during and after a climate event. Also, strengthening partnerships with international organisations to address the issue is helping to comply with the obligations under the Constitution and ACRWC.

Following the cyclone Haruna, 265 classrooms were destroyed, leaving children unable to attend classes. The school curriculum in Madagascar does not cover any disaster preparedness; even teachers are not informed on the emergency approaches during natural disasters. The law on

¹³² Constitution de la Quatrième République, Art. 24 « L'Etat organise un enseignement public, gratuit et accessible à tous. L'enseignement primaire est obligatoire pour tous ».

¹³³ B Ravolomanga & B Schlemme (1994). *De l'Enfant Richesse à l'Enfant Fardeau: L'enfant au travail à Madagascar et sa place dans l'imaginaire social*(1994) 27 Labour, Capital & Society.

La situation du secteur éducatif est caractérisée par un recul généralisé de l'enseignement, en termes qualitatifs et quantitatifs. L'enfant, garçon ou fille, devient aujourd'hui soutien de famille. Son travail, en ville comme dans les campagnes, est nécessaires, voire indispensable à l'équilibre matériel de la famille...

education only provides what is required from the State of Madagascar in terms of promoting education but in any case, it does not mention the preparation for natural disaster nor the post-disaster measures. Under Article 2 of the Law on Education, Loi 2004-004, the government commits to guarantee the economic and social rights of the citizens through the implementation of open access to education for all¹³⁴.

Education in the island where natural disasters happen frequently has to be devised in a way that this open access of education to all is not interrupted. The National Bureau of Risk Management elaborated a national strategy that includes the participation of primary schools that are prone to natural disasters. The strategy was left unfollowed up and children are always suffering from school disruptions when their areas are affected by heavy natural disasters. In many regions of the country, classrooms are used to accommodate victims of cataclysms and leave children behind.

3.6 Climate Change and the Children on the Move

In the era of uncertainties due to climate change, the situation could affect where people live. Children are traveling in increasing numbers in quest of survival or security. At its most severe, catastrophic weather may result in the displacement of whole families. Globally, millions of children are relocating within and across areas, either with their families or on their own.

The Southern region of Madagascar is a place where internal displacement is frequent due to drought¹³⁵. Childhood internal displacements remained mainly undetected in many areas as there is a lack of legal instruments on a national level. As a result, little attention has been paid to the unique characteristics of internally displaced children.

The Kampala Convention under article 2(a) states:

Promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions.

And article 5 adds the duty of the State to protect internally displaced persons¹³⁶, and apparently, Madagascar fails to provide assistance and protection to displaced persons.

¹³⁴ Loi n° 2004-004, art.2 'La République de Madagascar, conformément aux droits et devoirs économiques, sociaux et culturels énoncés dans la Constitution reconnaît à toute personne, enfant, adolescent et adulte, le droit à l'éducation, à l'enseignement et à la formation.

¹³⁵ Displacement <https://displacement.iom.int/reports/madagascar-%E2%80%94-rapport-de-suivi-des-d%C3%A9placements-ao%C3%BBt-2018?close=true> (accessed 26 October 2021)

¹³⁶ The Kampala Convention, art.5: States parties shall bear the primary duty and responsibility for providing protection of and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination.

Even if Madagascar did not ratify the Kampala Convention, the fact that it has signed gives it the duty not to undermine the rights of IDPs and mainly children in relocation. Children themselves are naturally vulnerable but coupled with poverty and the situation of displacement, they are fragile and subject to many harms that are threatening their rights.

In Madagascar, significant displacement has occurred as a result of disasters. For instance, the cyclone Enawo caused 247,000 displaced persons.

The International Organisation for Migration revealed in research held in the Grand Sud¹³⁷ of Madagascar that one of the most important displacements in the region was documented in 2018, with 986 IDPs between December 2017 to May 2018, and this is due to the absence of rainfall. This figure is the equivalent of the number of displaced persons from 2009 to 2012. Starting 2009 to 2018, the organisation identified 5,699 IDPs and 42% of them were relocated because of the drought.

