

**Children's Education Rights in the face of Climate Change: Adequacy
of International Children's Rights Framework and the Way Forward**



Leiden University
Faculty of Law
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Submitted by: Avinash Reddy Pichhili



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Name: Avinash Reddy Pichhili

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List of Abbreviations

ADB – Asian Development Bank

CESCR – Committee on Economic, Social and Cultural Rights

ICCPR – International Covenant on Civil and Political Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

UDHR - Universal Declaration of Human Rights

UNEP – United Nations Environment Programme

UNFCCC – United Nations Framework Convention on Climate Change

UNCRC – United Nations Convention on the Rights of the Child

Executive Summary

The first chapter provides the background for the thesis and lays down the foundation for examining the extent to which children's education rights are impacted by climate change, and to analyse the adequacy of international legal framework to safeguard these rights. It showcases the seriousness of the impact of climate change on children's rights in general, and highlights why it is necessary to specifically examine the situation of their education rights.

The second chapter showcases that education rights, to a limited extent, are enumerated in the climate change instruments. These instruments, though do not contain reference to children's rights and education rights of children in detail, act as a linking factor between climate change policies and education rights of children as contained in the UNCRC and other international human rights instruments. The Chapter provides an overview of the international legal framework to locate children's education rights in the context of climate change using numerous authoritative sources.

The third chapter includes an analysis of Concluding Observations issued by the Committee on the Rights of the Child between 2017 to 2020, and showcases that the Committee is attentive of the need to safeguard the education rights of children impacted by climate change, both if they stay in the place affected by climate change and if they were to be displaced. It identifies 4 relevant recommendations that have been issued to the States, which are - Inclusion of climate change education in the school curriculum, building resilient schools, developing policies for safeguarding the rights of climate change induced international migrant children and facilitating the participation of children in climate change related policies.

It then delves into universality of education rights, the right against discrimination, the right to development of children, and cultural and identity rights of children, to showcase the interlinked nature of these rights and their relevance to children's education rights in the face of climate change and in equipping them to effectively participate in climate change adaptation and mitigation policies/strategies. As a whole, it showcases the need to pay more attention to the education rights of children in the context of climate change and highlighted the lacunae in the current international children's rights framework in effectively safeguarding the education rights of such children.

Based on the recommendations of the Committee on the Rights of the Child, and the gaps in the international legal framework, a three pronged framework is deduced and used in relation to children's education rights in the context of climate change. This relates to firstly – ensuring accessibility and availability of education rights, secondly – safeguarding participation rights of children and thirdly – undertaking special measures for safeguarding rights of vulnerable children, for example – safeguarding children's cultural and identity rights.

The fourth chapter showcases the interdependence between education and cultural rights of children and how the enjoyment of each of these rights is vital for the effective enjoyment of the other, especially in the context of climate change. It further establishes that children belonging to minorities and indigenous communities are at a heightened risk of the impact of climate change. It highlights the importance of children's education rights for effective participation as members of the respective communities and for developing their identities. It raises concerns about the international legal framework, in the current form, as it provides a wide range of discretion to the States in implementing crucial components of education and cultural rights, and sheds light on the need to establish certain components (education in own

language and culture) as core components of education rights, especially for children impacted by climate change. It also helps in emphasizing on the need for the States to undertake special measures in order to ensure that the children's education rights (of the ones impacted by climate change) are effectively realised.

Chapter 5 – a case study of education and cultural rights of Kiribati children in the context of climate change, helps in situating these rights locally, showcased the seriousness of violation of these rights, and also highlighted its effects on right to development, education rights, cultural rights, right to identity, right to information and expression. It helps in analysing the role of education as a facilitator of participation rights and as a critical element in ensuring that children are involved in climate change adaptation and mitigation policies/strategies. It further clarifies the nature of special measures that need to be undertaken for children who are at an immediate risk of facing the effects of climate change in order to effectively safeguard their education rights, and the other interlinked rights as enumerated in the UNCRC. It also helps in identifying some of the obligations of the States impacted by climate change as well as the neighbouring States – by relying on the need for international cooperation as enumerated in Article 4 of UNCRC. The examination of domestic policies in this regard aid in identifying the components of education rights that need to be refocused on at the international level, in order to ensure that they also effectively seep into the domestic policies, laws and strategies relating to education and climate change.

As a whole, the chapter emphasizes on the necessity to pay more attention to the underlying factors in the context of climate change that indirectly impact the education rights of children, with the objective of issuing recommendations to the relevant States for addressing these underlying factors – including loss of livelihood, lack of basic amenities, diversion of budgetary allocations by the States etc.

Finally, Chapter 6 provides the Conclusion and lists down specific recommendations that can be considered while drafting the upcoming General Comment No. 26 on "Children's rights and the environment with a special focus on climate change". These include improving the physical resilience of schools, non-diversion of budget from education, need to address the underlying factors that impact education rights, need to promote international cooperation for eliminating different kinds of barriers to education in this context, need to incorporate climate change education in the school curriculum and tailor it on the basis of age, location and culture to equip the children to participate effectively in devising and implementing the relevant climate change mitigation and adaptation policies, and the need for the education systems of relevant states to account for children's cultural and identity rights by providing the option to learn one's own language, and to be educated in one's own language.

Keywords

Education Rights, Climate Change, Adaptation, Mitigation, Cultural and Identity Rights

Overview of Main Findings

Education rights, to a limited extent, are enumerated in the climate change instruments – Articles 4 and 6 of the UN Framework Convention on Climate Change (UNFCCC). UNCRC provides a strong basis for advocating for these rights, as well as in identifying the interlinked but overlooked rights such as the cultural and identity rights.

The analysis of Concluding Observations issued by the Committee on the Rights of the Child between 2017 to 2020, showcased that the Committee is attentive of the need to safeguard the education rights of children impacted by climate change, both if they stay in the place affected by climate change and if they were to be displaced. However, there is a necessity to pay more attention to the underlying factors in the context of climate change that indirectly impact the education rights of children, with the objective of issuing recommendations to the relevant States for addressing such factors – including loss of livelihood, lack of basic amenities, diversion of budgetary allocations by the States etc.

Based on the recommendations of the Committee on the Rights of the Child, and the gaps in the international legal framework, a three pronged framework is deduced and used in relation to children's education rights in the context of climate change. This relates to firstly – ensuring accessibility and availability of education rights, secondly – safeguarding participation rights of children and thirdly – undertaking special measures for safeguarding rights of vulnerable children, for example – safeguarding children's cultural and identity rights.

It is shown that the interlinked and interdependent nature of education rights, which in its role as a multiplier right as well as a right in itself, holds immense significance for safeguarding children's rights in the context of climate change, and in equipping them to effectively participate in climate change adaptation and mitigation policies/strategies. More specifically, there is a need to undertake special measures for safeguarding the education and interlinked cultural and identity rights of children belonging to minorities and indigenous communities as they are both at a heightened risk of the impact of climate change, and are not equipped to cope with its effects. In this context, importance of education in one's own language and culture, both when the children remain in their own States as well as when they are internally/internationally displaced should not be overlooked. The international legal framework, in the current form, provides a wide range of discretion. The thesis therefore shows the need for the States to consider them as core components of education rights, especially for children impacted by climate change – as they are relevant both for adaptation and mitigation policies/strategies and is in furtherance of right against discrimination (Article 2, UNCRC) and universality of education rights.

The case study of education and cultural rights of Kiribati children in the context of climate change, helped in situating these rights locally, showcasing the seriousness of violation of these rights, and also highlighting its effects on right to development, education rights, cultural rights, right to identity, right to information and expression. The examination of domestic policies in this regard helped in identifying the components of education rights that need to be refocused on at the international level, in order to ensure that they also effectively seep into the domestic policies, laws and strategies relating to education and climate change.

Based on this analysis, the thesis puts forth some recommendations which can also be useful for the upcoming General Comment No. 26 of the Committee on the Rights of the Child.

1. Introduction

1.1. Impact of Climate Change on Children

There is ample evidence from a range of sources, including climate modeling, direct observation and historic sources that disclose past information about climate, which establishes with certainty that cumulative effects of various human actions are already causing irreversible changes to the climate.¹ Most prominently, the effects can be seen in the form of rise in sea levels, increase in temperatures across the globe, decreased agricultural productivity² and in an increased occurrence of natural disasters.³

Gradual increase in temperature has been recorded across the globe for decades now. In fact, the 7 warmest years between the period 1880 to 2020 have all been recorded from the year 2014.⁴ Similarly, since 1880, there has been an increase in sea level by 8 inches and it is expected to further rise by around 1 to 8 feet by the year 2100.⁵ On a similar note, the frequency of climate-related natural disasters has also been observed to be consistently increasing over the years.⁶ These changes (and potential changes) to the earth's eco-system raises serious concerns about their implications over children's rights.

According to a report by the World Bank Group, more than 143 million individuals are at the risk of being displaced due to climate change by the year 2050 in just three regions, i.e. South Asia, Latin America and Sub-Saharan Africa.⁷ Worryingly, over 500 million children are living in areas which are considered to be at an extremely high risk of flooding due to various weather events, including increasing sea levels.⁸ This data showcases that the rights of such children are at stake, individually and collectively.

Understanding climate change as a reality, necessitates us to acknowledge its adverse effects on children's rights and the need to address them, especially considering that children are among the most vulnerable groups that are severely and disproportionately impacted due to climate change.⁹ Climate change can have negative implications for the rights of children, both when they remain in a place affected by climate change and also when they choose to, or are forced to migrate to other locations. There are a range of risks that children are exposed to due to climate change and they infringe upon

¹ Janet Currie and Olivier Deschênes, *Children and Climate Change: Introducing the Issue*, 26 (1) *The Future of Children* (2016), at 3

² *Climate Change and Human Rights*, UNEP, 2015, page 7.

³ *Supra* Note 1, at 4.

⁴ NOAA National Centers for Environmental Information, *State of the Climate: Global Climate Report for Annual 2020* (2021).

⁵ Rebecca Lindsey, *Climate Change: Global Sea Level* (2021).

⁶ *Global Increase in Climate-Related Disasters*, Independent Evaluation ADB, Working Paper 2015, at 2.

⁷ *id.*, at 110.

⁸ Fact Sheet: 'The climate crisis is a child rights crisis', UNICEF (2019).

⁹ K. K. Rigaud, A. de Sherbinin, B. Jones, J. Bergmann, V. Clement, K. Ober, Jacob Schewe, S. Adamo, B. McCusker, S. Heuser, and A. Midgley, *Preparing for Internal Climate Migration*, World Bank Group (2018), at 110.

various protection, participation and provision rights of children. Moreover, the risks faced by the children in developing countries are further exacerbated due to the weak response mechanisms and institutions.¹⁰

1.2. Climate Change and Education Rights of Children

The adverse impact of climate change, on various social, economic and cultural rights, has come to the forefront in the recent years through numerous surveys and research studies.¹¹ Considering the interrelatedness, interdependency and indivisibility of human rights,¹² and the gravity of violation of rights in the context of climate change, it is imperative to ensure that socio-economic and cultural rights are given equal importance as those of civil and political rights. Moreover, the academic research and discourse on children's rights and climate change needs to pay adequate attention to the participation and provision rights of children.

Education rights, counted among the ESC rights, are vital to realise protection, participation and provision rights of children in the context of climate change. Along with other rights, education rights of children remain in limbo in such situations. Children can lose access to education rights either due to the climate change induced disasters which have a direct impact on the schools and their surroundings, or through an indirect impact in the form of falling prey to poverty, deterioration of health, climate change induced migration or displacement etc.¹³

The indirect effects of climate change such as increased vulnerability to diseases, undernutrition, conflicts within families and communities, loss of livelihood and migration impedes the development of children.¹⁴ Such indirect effects also impede the realisation of education rights of children. For example, research studies indicate that extreme weather conditions have a direct causal link to an increase in intercommunity¹⁵ and interpersonal conflicts, more so of the former.¹⁶ Even in situations where the cause of conflicts might not be directly attributed to climate change, it has been perceived to be adding an additional layer of stress which can result in an increase in the likelihood of conflicts.¹⁷ Such conflicts impact the health and well-being of children, both in the short-term as well as in the long-term.¹⁸ Moreover, conflicts in general

¹⁰ *Supra* Note 1, at 3.

¹¹ A. G. Pillay, Economic, Social and Cultural Rights and Climate Change, in *Climate Change: International Law and Global Governance I* (2013).

¹² <<https://www.ohchr.org/EN/issues/pages/whatarehumanrights.aspx>>

¹³ K. Ruppel-Schlichting, S. Human and O. C. Ruppel, Climate Change and Children's Rights: An International Law Perspective, in *Climate Change: International Law and Global Governance, Volume I: Legal Responses and Global Responsibility*, Eds. O. C. Ruppel, C. Roschmann and K. Ruppel-Schlichting (2013), at 370.

¹⁴ *Supra* Note 1, at 4.

¹⁵ C. E. Werrell and F. Femia, Climate change raises conflict concerns, UNESCO.

¹⁶ R. Akresh, Climate Change, Conflict, and Children, 26(1) *The Future of Children* (2016), at 53.

¹⁷ R. McLeman, Migration and Displacement in a Changing Climate, in *Epicenters Of Climate And Security*, Eds. C. E. Werrell and F. Femia, (2017), at 105.

¹⁸ *Supra* Note 16, at 58-62.

are known to have adverse impact on education rights of children, for example – in the form of reduced school enrolment and the same can hold true for conflicts that are caused due to climate change. Therefore, it is evident that the causal link between climate change and conflicts can also be extended to encompass its negative impact on education rights of children.

It is also pertinent to highlight here that the strategies to combat climate change and its impacts are broadly classified into two complimentary categories – a) Mitigation and b) Adaptation.¹⁹ While mitigation strategies are aimed at reducing the sources impacting climate change,²⁰ adaptation strategies refer to adjustments aimed at various systems or policies in response to actual/expected climate change impacts.²¹

Even though children are one of the most vulnerable groups and are disproportionately affected by the drastic effects of climate change, they are seldom involved in the discussions and deliberations surrounding climate change adaptation and mitigation policies and activities.²² Therefore, children's ability to participate and "contribute to disaster preparedness, response and recovery activities"²³ is undermined and under-utilized. While children's participation right is primarily derived from Article 12 of UNCRC which provides for the right to be heard and for their views to be given due weight,²⁴ Article 28 and 29 of UNCRC, which provide for the education rights, play an equally important role as they prepare and inform the child to be able to participate effectively.

Further, consider the definition of climate change as provided in the UNFCC –

"a change of climate which is *attributed directly or indirectly to human activity* that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods"²⁵ (emphasis added).

The definition clearly focuses on anthropogenic changes, which also suggests that climate change, to that extent, can be prevented by undertaking mitigation strategies. Here, it must be emphasized that any kind of mitigation strategies that do not focus on equipping children through education and climate change education in specific, are doomed to be ineffective. Moreover, the interrelation between higher educational attainment and reduced vulnerability to climate change is well-documented. Educational

¹⁹ R.K. Pachauri and L.A. Meyer, IPCC 2014: Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (2014), at 17.

²⁰ Houghton, J.T., Y. Ding, D.J. Griggs, M. Noguer, P.J. van der Linden, X. Dai, K. Maskell, and C.A. Johnson, IPCC, 2001: Climate Change 2001: The Scientific Basis. Contribution of Working Group I to the Third Assessment Report of the Intergovernmental Panel on Climate Change (2001), at 793.

²¹ IPCC TAR, 2001 a.

²² *Supra* Note 1, at 4.

²³ *Supra* Note 13, at 351.

²⁴ Article 12, UNCRC.

²⁵ Article 1, UNFCC.

attainment directly or indirectly improves the adaptive capacities of communities/groups by impacting their preparedness and poverty levels.²⁶

It is therefore evident that education rights of children are crucial both for the mitigation and adaptation strategies to combat climate change and its impact. Based on this premise, coupled with the fact that there is a dire need to further the discourse on ESC rights of children in the context of climate change, this thesis specifically focuses on education rights of such children.

In the 87th session of the Committee on the Rights of the Child, the Committee acknowledged the efforts of the children and young people in demanding the governments to do more in the context of climate change and committed itself to prepare the 26th General Comment on "Children's rights and the environment with a special focus on climate change".²⁷ The Chair of the Committee - Ms. Mikiko Otani went on to relay the message of the children to "Join us in the quest for global solutions to the climate crisis!".²⁸ Education rights of children impacted (potentially) by climate change, are situated at the core of developing and formulating any form of global solutions – be it in the form of adaptation strategies or mitigation strategies.

In this context, and considering the fact that education functions as a multiplier right,²⁹ it makes it all the more important to specifically examine the impact of climate change on children's education rights and the States' preparedness in the form of appropriate policies/laws to realise these rights of children. While assessing the impact of climate change on children's rights, it is therefore necessary to bear in mind that realising education rights of children can facilitate their enjoyment of other rights and freedoms as provided in the UNCRC and similarly, deprivation of education rights essentially violates multiple such rights and freedoms.³⁰

1.3. Aims and Research Questions

The aim of this thesis is to further the discourse on climate change and its impact on children's education rights, specifically with the objective to work towards ensuring that the children affected by climate change are able to enjoy their education rights as well as the numerous other interlinked and interdependent rights, as enshrined in the international human and children's rights instruments, including the United Nations Convention on the Rights of the Child.³¹

²⁶ Raya Muttarak 1 and Wolfgang Lutz, Is Education a Key to Reducing Vulnerability to Natural Disasters and hence Unavoidable Climate Change?, 19(1): 42 Ecology and Society, at 2.

²⁷ <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27139&LangID=E>>

²⁸ *id.*

²⁹ UN Doc. A/HRC/RES/32/20.

³⁰ K. Tomasevski, Human rights obligations: making education available, accessible, acceptable and adaptable, LPP, Laboratorio de Políticas Públicas (2009), at 10.

³¹ Articles 28 and 29, UNCRC

1.4. Primary Research Question

The thesis focuses on the children affected by climate change, and it specifically attempts to examine the question - 'to what extent does climate change affect the education rights of children and is the current international children's rights framework adequate to realise these rights?'

1.5. Ancillary Research Questions

In order to answer the primary research question, a number of subsidiary questions will also need to be addressed, some of which are listed as follows:

- a) What role does the international legal framework as well as the domestic legal framework of the States plays in the realization / violation of education rights?
- b) How have the various treaty bodies, specifically UNHRC, CESCR and UNCRC reacted to/attempted to address this aspect of climate change and education rights?
- c) Which particular groups of children are (most likely) to be at the receiving end of such violations and why?
- d) How are cultural and identity rights of children impacted due to climate change and how does the interdependency between education and cultural rights play out in the context of climate change, especially for the minority and indigenous children?

1.6. Research Method

The thesis uses a child rights-based approach. It examines the international children's rights and human rights framework and makes an attempt to identify the lacunae therein, in order to suggest ways in which education rights of such children can be meaningfully and effectively realised.

The research for the thesis relies on academic desk based research. It is based on both primary and secondary sources and uses qualitative research method. The primary resources include international and domestic children's rights framework, Concluding Observations, General Comments, Statements and Communications of treaty bodies etc. and the secondary resources include interdisciplinary research studies and reports, academic articles etc.

The Concluding Observations of the Committee on the Rights of the Child are analysed from the year 2017 to 2020 in order to capture the approach of the Committee towards climate change and education rights post the year 2016 – the year in which the Committee held the Day of General Discussion on Children's Rights and the Environment.

The thesis also uses a case-study approach to examine the situation of children's education rights in the context of Small Island States with special focus on Kiribati – as these islands are at the risk of becoming permanently inhabitable due to climate change.

1.7. Outline of the Chapters

In order to situate the whole discourse on a rights framework, Chapter 2 of the thesis focuses on the international children's rights framework. It analyses whether the existing framework is adequate to

realize the education rights of children in the context of climate change. It covers education rights in the context of climate change as provided in the instruments on climate change, and then delves into explicit references made by treaties, treaty bodies and in SDGs to climate change and education rights. It also includes brief discussions about the evolution of education rights in the context of climate change, and therefore seeks to provide an overview of the international framework.

Chapter 3 then includes an analysis of the Concluding Observations of CRC Committee between 2017-2020 to highlight the role played by the treaty body in safeguarding the education rights of children who are impacted by climate change. It then provides a brief analysis of the interlinked rights such as the right to development (Article 6, UNCRC), right against discrimination (Article 2, UNCRC) and cultural and identity rights. Chapters 2 and 3 together provide the background to devise a three-pronged framework that should be considered in relation to education rights and climate change.

Chapter 4 of the thesis then focuses on elaborating on the interlinkage between education rights, and cultural and identity rights of children in the context of climate change. It also brings out the differentiated impact of climate change on the education rights of children belonging to minority and indigenous communities.

Chapter 5 of the thesis is a case study of the children in Kiribati. It builds on Chapter 4 by specifically examining the situation of education and cultural rights of children in Small Island Developing States – such as Kiribati in the context of climate change. It also examines the domestic policies, strategies and relevant laws to understand if they are sufficient to tackle the impact of climate change on education rights of children, including the extent and nature of climate change education. In this context, it attempts to pinpoint the role of the international community.

Based on the analysis, Chapter 6 provides the conclusion and lists down recommendations for ensuring effective realisation of education rights of children in the context of climate change.

2. International Children's Rights Framework in the context of Education Rights of Children impacted (potentially) by Climate Change

In order to understand the extent to which the international human and children's rights instruments and treaty bodies pay attention to the education rights of children in the context of climate change, the same is discussed and analysed in this chapter. The Chapter also comprises of an analysis of Days of General Discussion of the Committee on the Rights of the Child, Reports of Special Rapporteurs and Sustainable Development Goals, all in relation to climate change and children's education rights. It helps in providing an overview of a wide range of reliable and authoritative sources beyond the international human and children's rights instruments, that refer to children's education rights in the context of climate change.

This chapter, as a whole, seeks to situate children's education rights in the context of climate change and in combination with the next Chapter, in understanding the adequacy or inadequacy of the current international legal framework in safeguarding these rights of children.

2.1. International Instruments on Climate Change: Status of Children's Education Rights?

In order to understand the intricate link between education rights and climate change, it is prudent to begin with an overview of the provisions of the United Nations Framework Convention on Climate Change ('UNFCCC') and related climate change instruments. The reference to children and their rights is inferred from Article 3 (1) of UNFCCC that states "The Parties should protect the climate system for the benefit of *present and future generations of humankind*, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities..." (emphasis added). Children's rights can be perceived to be incorporated in this convention as it refers to the principle of inter-generational and intra-generational equity.³² However, it is still unfortunate that the UNFCCC, though adopted in 1992 (after the UNCRC) does not make even a single direct reference to children,³³ either to point out the heightened vulnerabilities of children or to conceptualise and recognise them as stakeholders who can be crucial for both the mitigation and adaptation policies.