A Madagascar fit for children¹³⁸ should be able to accommodate children wherever they are, irrespective of their origins, their genders, their race, their ethnic groups, or their sexual orientation. The State must realise the rights of displaced persons under the AU Convention for the Protection and Assistance of Internally Displaced Persons. Under Article 1 of the Kampala Convention, Madagascar has an obligation under international law. Since the State of Madagascar has signed the Kampala Convention, it has to protect respect, and the duty to fulfil the rights of the citizens. The State of Madagascar did not budget any case of internal displacement because of insufficient funds but it does not prevent the government from putting their effort into the protection of the displaced population. The people displaced in the country are nationals so national laws must protect them first, the Constitution that guarantees the right to life equally to all citizens. In case of insufficient resources, the State can seek the help of international organisations implemented in the country and who can work on the issue. Article 6 of the Kampala Convention mentions the obligations of international organisations to provide humanitarian assistance. And this is done, under the application of international humanitarian law. Madagascar fails in its obligation to protect IDPs and has to observe the signature of the AU Convention for the protection and assistance of IDPs.

In Madagascar, there is no specific legislation that governs the case of IDP in the context of climate change. Malagasy government only took interest in climate change recently, one of the reasons

¹³⁷ Grand Sud of Madagascar is the term used to call the southern-arid region of the country. It has 3 districts: Atsimo Andrefana, Anosy and Androy. The region's population is estimated around 1,800,000.

¹³⁸ Based on Africa fit for children, which is the AU's 2040 Agenda. Through the complete implementation of the ACRWC, African children will be given the opportunity to develop their potential.

the Ministry of Environment has been rebranded as the Ministry of Environment and Sustainable Development. The issue is that Madagascar is one of the most vulnerable countries that can be affected by climate change and this is mostly for two reasons: for being an island and for being one of the poorest countries in the world. The country disposes of a bureau that deals with catastrophe risk management and has an annual budget for the response to climate catastrophe but does not have one for IDPs¹³⁹. There is no policy on internal migration, even the national policy on climate change does not deal with the case of forced displaced persons due to climate change.

By default, IOM has taken charge of displacement and encourages the Malagasy government to reflect on the issues of relocated people due to climate change by implementing a national organ that can document the situation of mobility in the country¹⁴⁰.

As mentioned earlier, the mobility of Malagasy people is mainly documented from the south who are fleeing drought. They are moving from where they are to greener and humid areas, places where they can have access to mains water and land for habitat and agriculture. With the absence of policy, this displacement can engender new issues in the new place. On an environmental level, it can cause more harm to the environment as agriculture needs more place and the new settlers might cut down trees which will exacerbate climate change and create a bis repetita of the situation. Madagascar is a place where ethnicities take an important place. The occupation of a place by a new group can ignite internal conflicts, since the new occupants and natives may not be from the same ethnic group, they might have customs and practices different from each other¹⁴¹.

The Commission Nationale Indépendante des Droits de l'Homme¹⁴² –CNIDH- referred the case to the government of Madagascar in addressing the situation of IDPs in the country.

3.7 Climate Change and the Rights of Children with Disabilities

Nine African countries out of 55 have signed the Protocol to the ACHPR of the Rights of Persons with Disabilities in Africa¹⁴³, which shows the weak involvement of African countries in protecting

¹³⁹ Projet Brookings - Berne sur les déplacements internes. (n.d.). *La protection des personnes déplacées à l'intérieur de leur propre pays*. Institut Brookings.

¹⁴⁰ Consortium MAGMA. (2018). *Défis, Enjeux et Politiques: Migration, Environnement et Changement Climatique à Madagascar*. Organisation Internationale pour la Migration.

¹⁴¹ As Above n 24

¹⁴² Commission Nationale Indépendante des Droits de l'Homme is the Malagasy National Human Rights Institution. It has the power to address any Human Rights issues straight to the government.

¹⁴³ *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa* | African Union. (n.d.) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-persons-disabilities-africa> (accessed 18 October 18 2021)

the Human Rights of people with disabilities. The majority live below the poverty line, which is a significant source of stigma¹⁴⁴.

In Madagascar, 10% of children between the ages of 2 and 5 are living with disabilities and 14% living with disabilities between 5 and 17 years old. The national legislation deals with the protection of the rights of persons with disabilities but in practice, many of them are still left out¹⁴⁵. For example, inclusive education remains a debate in the political sphere and is practically not applied, leaving handicapped children in a situation of uncertainty when talking about education.

When it comes to children with disabilities, the negative effects of climate change may aggravate inequalities that are already present. The number of children with disabilities in the South is not documented, but given the magnitude of vulnerability that able children are facing, the inequities will be noticeable.