Article 4 of the UNFCCC which lists down the commitments of the State Parties, among other things, states "*Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation* in this process..."(emphasis added).³⁴ By enumerating 'education' and 'participation' under commitments relevant to climate change, the UNFCCC can be seen to be clearly making the link between education rights and climate change.

More specifically, Article 6 of the UNFCCC on 'Education, Training and Public Awareness' can be considered to be directly relevant to children's education rights and climate change. The States are required to promote and facilitate - the development and implementation of educational programmes on

³² *Supra* Note 13, at 365.

³³ E. D. Gibbons, Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice, 16 (1) Health and Human Rights Journal (2014), at 23.

³⁴ Article 4.1(i), UNFCCC.

climate change and its effects,³⁵ “public access to information on climate change and its effects”,³⁶ “public participation in addressing climate change and its effects and developing adequate responses”.³⁷

These provisions can be seen to incorporate provision rights to a limited extent (climate change education), and participation rights (public participation and access to information). Even the New Delhi work programme on Article 6 of the Convention that further elaborates on these provisions, makes explicit reference to climate change education and training targeting for the youth in particular.³⁸ Absence of children in this regard is definitely not in line with the UNCRC which requires children’s best interests to be considered in all actions concerning them, and this would necessarily mean that such education programmes must also cater to children not only because they are at a heightened risk due to climate change and its effects, but are more importantly one of the stakeholders.

Paris Agreement, 2015 is the only international treaty on climate change that explicitly requires the State parties to consider children’s rights while taking actions to address climate change.³⁹ Therefore, its reference to climate change education, access to information and public participation under Article 12 should be read with the provisions of UNCRC.⁴⁰ Consequently, the States are under an obligation to undertake measures with respect to these aspects of climate change in relation to children’s education rights.

2.2. Evolution of Education Rights and its relevance to Climate Change

Education rights have been incorporated in almost all the international human rights instruments, dating all the way back to the minority treaties concluded post first world war. These treaties were to protect the educational rights of minority groups that were displaced as a result of redrawing of the national boundaries.⁴¹ It is interesting to note that education rights in the first instance, at the international level, found their basis in the context of displacement and minority rights. In fact, these very concepts of displacement and minority rights are still relevant for children’s education rights in the context of climate change, as a significant number of such children are displaced, coupled with the fact that the affected individuals either primarily belong to minority groups due to their vulnerabilities⁴² or are minoritized either within the State (different region) or across the international borders.

Geneva Declaration of the Rights of the Child of 1924 (Declaration of Geneva) is the first children’s rights instrument that had a bearing on education rights. While this Declaration did not contain an explicit

³⁵ Article 6 (a) (i), UNFCCC.

³⁶ Article 6 (a) (ii), UNFCCC.

³⁷ Article 6 (a) (iii), UNFCCC.

³⁸ New Delhi work programme on Article 6 of the Convention, Decision _/CP.8, para 12.

³⁹ Preamble, Paris Agreement.

⁴⁰ *id*, Article 12.

⁴¹ See Article 8, *Treaty Between The Principal Allied and Associated Powers and Poland, 1919*; D. C. Hodgson, *The Role and Purposes of Public Schools and Religious Fundamentalism: An International Human Rights Law Perspective*, Forum on Public Policy, at 6.

⁴² S. Jayawardhan, *Vulnerability and Climate Change Induced Human Displacement*, 17 *Consilience* (2017), at 108.

reference to education rights, they were implied through three of its five principles.⁴³ These principles, in the context of education, relate to providing the means for normal development of the child,⁴⁴ helping backward children⁴⁵ and putting the child in a position to earn livelihood.⁴⁶ Nearly two and a half decades later, the UDHR became the first international instrument to provide for a general right to education.⁴⁷ It also included provisions relating to free and compulsory education in the elementary stages⁴⁸ and full development of human personality.⁴⁹

The successor of the 'Declaration of Geneva', the UN Declaration of the Rights of the Child in 1959 explicitly provided for education rights of children. Among other things, education is aimed "to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society".⁵⁰ Later, the ICESCR provided one of the most comprehensive elaboration of the education rights under Articles 13 and 14. These provisions included aspects of "full development of the human personality and the sense of its dignity"⁵¹ and free and compulsory primary education.⁵²

While some scholars point out the weak framing of some aspects of education rights under the UNCRC,⁵³ it by far contains the most comprehensive enumeration of education rights among all the international human rights instruments.⁵⁴ In the form of Articles 28 and 29, the Convention contains dedicated provisions on education rights. It also makes reference to a range of education rights in relation to children with disabilities,⁵⁵ health,⁵⁶ juvenile justice systems,⁵⁷ protection from economic exploitation,⁵⁸ etc. Similar to Article 28 (1) of UDHR and Article 13 (2) (a) of ICESCR, Article 28 (1) (a) of UNCRC provides for free and compulsory primary education to all children,⁵⁹ and it also requires the States to

⁴³ K. D. Beiter, History and Nature of the Right to Education, in *The Protection of the Right to Education by International Law* (2006), at 25.

⁴⁴ Principle 1, Geneva Declaration of the Rights of the Child of 1924

⁴⁵ *id*, Principle 2.

⁴⁶ *id*, Principle 4.

⁴⁷ Article 26 (1), UDHR.

⁴⁸ *id*.

⁴⁹ Article 26 (2), UDHR.

⁵⁰ Article 7, The UN Declaration of the Rights of the Child in 1959

⁵¹ Article 13 (1), ICESCR.

⁵² Articles 13 (2) (a) and 14, ICESCR.

⁵³ *Supra* Note 41, at 15.

⁵⁴ L. Lundy, P. O'Lynn The Education Rights of Children, in *International Human Rights of Children* (2019), eds. U. Kilkelly & T. Liefwaard.

⁵⁵ Article 23 (3) & (4), UNCRC

⁵⁶ Article 24 (2) (e), UNCRC

⁵⁷ Article 40 (3) (b), UNCRC

⁵⁸ Article 32 (1) & (2), UNCRC

⁵⁹ Article 28 (1) (a), UNCRC

undertake measures for ensuring attendance of children and for reducing the drop-out rates.⁶⁰ Article 29 of the UNCRC, which provides for the aims of education, among other things, provides for the development of child's personality and abilities,⁶¹ and for "the development of respect for the natural environment".⁶²

2.3. UNCRC and Education Rights in the Context of Climate Change

It is here worth pointing out that only the UNCRC makes an explicit reference to environment in the context of education rights. In fact, UNCRC is the first UN treaty that referred to environment,⁶³ and its significance lies in the fact that it is covered under education rights of children.⁶⁴ Article 29 (1) (e) of the UNCRC, enumerates "the development of respect for the natural environment" as one of the aims of education.⁶⁵ This specific provision is both hailed and criticized in the same breath and there are reasonably justifiable arguments on either sides of the spectrum.

Laura Lundy and Patricia O'Lynn focus on the significance of including 'environment' in the aims of education which on the one hand is reflective of the fact that the international community recognises the challenges surrounding the environment and on the other hand shows us that it is necessary for the children to learn to respect the nature.⁶⁶ Here, I would go on to argue that the provision is emblematic of the UNCRC's approach of viewing children as the rights-holders. By making it one of the aims of education, it acknowledges the potential impact of deteriorating environment on children's rights while also attempting to enable them to be able to participate effectively in protecting the environment. It helps children in enhancing their critical thinking abilities and also prepares them to address and withstand the changing environment.⁶⁷

On the other end of the spectrum, there is valid criticism of the UNCRC as it barely touches upon environmental issues which can be fairly inferred from the provision "development of respect for the natural environment". It shows us that environmental matters were seen with less urgency at the time of drafting the convention, and is not sufficient to address the severity and the range of challenges surrounding the environment.⁶⁸

⁶⁰ Article 28 (1) (e), UNCRC

⁶¹ Article 29 (1) (a), UNCRC

⁶² Article 29 (1) (e), UNCRC

⁶³ *Supra* Note 54, at 268.

⁶⁴ *Supra* Note 62.

⁶⁵ *id.*

⁶⁶ *Supra* Note 54, at 268.

⁶⁷ *Supra* Note 13, at 360.

⁶⁸ E. Desmet, Children's Rights and the Environmental Dimension of Sustainable Development, in Children's Rights and the Environmental Dimension of Sustainable Development (2019), ed. Claire Fenton-Glynn, at 197

2.4. Committee on Economic Social and Cultural Rights (CESCR) on Education Rights in the context of Climate Change

To a certain extent, the CESCR also addressed climate change in relation to education rights even though it is not provided for in the text of ICESCR itself. In fact, the CESCR picks up on this aspect while discussing the importance of education rights in its inherent role as an empowering right as realisation of education rights is vital for the enjoyment of numerous other human rights.⁶⁹ More specifically, the CESCR sheds light on the role of education in “empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, *promoting human rights and democracy, protecting the environment*, and controlling population growth” (emphasis added).⁷⁰ Here, the role of education rights in both promoting human rights as well as in protecting the environment are explicitly acknowledged by the CESCR.

The CESCR in its General Comment No. 13 had noted that education has a vital role in protecting the environment.⁷¹ Further, in its statement on climate change and the ICESCR, the CESCR acknowledges the negative impact of climate change on crop yields, livelihood, poverty, access to food, water and sanitation etc., but noticeably it does not acknowledge the negative impact on the education rights of children.⁷² However, it is important to note that these aspects have an indirect impact on the enjoyment of education rights by children.

2.5. Days of General Discussion: Committee on the Rights of the Child

Days of General Discussions of the Committee on the Rights of the Child in the year 2008, 2012 and 2016 are relevant to the education rights of children in the context of climate change. The Day of General Discussion in 2008 was on the Right of the Child to Education in Emergency Situations. Emergency situations includes all types of natural disasters.⁷³ The Committee while acknowledging the role of education in ensuring “normalcy, stability, structure and hope for the future”, recommended the States to ensure the full enjoyment of right to education both during and post emergencies.⁷⁴ By relying on Article 4 (2) of the UNCRC, it also emphasized on the role of the international community in ensuring that education rights are fulfilled.⁷⁵ The Committee noted that the right to participation includes the right to be heard with respect to environmental laws, policies and practices.⁷⁶ It also specifically recommended the

⁶⁹ *Supra* Note 43, at 17.

⁷⁰ CESCR, General Comment No. 13: The Right to Education (Art. 13), UN Doc. E/C.12/1999/10), para 1

⁷¹ *id.*

⁷² Climate change and the International Covenant on Economic, Social and Cultural Rights, Statement of the Committee on Economic, Social and Cultural Rights, 8 October 2018, para 4.

⁷³ Day Of General Discussion On “The Right Of The Child To Education In Emergency Situations” Recommendations, Committee On The Rights Of The Child, 2008, para 2.

⁷⁴ *id.*, para 29.

⁷⁵ *id.*, para 31.

⁷⁶ Committee On The Rights Of The Child Report Of The 2016 Day Of General Discussion, Children’s Rights and the Environment, page 19.

States to consider Art. 29(1)(e) of the CRC when implementing and reporting on SDG 4 and 13, Article 6 of the UNFCCC and Article 12 of the Paris Agreement.⁷⁷

Further, the committee recommended that the Host States should respect the right of refugee and asylum seeking children to be able to learn in their own language and to learn about their culture, including if it concerns internally displaced children.⁷⁸ It specifically stated that “education should be sensitive to the culture, language and traditions of the child”.⁷⁹

2.6. Reports of Special Rapporteurs – Impact of Climate Change on Education and interlinked Rights

The impact of successive droughts on education rights was reported by the United Nations Special Rapporteur on the right to food in 2011. He stated that the droughts made accessing education unaffordable, therefore resulting in removal of children from schools and subsequent increase in child labour.⁸⁰ Another indirect impact is in the form of budgetary allocation by the States. Reduced budgetary allocation for education is another form of indirect impact of climate change on the education rights of children. Funds that were previously allocated for the education sector are routinely diverted towards disaster relief and other adaptation measures.⁸¹

The Special Rapporteur on the enjoyment of a safe, clean, healthy and sustainable environment noted the importance of “accessible, affordable and understandable” climate change related information as well as the inclusion of climate change education in the curriculum at schools.⁸² In 2018, the Special Rapporteur, through his report, presented the ‘Framework principles on human rights and the environment’. Principle 6 of this framework is specifically on “education and public awareness on environmental matters” and includes a direct reference to Article 29 (1) (e) of the UNCRC – developing respect for natural environment.⁸³ With respect to environmental / climate change education, the principle lays special emphasis on including it from early childhood and to be tailored based on the culture, language and environmental situation of the child.⁸⁴ It also makes a direct reference to rights to express views and participate in decision-making – which are directly relevant to Article 12 (right to be heard) and Article 5 (evolving capacities) of the UNCRC.

⁷⁷ *id*, page 34.

⁷⁸ *Supra* Note 73, para 40.

⁷⁹ *Supra* Note 73, para 45.

⁸⁰ O. De Schutter, Report of the Special Rapporteur on the right to food, UN Doc. A/HRC/16/49/Add.2:(2011), para. 13.

⁸¹ Understanding Human Rights and Climate Change, Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change, at 20.

⁸² Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 2019, UN Doc. A/74/161, at 18.

⁸³ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc. A/HRC/37/59, 2018, para 15, at 10.

⁸⁴ *id*, para 16, at 11.

Further, Framework Principle 14 specifically requires the States to undertake “additional measures to protect the rights of those who are most vulnerable” – this includes the rights of children and the rights of minority and indigenous communities among others.⁸⁵ Both of these principles provide a basic foundation for the chapter on education and cultural rights of children in the context of climate change, where these aspects are discussed in detail. Further, in 2021, the Special Rapporteur specifically noted the impact of “Water pollution, water scarcity and water-related disasters” on the education rights, right to development and culture of children.⁸⁶

2.7. Sustainable Development Goals and Education Rights

In comparison, though not as authoritative as the UNCRC, the SDG 4 (quality education) explicitly envisions ‘Education for Sustainable Development’ under Target 4.7.⁸⁷ Education for sustainable development (‘ESD’), while rooted in empowerment and encourages active participation (tenets of UNCRC), encompasses a significantly larger gamut of environment related challenges, “including climate change, environmental degradation, loss of biodiversity, poverty and inequality”.⁸⁸ While it is not specific to children, it is definitely a much stronger formulation and acknowledgment of the link between education rights and climate change. Further, with the adoption of Berlin Declaration on Education for Sustainable Development, 2021⁸⁹ which recognises the urgent nature of climate crisis and with UNESCO’s specific call to include ESD in all national educational systems at all levels by the year 2025,⁹⁰ it can be stated that there is much greater attention being paid to the importance of using education as a tool to deal with climate change and its effects.

Further, SDG 13 on Climate Action, and more specifically Target 13.3 and 13.b are relevant for the education rights of children in the context of climate change. Target 13.3 states “Improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning”.⁹¹ Therefore, it focuses on education both in the context of climate change mitigation and adaptation. Target 13.b places special emphasis on capacity building of least developed countries and small island developing States and more specifically on “women, youth and local and marginalized communities”. While it does not use the term ‘child’ or ‘children’, it can be understood to be targeting children as one of the groups that needs special focus for capacity building in the context of climate change – therefore advocating for the participation rights of children.

⁸⁵ *id*, para 41, at 16.

⁸⁶ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc. A/HRC/46/28, para 25.

⁸⁷ Target 4.7, SDG 4.

⁸⁸ <<https://en.unesco.org/themes/education-sustainable-development>>

⁸⁹ Berlin Declaration on Education for Sustainable Development, <https://en.unesco.org/sites/default/files/esdfor2030-berlin-declaration-en.pdf>

⁹⁰ UNESCO declares environmental education must be a core curriculum component by 2025, UNESCO (2021).

⁹¹ Target 13.3, SDG 13.

2.8. Concluding Remarks

This chapter firstly showed that education rights, to a limited extent, are enumerated in the climate change instruments – Articles 4 and 6 of the UNFCCC, as well an explicit reference to children’s rights is contained in the Paris Agreement. These instruments, though do not reference to children’s rights and education rights of children in detail, act as a linking factor between climate change policies and education rights of children as contained in the UNCRC and other international human rights instruments.

Secondly, by referring to Article 28 and 29 and General Comments of UNCRC, SDG 4 and 13, Days of General Discussion of the Committee on the Rights of the Child for the years 2008, 2012 and 2016, and the CESCR’s statements and General Comments, and the Reports of Special Rapporteurs, the Chapter provides an overview of the international legal framework to locate children’s education rights in the context of climate change. It shows us that children’s education rights in the context of climate change is discussed in a range of international sources and also establishes that UNCRC, through its Article 29 (1) (e), fills in the gap between education rights and climate change by explicitly referring to environment under the aims of education.

3. Analysis of Concluding Observations, and Rights Interlinked to Education Rights with respect to climate change.

This chapter begins with the analysis of Concluding Observations issued by the Committee on the Rights of the Child from the year 2017 to 2020 to identify the approach of the Committee with respect to children's education rights in the context of climate change. It highlights the role played by the treaty body in safeguarding the education rights of children who are impacted by climate change.

The Chapter then advances into a brief discussion about the universality of education rights and its significance for children whose education rights are impacted (or at risk of) due to climate change. It is then followed by an analysis of interlinked right to development, right against discrimination and cultural and identity rights. These sections of the chapter not only highlight the essence of education rights as a multiplier right, but also showcases the deleterious effects on the aforesaid children's rights due to non-enjoyment of education rights.

3.1. Concluding Observations issued by the Committee on the Rights of the Child in relation to Education Rights in the context of Climate Change

3.1.1. Brief Overview

From the year 2017 to 2020, the Committee on the Rights of the Child issued a total of 65 Concluding Observations, out of which 28 contain explicit reference to climate change. As shown in Table 1 below, the Committee recommendations that are relevant to the education rights of children impacted by climate change focused mostly on the following 4 aspects:

- a) Inclusion of climate change education in the school curriculum
- b) Building resilient schools
- c) Developing policies for safeguarding the rights of climate change induced international migrant children
- d) Facilitating the participation of children in climate change related policies

These 4 recommendations will remain central in answering the primary research question of the thesis about the extent to which children's education rights are impacted by climate change and the adequacy of international legal framework to safeguard these rights.

It can be stated that the Committee acknowledges the importance of education rights in the context of climate change. Most importantly, the recommendations are in line with asserting education rights as an end in itself, as well as in highlighting the role of education rights as a multiplier right or as a means to an end. The Committee's recommendations relate to education rights with respect to both mitigation and adaptation to climate change.

Some of the other important and relevant recommendations issued by the Committee related to - directing the States to seek international cooperation for effectively implementing the climate change related policies; building on Article 4 of UNCRC (in 5 of the 28 COs), and ensuring special measures to

safeguard the rights of children with disabilities (in 9 of the 28 COs) – thereby acknowledging the intersectionality and heightened vulnerabilities of some groups of children. However, it must be pointed out that the Committee could have also recommended the States to undertake special measures for safeguarding the rights of indigenous and minority children in the face of climate change, as their cultural and identity rights are also at risk along with their education rights. This assertion/suggestion is substantiated in detail in Chapters 4 and 5 of the thesis.

State	Year	Recommendations issued by the Committee on the Rights of the Child			
		Climate Change Education in school / national curriculum	Building resilience of schools – Infrastructure	Appropriate policies for climate change induced international displacement of children	Facilitate child participation in developing climate change adaptation/mitigation policies
Federated States of Micronesia⁹²	2020	Yes	Yes	Yes	No
Cook Islands⁹³	2020	Yes	No	Yes	Yes
Tuvalu⁹⁴	2020	Yes	No	Yes	Yes
Austria⁹⁵	2020	No	No	No	No
Hungary⁹⁶	2020	No	No	No	Yes
Mozambique⁹⁷	2019	Yes	No	No	Yes

⁹² UN Doc. CRC/C/FSM/CO/2, 2020, paras 57 (a) and (b).

⁹³ UN Doc. CRC/C/COK/CO/2-5, 2020, para 44-48.

⁹⁴ UN Doc. CRC/C/TUV/CO/2-5, 2020, paras 42, 43 and 47.

⁹⁵ UN Doc, CRC/C/AUT/CO/5-6, 2020, para 35.

⁹⁶ UN Doc. CRC/C/HUN/CO/6, 2020, para 18.

⁹⁷ UN Doc. CRC/C/MOZ/CO/3-4, 2019, para 37.

Australia⁹⁸	2019	No	No	No	Yes
Tonga⁹⁹	2019	Yes	No	No	No
Cabo Verde¹⁰⁰	2019	Yes	No	No	Yes
Japan¹⁰¹	2019	Yes	No	No	Yes
Guinea¹⁰²	2019	No	No	No	Yes
Belgium¹⁰³	2019	Yes	No	No	Yes
Niger¹⁰⁴	2018	No	No	No	Yes
Lesotho¹⁰⁵	2018	Yes	No	No	No
Sri Lanka¹⁰⁶	2018	Yes	No	No	No
Solomon Islands¹⁰⁷	2018	Yes	Yes	No	No
Palau¹⁰⁸	2018	Yes	Yes	No	Yes
Guatemala¹⁰⁹	2018	No	No	No	Yes
Marshall Islands¹¹⁰	2018	Yes	No	No	Yes

⁹⁸ UN Doc. CRC/C/AUS/CO/5-6, 2019, para 41.

⁹⁹ UN Doc. CRC/C/TON/CO/1, 2019, Para 53 and 54.

¹⁰⁰ UN Doc. CRC/C/CPV/CO/2, 2019, Para 72 and 73.

¹⁰¹ UN Doc. CRC/C/JPN/CO/4-5, para 37.

¹⁰² UN Doc. CRC/C/GIN/CO/3-6, 2019, para 36.

¹⁰³ UN Doc. CRC/C/BEL/CO/5-6, 2019, para 35.

¹⁰⁴ UN Doc. CRC/C/NER/CO/3-5, 2018, para 36.

¹⁰⁵ UN Doc. CRC/C/LSO/CO/2, 2018, para 54.

¹⁰⁶ UN Doc. CRC/C/LKA/CO/5-6, 2018, para 36.