The marginalisation of children with impairments may lead to their exclusion from participation in areas that are related to their well-being and their rights. Such a situation might subject them to abuse.

By ratifying the CRPD, the State of Madagascar has to engage more in the promotion of the rights of persons with disabilities. Though there is already a national policy on persons with disabilities, allowing them to exercise their rights remains weak. Persons with disabilities, notably children should express their interest in matters that they feel concerned about.

While reading the Constitution, the words 'disability' or 'handicap' are not mentioned, which reflects a weak guarantee of the protection of their rights. Knowing that the Republic of Madagascar has signed the CPRD and the Optional Protocol, it should align its legislation accordingly. Law 97 044 on the rights of persons with disabilities has provisions for the promotion of their rights but is limited somehow. For instance, financial institutions cannot accept that people with visual impairments open a bank account because the banks do not have facilities or equipment for visually impaired people. This affects the economic and social rights of persons with disabilities and nurtures them in a dependent situation. According to the Association of

¹⁴⁴ Convention on the Rights of Persons with Disabilities

¹⁴⁵ United Nations. . <https://www.unicef.org/madagascar/communiqu%C3%A9s-de-presse/l%C3%A9cole-primaire-publique-dambohidroa-i-donne-lexemple-sur-l%C3%A9ducation#:~:text=Seule%20une%20minorit%C3%A9%20d'enfants,on%20leur%20donne%20les%20moyens>. (accessed 18 October 2021)

persons with disabilities in Madagascar, there have not been recorded any court cases that deal with persons with disabilities as even access to justice is difficult for them.

3.8 Conclusion

Climate crises have been proven to have a detrimental effect on children's physical and psychological health, as well as their performance at school. Climate change interferes with many rights, notably children's rights as they seem to be the most vulnerable.

Climate change's adverse effects jeopardise children's enjoyment of their civil and political rights, as well as their economic, social, and cultural rights, thus exacerbating disparities among them.

States parties are obliged to take measures to safeguard the child's best interests and to preserve his or her human rights. To protect children from the effects of climate change, the State of Madagascar has to take the responsibility to consider a child-friendly policy in which children would participate and vote on laws impacting positively on their future.

Chapter Four: Conclusion and Recommendations

4.1 Concluding Remarks

In conclusion, this research has underscored the compelling narrative that climate change, once a distant environmental concern, has unequivocally emerged as a paramount human rights issue, with the most vulnerable, particularly children, bearing the brunt of its adverse impacts. The gravity of this issue is accentuated by its far-reaching consequences, particularly in regions like the African continent, where reliance on rain-fed agriculture and delicate natural resources renders communities acutely susceptible.

The trajectory of this thesis, traversing scientific and policy dimensions in Chapter Two, illuminated the historical oversight in addressing climate change's implications for human rights. The pre-industrial era's natural temperature rise did not prompt a consideration of fundamental rights protection, with early policymakers oblivious to the need for safeguarding against global warming. The pivotal Industrial Revolution marked a paradigm shift, exposing humanity to alarming impacts as carbon dioxide emissions escalated, triggering a collective response to combat climate change.

Chapter Three delved into the array of instruments designed to shield children's rights from climate change. However, the research uncovered the inadequacy of existing frameworks, such as the UNFCCC or the ACRWC, to comprehensively address this multifaceted challenge. Decisions and policies crafted for adaptation must be scrutinized for their potential impact on human rights, transcending the obvious issues of water scarcity and food shortages.

The focal point of Chapter Four was the nuanced examination of climate change's repercussions on children's rights in southern Madagascar. The relentless drought exacerbates challenges in securing food, health, and water, compelling vulnerable populations to migrate without protection. The chapter contends that the State of Madagascar falls short in ensuring adequate protection for affected children, necessitating a robust mitigation strategy to alleviate the intensity of natural disasters.

A critical revelation from this exploration is the dual nature of climate change's impact – simultaneously engendering positive outcomes, such as increased soil fertility, and deleterious consequences, especially in arid regions like southern Madagascar where crop yields plummet. The interplay of negative effects on economic, social, cultural, civil, and political rights is evident, exemplified by the arduous journey for water collection impinging on girls' education. The interconnectedness of drought consequences demands a comprehensive approach, rooted in addressing the fundamental issue – access to water.