¹⁰⁷ UN Doc. CRC/C/SLB/CO/2-3, 2018, para 42.

¹⁰⁸ UN Doc. CRC/C/PLW/CO/2, 2018, para 48, 49.

¹⁰⁹ UN Doc. CRC/C/GTM/CO/5-6, 2018, para 37.

¹¹⁰ UN Doc. CRC/C/MHL/CO/3-4, 2018, paras 33-34.

Korea ¹¹¹	2017	Yes	No	No	No
Tajikistan ¹¹²	2017	No	No	No	No
Vanuatu ¹¹³	2017	Yes	Yes	No	Yes
Mongolia ¹¹⁴	2017	No	No	No	Yes
Bhutan ¹¹⁵	2017	Yes	No	No	Yes
Antigua and Barbuda ¹¹⁶	2017	No	No	No	Yes
Saint Vincent and Grenadines ¹¹⁷	2017	No	No	No	Yes
Serbia ¹¹⁸	2017	No	No	No	No
Malawi ¹¹⁹	2017	Yes	No	No	No

Table 1: CRC Concluding Observations with specific reference to education rights in the context of climate change (2017-2020)

3.1.2. Climate Change Education and Participation Rights of Children: Directed at both Adaptation and Mitigation of Climate Change

The Committee's recommendations to incorporate climate change education in national curriculums can be construed to be relevant both for mitigation and adaptation. In fact, 18 of the Concluding Observations contain a reference to incorporation of climate change education in the school/national curriculum for

¹¹¹ UN Doc. CRC/C/PRK/CO/5, para 43.

¹¹² UN Doc. CRC/TJK/CO/3-5, para 38.

¹¹³ UN Doc. CRC/C/VUT/CO/2, paras 42-43.

¹¹⁴ UN Doc. CRC/C/MNG/CO/5, para 36.

¹¹⁵ UN Doc. CRC/C/BTN/CO/3-5, para 36.

¹¹⁶ UN Doc. CRC/C/ATG/CO/2-4, para 46.

¹¹⁷ UN Doc. CRC/C/VCT/CO/2-3, para 51.

¹¹⁸ UN Doc. CRC/C/SRB/CO/2-3, para 53.

¹¹⁹ UN Doc. CRC/C/MWI/CO/3-5, para 36.

raising awareness about climate change and associated risks and for increasing the preparedness of children.

In addition, the Committee also appears to place emphasis on children's participation rights in the context of climate change. In 18 of the 28 Concluding Observations it recommended the State parties to ensure that children's views are taken into account while developing any climate change related policies. Children's participation rights can only be effectively realised if the children have access to education rights and access to relevant information. This recommendation as well fits into both adaptation and mitigation.

By insisting on climate change education in schools and facilitating the participation of children, the Committee highlights the capacity of the children to contribute effectively to both adaptation and mitigation strategies in the face of climate change.

Further, the committee, to a certain extent, specifically focused on mitigation. It recommended the States to undertake measures for building the physical resilience of schools and its structures in 4 of the 28 Concluding Observations, all 4 of which were issued to Small Island Developing States. This is in fact in line with scientific evidence which shows that the intensity of climate change events will increase and hence necessitates 'climate-proofing' of the education sector¹²⁰ – a component of which is ensuring the structural integrity of the school spaces.

3.1.3. International Migration of Children impacted by Climate Change

Acknowledging the international migration of children induced by climate change, the Committee recommended 3 of these States to develop appropriate policies for safeguarding their rights. While it is a general recommendation for safeguarding the rights of children, it can be construed to include the education rights as well as other interlinked rights – such as cultural and identity rights. This recommendation is in the nature of adaptation to climate change – adapting the policies and consequently, the education system to safeguard the rights of the children. However, it must be pointed out that this kind of recommendations have been issued only to the States that are at heightened risk of climate change which makes them the countries of origin in the context of international migration. However, such recommendations are also relevant for the States that are (potential) hosts for such children – as these States need to undertake measures to adapt their education systems for safeguarding the educational and other interlinked rights of such children.

3.1.4. Final Remarks

As a whole, it can be said that the Committee focused on the education rights of children who remain in the places impacted by climate change (by recommending building the resilience of schools) as well as on the children who are or would be displaced (by recommending policies for children displaced by climate change).

¹²⁰ It Is Getting Hot: Call For Education Systems To Respond To The Climate Crisis, Perspectives from East Asia and the Pacific, UNCIEF (2019), at vi.

However, the committee does not focus on addressing the indirect and underlying impacts of climate change on the education rights of children who remain in the places affected by climate change. Some of these include loss of income, deterioration of health – of children and/or of family members, lack of access to basic amenities such as food and potable water etc.¹²¹ Some of these factors can also be considered as ‘push’ factors which forces (or makes them choose) the children and their families to migrate. These factors and their impact on education rights of children will be explained further in the later chapters in order to assert the need to direct the duty-bearers to attempt to address these underlying factors through the climate change mitigation and adaptation policies.

While the Committee issued recommendations to States to safeguard the rights of international migrant children in relation to climate change, it can take a step further and specify the rights of children that are impacted and that need to be immediately addressed, including the aspects of education, cultural and identity rights – the interrelation and importance of which is explained in the later chapters.

3.2. Universality of Education Rights

Across all the international instruments, taking the Declaration of Geneva as the starting point, I have carefully attempted to highlight two important aspects relating to education rights that can be directly linked to climate change. The first one is free and compulsory elementary/primary education for all (children), though not covered by the predecessors of the UNCRC. This aspect of education, which is considered to be non-derogable and is a part of minimum core obligations of the State, is both based on and further feeds into the concept of ‘universality of education rights’.

In fact, one of the most important and foundational aspects of education rights is their universality. Universality of education rights can be discussed through the concepts of universal validity, formal universality and material universality, all of which are relevant to understanding the basis of the call for effective realisation of education rights of children affected by climate change.

3.2.1. Universal Validity of Education Rights

The concept of universal validity of education rights help in establishing whether these rights, as provided in the legal framework, are applicable to everyone.¹²² This is examined through the provisions in the international human rights instruments. Consider Article 26 (1) of the UDHR which states that ‘everybody’ has the right to education.¹²³ Similarly, Article 13 (1) of the ICESCR recognizes “the right of everyone to education”.¹²⁴ On a similar note, Article 28 (1) of UNCRC provides for free and compulsory education for ‘all’ children.¹²⁵ Therefore, it can be stated that everyone has education rights. Most importantly, all

¹²¹ R. Hanna and P. Oliva, Implications of Climate Change for Children in Developing Countries, 26 (1) The Future of Children (2016), at 123.

¹²² *Supra* Note 43, at 32

¹²³ Article 26 (1), UDHR.

¹²⁴ Article 13 (1), ICESCR

¹²⁵ Article 28 (1), UNCRC.

children have the right to education, especially at the elementary/primary levels.¹²⁶ In fact, it is even asserted that the widespread recognition of the right to free and compulsory primary education has elevated it to the status of customary international law.¹²⁷ Further, the CESCR specifically included the aspect of primary education for all as one of the minimum core obligations of the States under Article 13 of the ICESCR.¹²⁸

3.2.2. Formal Universality of Education Rights

Formal universality of education rights is determined based on the official recognition of education rights by the States.¹²⁹ Out of 197 States/territories, the ICESCR has 171 ratifications, and the UNCRC has 196 ratifications.¹³⁰ Such a wide acceptance of these instruments by States also implies a formal recognition of the education rights as enumerated in their provisions. It should be pointed out that these States cover almost all the possible economic, social, political and cultural systems in the world, which lends further credibility to the formal universality of education rights.

3.2.3. Material Universality of Education Rights

While the concepts of universal validity and formal universality of education rights focus on the normative framework and recognition of education rights as 'rights', material universality pertains to the effective realisation of these rights for everyone across all the States.¹³¹

In relation to children affected by climate change, material universality of education rights is in question due to two primary reasons.

- Firstly, while the States around the world have ratified UNCRC, it is not clear if they pay adequate attention to the education rights of children affected (potentially affected) by climate change. More so, if such children were displaced, and to further complicate the situation, if such children were displaced across international borders.
- Secondly, even if the States wanted to ensure effective realisation of education rights of children by taking climate change into account, there is no clear pathway or standard in the international human rights framework that can effectively aid in their efforts. It therefore, to a certain extent, shows the inadequacy of international human and children's rights framework in realizing the education rights of children impacted by climate change.

Therefore, even though free and compulsory primary education can be stated to have achieved the status of *jus cogens* and remains non-derogable, in the face of climate change it often takes a back seat both

¹²⁶ Article 28 (1), UNCRC; Article 26 (1), UDHR; Article 13 (2) (a), ICESCR.

¹²⁷ *Supra* Note 43, at 45.

¹²⁸ CESCR General Comment No. 13: The Right to Education (Art. 13), para. 57.

¹²⁹ *Supra* Note 43, at 35.

¹³⁰ Status of Ratification, <<https://indicators.ohchr.org/>>

¹³¹ *Supra* Note 43, at 36.

due to inadequate attention paid by the States to education rights during such times, and also due to lack of a clear standard or pathway that can be followed by the States to ensure that these rights remain safeguarded even in the face of climate change (pre, during and post).

3.3. Right to Development and Education Rights in the context of Climate Change

The second aspect, which can be found in all the international instruments since the Declaration of Geneva, is one of the purposes of education – full/normal development of the child and/or his personality and related attributes.

3.3.1. Holistic Understanding of the term ‘Development’

Before delving into the relevance of right to development in relation to climate change, consider the following understanding of the term ‘development’ – with respect to the right to life, survival and development,¹³² as provided by the Committee on the Rights of the Child in its General Comment No. 5:

“The Committee expects States to interpret “development” in its broadest sense as a holistic concept, embracing the child’s physical, mental, spiritual, moral, psychological and social development. Implementation measures should be aimed at achieving the optimal development for all children.”¹³³

Based on this holistic understanding of the term ‘development’, combined with the ever-growing evidence about the negative impact of climate change on children, it can be fairly inferred that numerous aspects relevant to the development of children are at stake due to climate change.

It is also evident that the education rights of children, as envisaged by these international instruments, are required to be directed or aimed at ensuring the full/normal development of children. It necessarily means an absence of interference on their development due to any factors, including climate change. Therefore, education of children needs to be aimed at equipping them with the means/ability to mitigate the negative impacts of climate change on their development as well as the ability to adapt to climate change. It also means that children, by the enjoyment of their education rights, need to be made conscious about ways in which they can undertake (and advocate for/encourage others to undertake) measures that can mitigate climate change.

Conversely, consider that children can lose access to education due to climate change, which in turn negatively impacts their development. Therefore, on reading Article 29 (1) (a) with Article 6 (2) of UNCRC, it can be stated that children’s enjoyment of education rights need to be ensured even after the onset of climate change effects so that their right to development is not jeopardized. This in fact is one of the aspects of education rights in its role as a provision right. It also encompasses the role of a participation right, which will be discussed in detail in the later sections.

¹³² Article 6, UNCRC.

¹³³ General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), UN Doc. CRC/GC/2003/5, para 12.