This critical analysis exposes the State of Madagascar's transgressions against the economic, social, cultural, civil, and political rights of children, particularly those in the vulnerable southern regions. Urgent remedial action is imperative, involving a holistic review of legislation and strategies to integrate climate change mitigation, aligning national responses with the imperative of realizing the rights of all, including the most vulnerable – the children of Madagascar.

4.2 Recommendations

The findings show that climate change in – Madagascar is a complex issue for the Malagasy government, CSOs, and the population itself, and there is a need to take action to recover from its impacts and realise children's rights. To guarantee the safeguarding of children's rights, the following recommendations are made:

4.2.1 to the State of Madagascar

- States are required by human rights legislation to safeguard individuals and the exercise of their human rights. The government needs to reflect on the national legislation dealing with the protection of children's rights. Child protection in the Malagasy context is loose and challenges the best interest of the child in every decision taken. The safeguarding of children's rights should not be based on physical violence but different aspects of acts of violence as well. The fact that children in the South cannot access clean drinking water is already a violent and serious infringement of their economic, social, and cultural rights. Then develop on a larger scale, like their protection against the impacts of natural disasters. The question of schooling in a crisis like health or climate emergencies should be discussed. The same should apply to children on the move due to natural disasters when a child leaves his/her home, s/he is vulnerable accompanied or unaccompanied.
- The State of Madagascar has to work on legislation that deals with IDPs. The Malagasy government has not taken into consideration the fact that hundreds of thousands of children are displaced due to the impact of climate change which puts their rights at risk.
- The State of Madagascar should consider the integration of a plan that mitigates or reduces the disaster risk associated with climate change and include children in the decision-making process to ensure the effective participation of children in matters that they feel concerned about as enunciated by the ACRWC.
- The right to adequate remedies should be implemented in Madagascar. Compensation for children who have had their rights infringed as a result of climate change should be made available as part of access to justice. Under the duty to offer equitable relief to the victims

of the effect of climate change, the failure of the State of Madagascar to adapt to climate change is liable for the devastation that has resulted from climate change-related human rights abuses.

- Safeguarding the rights of the child –and global human rights- can be done as well by incorporating provisions in the Constitution. The right to a safe, healthy, and clean environment can be a guarantee of making human rights and the environment a priority. The State of Madagascar can explore this pathway of recognition to ensure the life of dignity of its citizens.
- Public awareness of legislation and policies is weak in Madagascar. This implies the necessity to sensitise and educate Malagasies about their rights and responsibilities regarding the discussion on safe climate and environment. By doing so, the population will be aware of the substantive law and will abide by it. The other education that needs to be dispensed is climate change. In several rural areas of Madagascar, the population is not aware of what is climate change and how it can impact their lives. Many are still contributing to the degradation of the environment by cutting trees and liberating carbon dioxide. The example of slash-and-burn agriculture is a common practice in rural areas. By educating them on climate change, it will help them to understand better the effects and how they can produce sustainably.
- To address the existing drought in the south, the government of Madagascar has to focus on the irrigation of the region to improve the yield of crops and respond to food insecurity. A recent successful example has been launched in the region of Melaky and Boeny¹⁴⁶ and that can be replicated in semi-arid regions like the Grand Sud of Madagascar.
- Addressing the issues of the right to food shall start with the issues of land ownership. In Madagascar, land tenure has long been a divisive topic. The government has to work on a legal reform regarding land tenure to give people access to land for sustainable agriculture which can ensure food security.

4.2.2 to the African Committee of Experts on the Rights and Welfare of the Child – ACERWC-

- Support the inclusion of children’s rights in climate policy and specifically be explicit in the recommendations about the protection of their rights during intense natural disasters. The African Children’s Charter does not have any provision related to the safeguarding of

¹⁴⁶ Ring, H., Morey, M., Kavanagh, E., Kamto, K., McCarthy, N., Bubaker, J., & Rakotondrafara, C. (2018). *Improving Irrigation Access in Madagascar*. International Initiative for Impact Evaluation.

children's rights against the harmful consequences of climate change –drought, water scarcity, etc-. There is an urgent need to improve children's well-being based on climate change projections in the African Continent.

- In the context of Africa fit for children, there must be a climate agenda, specifically designed by and for children. This is one of the ways to make their voices heard and educate them on a continental level.
- The ACERWC should explore methods to hold States Parties liable for their climate pledges, to encourage climate action that is based on human rights.

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