3.3.2. Income Generation and Poverty Alleviation

One of the other aspects that was covered as early as in the Declaration of Geneva itself is about the relevance of education for income generation. Unlike an economic perspective of education that views it as a means to an end, the rights-based approach identifies education as an end in itself.¹³⁴ However, the role of education in aiding children (and their communities) in breaking down the shackles of poverty cannot be undermined and to an extent, this is dependent on their income generating abilities. This is where the enjoyment of education rights fits directly into the understanding of its role as “a means to an end”. It is evident that effective enjoyment of education rights can alleviate the situation of children living in poverty and can in turn help in fulfilling their right to development as contained in Article 6 (2) of UNCRC.

3.4. Non-Discrimination and Education Rights

While on the thread about universality of education rights, it was evident that universality of access to education rights cannot be achieved and sustained in the face of discriminatory practices. The same is true even for the children who are affected (potentially) by climate change. It is hence pertinent to emphasise the right of the children against discrimination in the context of education rights and climate change.

The right against non-discrimination in the enjoyment of education rights can be considered to be a part of customary international law.¹³⁵ The UNESCO’s Convention against Discrimination in Education, 1960 required the States to develop and adopt policies that promoted equality of opportunity in education.¹³⁶ On similar lines, the UNCRC under Article 28 (1) specifically states that the right of the child to education should be achieved on the basis of equal opportunity.¹³⁷ It necessarily means that all children should be afforded access to education rights without any restriction or limitation on any grounds. This provision should be read with the general principle of UNCRC against non-discrimination, enumerated under Article 2 (1) that states as follows:

“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”¹³⁸

¹³⁴ K. Tomasevski, Preliminary report of the Special Rapporteur on the right to education, UN Doc. E/CN.4/1999/49, para 13.

¹³⁵ *Supra* Note 43, at 46.

¹³⁶ Article 4, Convention against Discrimination in Education, 1960.

¹³⁷ Article 28 (1), UNCRC.

¹³⁸ Article 2 (1), UNCRC.

A similar right against non-discrimination in relation to education rights can be found in the other international human rights instruments, including UDHR¹³⁹ and ICESCR.¹⁴⁰ The right against non-discrimination, as contained in the UNCRC, can be employed to assert the education rights of children who are impacted by climate change. It can be invoked both in situations where the child encounters climate change induced displacement as well as when the child remains in the place affected by climate change (both sudden or slow onset).

Children who are displaced to other regions and in some situations, other countries, may find it difficult to access education due to a variety of reasons. It is pertinent here to refer to the Committee on the Rights of the Child's Day of General Discussion in 2012 which was on "Rights of all Children in the Context of International Migration". The Committee specifically stated that regardless of the nature of migration, voluntary or involuntary, rights of children must be fulfilled even if they do not possess the required documents.¹⁴¹ It also recommended the State parties to ensure that migrant children are not discriminated against and are not excluded from the education system due to linguistic or any other barriers. It specifically recommended that the States must undertake measures to provide additional language education, additional staff and intercultural support where needed.¹⁴²

It is here that one of Committee's recommendations to the States to develop policies for safeguarding the rights of climate change induced international migrant children becomes relevant. This recommendation of the Committee on the Rights of the Child, read along with the Committee's statements during the Day of General Discussion, 2012 can be considered to provide a clear pathway to the States to ensure that children, even if displaced internally or internationally for whatsoever reason – including climate change, should not be denied access to their education rights.

Similarly, children who remain in the place affected by climate change may find themselves unable to enjoy their education rights due to a plethora of reasons, including deterioration of health and economic situation, lack of access to basic amenities, further compounded by identity based vulnerabilities.

For children displaced by climate change, the States need to ensure formal equality to begin with. The children's access to education rights should not be hindered based on their status as migrants or refugees. Further, the States will also have to ensure material equality. Material or substantive equality is concerned with the differences and discrimination in practice.¹⁴³ In the context of education rights, the States will necessarily have to eliminate all kinds of requirements for enrolment in schools as the children and/or their parents might not be in a position to fulfil such requirements. Some of the known obstacles for enrolment in schools for migrant and refugee children include production of identity or citizenship documents, and transfer certificate from previous school.

¹³⁹ Article 26 read with Article 2, UDHR.

¹⁴⁰ Article 13 read with Article 2(2), ICESCR.

¹⁴¹ Committee on the Rights of The Child, Report of the 2012 Day of General Discussion on the Rights of all Children in the Context of International Migration, para 56.

¹⁴² *id*, para 25.

¹⁴³ S. Besson, The Principle of Non-Discrimination in the Convention on the Rights of the Child, 13 The International Journal of Children s Rights. (2005), at 438.

Moreover, given that the effects of climate change on the education rights of children are magnified based on such vulnerabilities, the question about 'equality of opportunity' becomes very significant. The right against discrimination is not just limited to the negative obligations of the State to not treat children in the same situation differently (abstention from discrimination), but also encompasses the positive obligation to undertake special measures for those children who are placed differently, i.e. different measures for differently placed children¹⁴⁴. This is based on the understanding that equal treatment does not mean "identical treatment in every instance".¹⁴⁵ Also, consider the Day of General Discussion in 2016 on Children's Rights and the Environment where the Committee acknowledged the heightened risks faced by children belonging to indigenous and marginalized communities.¹⁴⁶ It laid special emphasis on environmental education by referring to Article 29 (1) (e) of the UNCRC and asserted that education is one of the main source for gaining information about the environment.¹⁴⁷ Therefore, the States are required to undertake special and focused measures to ensure that the education rights of children affected by climate change are safeguarded. Such special measures will need to target girls, children with disabilities, indigenous children, children in rural areas etc. as the impact on enjoyment of education rights of these groups of children is much more severe. As pointed out earlier, the Committee on the Rights of the Child should consider providing recommendations to States to take into account the education rights of indigenous and minority children as they are also at a heightened risk in the face of climate change.

3.5. Education and Cultural Rights of Children impacted by Climate Change

Similar to education rights, cultural rights of children are generally overlooked in the context of climate change adaptation and mitigation policies/strategies and this makes it even more important to understand the seriousness of potential violations of cultural rights and its interrelation with the enjoyment of education rights.

Education and culture are deeply intertwined with each other, which makes education rights crucial for the realisation of cultural rights. This is where the nature of education rights as a collective right can be seen to be the most prominent. Education enables the transmission of cultural values of various groups, and facilitates the participation of individuals in cultural life. It is considered to be "indispensable for the life and survival of the group"¹⁴⁸ and non-observance of cultural rights is understood to stand in the way of meaningful enjoyment of other human rights.¹⁴⁹ In fact, enjoyment of education rights enables individuals to effectively participate in their cultural life and practices, and aids in shaping their own cultural

¹⁴⁴ *Id*, at 452.

¹⁴⁵ UN Human Rights Committee (HRC), CCPR General Comment No. 18: Non-discrimination (1989), para 8.

¹⁴⁶ Committee on the Rights of the Child, Report of the 2016 Day of General Discussion Children's Rights and the Environment, page 4.

¹⁴⁷ *id*, at 18.

¹⁴⁸ Gomez del Prado, 1998, UN Doc. E/C.12/1998/23, para. 3.

¹⁴⁹ *Supra* Note 43, at 42.

identity.¹⁵⁰ The UNCRC specifically acknowledges this link between education and cultural rights under one of the aims of education as enumerated in Article 29 (1) (c) which states as follows:

“The development of respect for the child's parents, his or her own *cultural identity, language and values*, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own”¹⁵¹

This provision particularly holds immense value for the education rights of children who are displaced due to climate change. In general, one of the major barriers to the enjoyment of education rights of such children, if displaced to regions or countries with a language different from their own, is the linguistic barrier.¹⁵² Linguistic barriers in educational settings not only result in frustration, lower performance and dropping out of school, but also manifests a form of exclusion and cultural oppression.¹⁵³ Moreover, language forms a vital part of the cultural identity and also acts a tool to transmit the cultural values of the concerned communities. Therefore, children’s cultural rights stand violated due to the inadequate attention paid by the educational systems, both within the State and across the borders, to the vernacular languages of the displaced children.

Most importantly, cultural and identity rights of children are impacted even when the children are not displaced. This aspect is prominently explained in the latest Report of the Special Rapporteur in the field of Cultural Rights.¹⁵⁴ Some of the losses in this regard relate to folklore, songs and dance, religious and cultural spaces, traditional medicine and cultural knowledge etc.¹⁵⁵ It specifically affects indigenous communities as their socio-cultural interactions, habits and way of life itself is impacted.¹⁵⁶ Consider the following excerpt-

“Climate change-induced damage and destruction of culture and cultural heritage can have a particularly significant effect on indigenous peoples, for whom connections to place, land and landscape and relationships with culturally important animals, plants, habitats and ecosystems play such an important role in shaping heritage, laws, worldviews, practices and identity”¹⁵⁷

It is clear that the indigenous communities, even when they are not displaced, face serious infringement of their cultural and identity rights due to losses of various kinds. The oral traditions and knowledge form a major part of their cultural heritage, and in the absence of spaces and circumstances where the communities can meaningfully interact with each other, these losses are further compounded. One of the ways in which some of these core cultural and traditional values can be salvaged is by ensuring that children receive education in their own language and culture. Hence, the interrelation between education

¹⁵⁰ *id.*

¹⁵¹ Article 29 (1) 3(c), UNCRC.

¹⁵² The impact of climate displacement on the right to education, working papers on education policy 12, UNESCO Education Sector (2020), at 10.

¹⁵³ *id.*

¹⁵⁴ K. Bennoune, Report of the Special Rapporteur in the field of cultural rights (2020), UN Doc. A/75/298.

¹⁵⁵ *id.*, at 11.

¹⁵⁶ *id.*, at 12.

¹⁵⁷ *id.*, at 14.

rights and cultural rights should not be overlooked, and this must feature in climate change policies, cultural policies and educational policies. Only through concerted efforts of the States and Non-State actors can these rights of children be safeguarded, at least to a certain extent. Incorporating cultural values within the climate change education also provides a meaningful way of ensuring that the children understand their relation to land, cultural sites, flora and fauna etc. It can in fact motivate the children to strive to prevent losing any of these culturally important aspects/things, which can in turn be a part of climate change mitigation.

3.6. Concluding Remarks

The analysis of Concluding Observations issued by the Committee on the Rights of the Child between 2017 to 2020, helps in identifying 4 relevant recommendations that have been issued to the States, which are - Inclusion of climate change education in the school curriculum, building resilient schools, developing policies for safeguarding the rights of climate change induced international migrant children and facilitating the participation of children in climate change related policies. The chapter highlights the necessity to pay more attention to the underlying factors in the context of climate change that indirectly impact the education rights of children, with the objective of issuing recommendations to the relevant States for addressing such underlying factors – including loss of livelihood, lack of basic amenities, diversion of budgetary allocations by the States etc.

By delving into the universality of education rights, the right against discrimination, the right to development of children and the cultural and identity rights of children, the Chapter showcases the interlinked nature of these rights and their relevance to children's education rights in the context of climate change. The right to development is used to showcase education rights as a means to an end – the necessity of enjoyment of education rights for children in the context of climate change in order to realise their right to development as contained in Article 6 of UNCRC. The right against discrimination (Article 2, UNCRC) helps in showcasing the need to safeguard education rights of children impacted by climate change just like all other children, and in further establishing the need for special measures with respect to children belonging to indigenous communities, minorities and/or marginalized groups. Finally, cultural and identity rights of children are shown to be deeply intertwined with education rights and climate change, and the interdependency of education and cultural rights is highlighted in this regard.

On the basis of Chapters 2 and 3, the thesis proposes and further uses a three-pronged analytical framework with regards to children's education rights and climate change. Firstly, children's right to access and avail education rights, which to a certain extent is covered under one of the Committee's recommendation, i.e. building resilience of schools. Secondly, tailoring and providing education rights to facilitate realisation of participation rights of children, including right to information, right to be heard and in consonance with their evolving capacities. The same is manifested in 2 of the Committee's recommendations – i.e. incorporating climate change education in school curriculum, and facilitating participation of children in climate change policies. Thirdly, ensuring that children's cultural and identity rights are safeguarded, which can also be helpful both to realise education rights and to facilitate climate change adaptation and mitigation. This is in line with the need to undertake positive additional or special measures for safeguarding the rights of children belonging to vulnerable groups as they are at a heightened risk of the impact of climate change. This framework, partially deduced from the recommendations of the Committee on the Rights of the Child, is employed in Chapter 4 which particularly delves into cultural and identity rights of children, and Chapter 5 which provides a case study of education and interlinked rights of children from Small Island Developing States.

4. Educational, Cultural and Identity Rights of Children belonging to Minority Communities – indigenous children and linguistic minorities

4.1. Background

While focusing on education rights and its interrelation and interdependence with cultural and identity rights, this Chapter specifically locates the discussion on children belonging to minority and indigenous communities, in order to further advocate for special measures to be undertaken by the States to ensure that the rights of such children are safeguarded. The Chapter therefore identifies these groups of children to be at a heightened risk in the context of climate change and identifies the steps that need to be undertaken to realise their rights. It directly relates to and feeds into the ancillary research questions of the thesis, namely which particular groups of children are (most likely) to be at the receiving end of violations of rights in the context of climate change, how cultural and identity rights of impacted and the interdependence between education and cultural rights in the context of climate change.

4.2. Locational Disadvantage and Lack of Coping Capacity of Minority Children

The effects on the education rights and cultural rights – as outlined in the previous Chapter, are further magnified for the children belonging to minority communities. It must be pointed out that the impacts of climate change are particularly felt by various minority communities due to their tendency to live in places that are likely to be affected the most by climate change,¹⁵⁸ and/or due to the structural and social dynamics that make it even more difficult for these communities to cope with the effects of climate change.¹⁵⁹

Consider the following excerpt from *an IPCC Working Group Report of 2007*.¹⁶⁰

“Impacts of climate change are likely to be felt most acutely not only by the poor, but also by certain segments of the population, such as the elderly, the *very young*, the powerless, *indigenous peoples*, and *recent immigrants*, particularly if they are *linguistically isolated*...”¹⁶¹
(emphasis added)

While this excerpt does not use the term ‘minorities’, by referring to ‘indigenous communities’, ‘recent immigrants’ and ‘linguistically isolated’ groups within such groups, it acknowledges that they (which could also be minorities) are severely impacted by climate change. Such a magnified impact, has serious implications on the education rights of the children belonging to these groups. Firstly, as pointed out earlier, these communities tend to live at a locational disadvantage which exposes them to an elevated impact of climate change. Here, ‘locational disadvantage’ refers both to the disadvantage due to the higher risk of exposure to climate change and also to the disadvantages that are associated with the

¹⁵⁸ R. Baird, *The Impact of Climate Change on Minorities and Indigenous Peoples*, Minority Rights Group International (2008), at 2.

¹⁵⁹ *id*, at 6-7.

¹⁶⁰ IPCC, *Climate Change 2007 – Impacts, Adaptation and Vulnerability – Contribution of Working Group II to the Fourth Assessment Report of the IPCC*, at 374.

¹⁶¹ *id*, at 374.

communities themselves – in the form of poverty, social exclusion etc. In the context of education rights, locational disadvantage results in greater exposure to the effects of climate change resulting in serious damage to the infrastructure of schools, roads/paths leading to schools, infrastructure of the houses etc. Secondly, these communities find it more difficult to cope with the effects of climate change, which again negatively impacts the enjoyment of education rights of the concerned children. Some of the indirect impacts generally take the form of reduced capacity of households to pay for children's education, various additional costs in the form of increased healthcare, food and water expenses,¹⁶² transport expenses – for earning their livelihood and for sending the children to schools situated farther away etc. The lower capacity of these communities to cope with the climate change induced impacts, in turn results in lower school attendance of the children and can even force them to drop out of schools.

This directly fits into the first part of the three-pronged analytical framework as it relates to accessing and availing education rights, and this aspect is clearly intertwined with the cultural and identity aspects of children.

It is therefore evident that children's education rights in the context of climate change cannot be understood or realised in isolation, and that their cultural identity, and the associated risks and exposure to the effects of climate change must be taken into account as well.

Further, minority communities – be it ethnic, linguistic and/or religious, consistently strive to try and preserve their cultural values, use and transmission of language, religious practices respectively. The UNCRC also specifically recognizes the rights of children belonging to such minorities, along with the rights of indigenous children in this regard. Consider Article 30 of the UNCRC which states as follows:

“In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”¹⁶³ (emphasis added)

For some communities, the nature of cultural rights is such that they need to be enjoyed or realised not as an individual person but as a member of the community ('collective rights'). This aspect, has been acknowledged in Article 30 of UNCRC as well as Article 27 of the ICCPR.¹⁶⁴ It holds significant importance for the enjoyment of education rights of the children belonging to indigenous communities and linguistic minorities, especially in the context of climate change.

Before delving further into this assertion, it is only prudent to showcase the relevance of education rights for the enjoyment of cultural rights for the children belonging to these groups. Education in this context, is

¹⁶² J. Connell, Effects of Climate Change on Settlements and Infrastructure Relevant to the Pacific Islands, Science Review (2018), at 168.

¹⁶³ Article 30, UNCRC.

¹⁶⁴ Article 27, ICCPR.

to be understood as a means to an end, and as an enabler of cultural rights. It is one of most essential means through which the communities strive to preserve their minority identity.¹⁶⁵

4.3. Added significance of Education in one's own Language and Culture

Consider the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, which specifically states its commitment to promote realisation of the principles contained in numerous international instruments, including the UNCRC.¹⁶⁶ Article 4 of this Declaration brings out the importance of education in realizing the cultural rights of these minority communities, both through explicit and implicit references, and it must be read with Articles 29 1 (c) and Article 30 of the UNCRC.

4.3.1. Education as Participation Right and as a Means to an End

Article 4 (2) of the Declaration imposes obligations on the States "to create favourable conditions to enable" the members of these communities to both express and develop their culture, language and other practices.¹⁶⁷ This provision relates to education as a participation right, as it is one of the crucial tools for the members of these communities to freely and effectively express their culture and also to participate in the relevant practices. In fact, this provision attempts to enable the enjoyment of cultural life as a collective practice and a collective right.

4.3.1.1. Education in Mother Tongue

Taking a step further, Article 4 (3) focuses on providing opportunities to learn the mother tongue or to have it as a medium of instruction.¹⁶⁸ The first part about learning mother tongue, can be seen as a function of education. As already pointed out, language forms an integral part of the cultural identity of the communities and hence learning the mother tongue, through the educational systems becomes important for realizing the cultural rights of the children. However, for children belonging to minority communities, learning their mother tongue within the educational system can turn out to be a long shot due to various kinds of institutional, political, and social barriers. Historically, and even contemporaneously, languages of the dominant groups find a place in the academic curriculum while those of the minority communities are strategically left out. It can even be understood as a form of cultural imperialism where the minority communities, not only lack the option to learn their mother tongue in the schools, but are also forced to learn the dominant languages. It is much more concerning for children belonging to linguistic minorities, as lack of support through the education system can result in the death of their languages and in turn a part of their culture. This can be traced back to the smaller number of individuals who speak these

¹⁶⁵ K. D. Beiter, *The Protection of the Right to Education by International Legal Instruments*, in *The Protection of the Right to Education by International Law* (2006), , page 142.

¹⁶⁶ Preamble, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 1992.

¹⁶⁷ *id*, Article 4 (2).

¹⁶⁸ *id*, Article 4 (3).

languages, lack of a written script in many instances, lack of adequate recognition by the respective countries etc.

The fact that adequate attention is not being paid to teaching these children their mother tongue in the existing educational system has grave implications for the cultural rights and in fact, for the right to identity of such children. How does this understanding bring any value to the discussion surrounding education rights of children in the context of climate change?

Climate change induced displacement is a reality, or a potential reality, for many of these communities. Such displacement poses two broad sets of issues in this context.

Firstly, it is unrealistic to expect that the schools or the education system in a different region or country to which such children are displaced, would incorporate their tongue in the academic curriculum, especially when the education systems at their own place/region/country was reluctant to do so.

Secondly, such displacement can often split the families and members of even the closely knit communities in their quest to find safe and suitable place, region or country for relocation. Mother tongue, which acts as a cohesive tool between the members of the communities, can fall flat in such instances due to the reduced usage by the children in the place of relocation, coupled with the families' and child's need to adapt to the new surroundings, language and culture. In effect, the children barely get to learn and use their mother tongue, other than within their homes. Therefore, it seriously impacts their cultural life and cultural rights. Hence, the schools and/or the education systems, in both the place of origin and place of relocation, should be wary of these consequences and must attempt to support the children in learning their mother tongue through the academic curriculum to the extent possible, so that their cultural rights in this regard are not transgressed upon.

4.3.1.2. Mother Tongue as Medium of Instruction, and other Necessary Measures

Further, Article 4 (3) also provides for an obligation to use mother tongue as the medium of instruction, wherever appropriate.¹⁶⁹ A similar provision can be found in the United Nations Declaration on the Rights of Indigenous Peoples ('UNDRIP'). Article 14 (3) of the UNDRIP requires States to undertake measures particularly for children, even if they are living outside their communities, such that they can have access to education in their own culture and language.¹⁷⁰ While the situation of children belonging to indigenous communities cannot be simply equated with the other minority communities, the similarity in the objectives of these two provisions that emphasise on education in one's own language cannot be undermined. As has been established by multiple research reports, access to education in one's own language has a plethora of benefits for the children, both in terms of their educational attainment and development, as well in terms of developing respect for their language and culture. This particular aspect of education rights of children can be overshadowed by the practicalities, especially when such children are displaced by climate change. It can be due to reasons such as lesser number of children enrolled in a particular school who speak a particular language, lack of technical and financial resources to arrange for the study material in multiple languages, reduced availability of qualified teachers who can teach in these

¹⁶⁹ *id*, Article 4 (3).

¹⁷⁰ Article 14 (3), UNDRIP.

languages etc. These reasons can find themselves on the centre stage in the debates surrounding the State's failure to fulfil its obligations with respect to ensuring the accessibility, acceptability and adaptability of education rights for children belonging to these communities who are displaced due to climate change.

Now, consider Article 4 (4) of the Declaration which specifically states that the States should undertake measures in the field of education for encouraging knowledge about the "history, traditions, language and culture of the minorities existing within their territory".¹⁷¹ Again, this provision aims at ensuring that the culture, language and practices of the minority communities gain prominence and are understood by the members of other communities as well. Undertaking such measures can also help the children who have been displaced by climate change in being understood by their peers, and in settling in their new surroundings.

It should be pointed that while these provisions themselves provide a wide discretion to the States by using terms such as 'when possible',¹⁷² 'wherever possible',¹⁷³ 'where appropriate'¹⁷⁴ the importance of these provisions for the enjoyment of education rights of children belonging to these communities, if displaced due to climate change, cannot be overlooked and should provide impetus to the international community to insist on effective implementation. As shown earlier, the children's cultural rights, as well as their right to identity are at stake in these circumstances.

4.3.1.3. Indigenous Children and Climate Change

With respect to indigenous children, many of the indigenous communities not only live in climate-sensitive areas but their cultural traditions and practices are also closely interlinked to the environment that they live in.¹⁷⁵ Disruptions to eco-system, droughts and other severe changes in the weather deeply impacts the cultural rights of these communities.¹⁷⁶ Further, being displaced from such living areas and to be relocated elsewhere, directly affects their cultural identity.¹⁷⁷ In such circumstances, depriving these children of the opportunity to be educated in their own language and culture further exacerbates the effects of climate change on the cultural rights of these children. The Paris Agreements requires States to respect, promote and consider their obligations on the rights of indigenous peoples,¹⁷⁸ while undertaking any actions to address climate change. In light of this obligation, coupled with the obligations under UNDRIP and UNCRC, it can be stated that the States have the obligation to provide education to children

¹⁷¹ Article 4 (4), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992.

¹⁷² Article 14 (3), UNDRIP.

¹⁷³ *Supra* Note 171.

¹⁷⁴ *Supra* note 171, Article 4 (4).

¹⁷⁵ C. Bakker, Climate Change and Children's Rights, in *The Oxford Handbook of Children's Rights Law* (2018), ed. J. Todres & S. M. King, at 9.

¹⁷⁶ S. Jodoin & K. Lofts, *Economic, Social, and Cultural Rights and Climate Change: A Legal Reference Guide* (2013), at 98.

¹⁷⁷ *id*, page 100.

¹⁷⁸ Preamble, Paris Agreement, at 2.

in their mother tongue, considering their educational, cultural and identity rights. A report by Jan Salick and Anja Byg on 'Indigenous Peoples and Climate Change' recommends integration of indigenous knowledge and perception in climate change related actions, and places emphasis on the participation of these communities in this process.¹⁷⁹ Building upon this understanding, indigenous children's participation must also be ensured while formulating and implementing climate change mitigation and adaptation policies, and their participation can only be meaningful and effective if their education rights, as explained earlier, can be realised.

4.4. Concluding Remarks

This Chapter showcases the interlink between education and cultural rights of children and how the enjoyment of each of these rights is vital for the effective enjoyment of the other, especially in the context of climate change. It showcases that children belonging to minorities and indigenous communities are at a heightened risk of the impact of climate change, and highlights the importance of children's education rights for effective participation as members of the respective communities and for developing their identities.

The chapter specifically elaborates upon the importance of education in one's own language and culture, both when the children remain in their own States as well as when they are internally/internationally displaced. Concerns remain as the international legal framework, in the current form, provides a wide range of discretion to the States in implementing these crucial components of education and cultural rights. It is therefore necessary to establish these components (education in own language and culture) as core components of education rights, especially for children impacted by climate change. It has serious repercussions for their cultural and identity rights and hence their sense of self and belonging.

The Chapter therefore specifically identifies the components of education rights that need to be considered seriously while adopting and implementing climate change adaptation and mitigation policies, and education policies and laws in general. It helps in identifying the special measures that the States need to undertake in order to ensure that the children's education rights (of the ones impacted by climate change) are effectively realised, in a manner similar to that of the others. It is in keeping with the right and general principle against discrimination under Article 2 of UNCRC, as well as founded on the universality of education rights. Moreover, this Chapter highlights the role of education rights as participation rights and as explained through the three-pronged analytical framework, safeguarding this aspect of education rights is vital for facilitating participation of children in climate change adaptation and mitigation policies/strategies.

So far, the focus has been on highlighting the effects of climate change on children belonging to minority groups and indigenous communities, and how it impacts their education rights along with their cultural and identity rights. To further highlight the differentiated impact of climate change on the education rights of children, the next Chapter will locate the discussion on the children of Small Island Developing States ('SIDS').

¹⁷⁹ J. Salick and A. Byg, *Indigenous Peoples and Climate Change*, A Tyndall Centre Publication Tyndall Centre for Climate Change Research (2007), at 25-26.

5. Education and Cultural Rights of Children in Small Island Developing States – A Case Study of Kiribati

This Chapter is in continuation of the previous Chapter on Education and Cultural Rights of Children impacted by climate change. It situates the discussion around these rights, specifically in the context of Kiribati children in order to showcase the seriousness of the violation (potential) of these rights as Kiribati is under an immediate risk of submergence. This case study delves further into the aspects of education and cultural rights in the context of climate change, examines the existing domestic strategies and policies in this regard, and showcases the positive developments as well as the lacunae – for further improvement. By locating the discussion onto a domestic level, I attempt to showcase the need for the international children's rights framework to direct its focus on the aspects of education and cultural rights that are often overlooked but are indispensable for realising the right to development, education rights, cultural and identity rights and right to information and expression, as enumerated in the UNCRC. This chapter further helps in answering the ancillary research question about the sufficiency of domestic legal framework for safeguarding children's education and interlinked rights, and also in answering the extent of interdependency of education and cultural rights in the context of climate change.

5.1. Background

The Small Island Developing States ('SIDS') face unique challenges in the context of climate change, as the effects are much more pronounced and immediate.¹⁸⁰ Exposure to the risks of climate change are higher and the ability to cope with such effects are relatively lower as compared to other countries. In many cases, drastic response measures such as relocation - inland or to other islands or countries, seems to be the only possible option that is available.¹⁸¹ Relocation/resettlement to other countries, even if it were possible, seriously impacts the cultural and identity rights of the communities of SIDS as they share cultural and spiritual ties with the land and ecosystem where they live.¹⁸² Hence, relocation and resettlement in any other place is perceived as a threat to their individual and shared cultural existence.¹⁸³ As discussed in the previous section, the effects on the cultural rights and identity rights are magnified considerably for the children, and is further exacerbated if the education systems in the place of origin and place of relocation are not adequately equipped to cater education in the language and culture of such children.

Kiribati is one of the SIDS that is highly susceptible to climate change, and a major part of its islands are considered to be under the risk of submerging by the year 2050.¹⁸⁴ In fact, some villages have already had to relocate due to severity of coastal erosion and saltwater intrusion.¹⁸⁵ The capital city of Tarawa which Hosts more than fifty percent of the total population is set to be significantly inundated by mid-

¹⁸⁰ Responding to Climate Change in Small Island Developing States, UNDP, September 2010.

¹⁸¹ *id.*

¹⁸² A. Ielemia, "A Threat To Our Human Rights: Tuvalu's Perspective On Climate Change" 44 UN Chronicle(2007), at 18.

¹⁸³ *Supra* Note 176, at 100.

¹⁸⁴ United Nations Children's Fund, Situation Analysis of Children in Kiribati, UNICEF, Suva (2017), at 4 and 18.

¹⁸⁵ <http://www.climate.gov.ki/case-studies/abaiang/>

century.¹⁸⁶ It is clear that the communities in States such as Kiribati are facing the drastic effects of climate change to the extent that the existence of the State itself is in doubt. As a response to this threat, the government of Kiribati has already bought nearly 6,000 acres of land in Fiji which can be used both as a source for food and freshwater supplies as well as for seeking refuge.¹⁸⁷ More than 40 percent of Kiribati's population is under the age of 18 years.¹⁸⁸ One of the UNICEF reports, pointed out the inadequate attention paid by the countries to the educational issues in the context of climate change adaptation and mitigation. The report raises concerns about the non-inclusion of education needs in the Nationally Determined Contributions (NDC) of majority of the States with respect to their obligations under the Paris Agreement.¹⁸⁹

In this context, it becomes pertinent to understand how children's education rights are impacted due to climate change, and to examine whether the current domestic policies/strategies regarding climate change, pay adequate attention to their education rights.

This section will therefore undertake an analysis of the situation of children's education rights and the adequacy of domestic policies/strategies for safeguarding children's education rights. It must be clarified that education rights in this context, hold importance, both as a right in itself and as a multiplier right (as a means to an end). As a multiplier right, enjoyment of education rights holds immense significance in both mitigating climate change, and in adapting to it as will be contextually explained in the next sections.

5.2. The Impact on Education Rights of Kiribati Children

UNICEF's situation analysis of children in Kiribati specifically points out that both access to education and the quality of education is severely impacted due to the climate risks.¹⁹⁰ It noted that these impacts can be due to 'damage to schools' (infrastructure), difficulties in accessing schools and most importantly, due to 'diverted resources'. The *Special Rapporteur on the human right to safe drinking water and sanitation* pointed out the limited availability of freshwater and its deteriorating quality in Kiribati, to further state that it impacts the "capacity to attend school".¹⁹¹

The Committee on the Rights of the Child in its Concluding Observations in 2006 had noted that children in remote areas (outer islands) find it difficult to access adequate educational facilities,¹⁹² and the situation does not seem to have improved since then. Many of the I-Kiribaiti children from the outer islands are sent to live away from their families for prolonged periods as they seek to access schools that are located

¹⁸⁶ <http://www.climate.gov.ki/case-studies/tarawa/>

¹⁸⁷ United Nations country team submission, para 26; Compilation on Kiribati Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/WG.6/35/KIR/2, para 27, at 4.

¹⁸⁸ *Supra* Note 176, at 4.

¹⁸⁹ It Is Getting Hot: Call For Education Systems To Respond To The Climate Crisis, Perspectives from East Asia and the Pacific, UNICEF (2019), at vii.

¹⁹⁰ *Supra* Note 176, at 98.

¹⁹¹ C. de Albuquerque Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Mission to Kiribati (23-26 July 2012), 2013, UN Doc. A/HRC/24/44/Add.1, at 11.

¹⁹² Consideration Of Reports Submitted By States Parties Under Article 44 Of The Convention, Kiribati, CRC/C/KIR/CO/129, at 6.

in South Tarawa.¹⁹³ It deprives them of the opportunity to grow up with their families and to be supported by their community. Therefore, they fall prey to abuse and neglect, in violation of State's obligations under Article 19 (1) of the UNCRC which requires States to "take all appropriate legislative, administrative, social and educational measures" to protect children from abuse and neglect.¹⁹⁴ Moreover, this movement of children and other individuals to access educational facilities and employment facilities has led to rapid urbanization of South Tarawa which again poses numerous challenges in the form of access to basic amenities.¹⁹⁵

Apart from these impacts on education rights of children, and the associated challenges, one of the most important challenge facing the children of Kiribati is relocation, as outlined below.

5.3. Relocation as a Reality: Education and cultural rights of children

Relocation is considered to be inevitable for the communities in Kiribati. In this context, it is pertinent to first understand where the neighbouring countries stand with respect to relocation of Kiribati citizens. The international community is extending its support in this regards, even though only to a limited extent. While New Zealand grants residency to 75 Kiribati citizens every year, Fiji has expressed its intent to accept 'climate change refugees' from Kiribati.¹⁹⁶ Based on these developments, both Fiji and New Zealand will have to adapt their education systems to effectively accommodate and include the Kiribati children such that their education and cultural rights are not further impacted post their relocation. Australia on the other hand had extended its support through the Kiribati Education Improvement Program (KEIP), where it focused on improving the infrastructure of schools in Kiribati, providing access to clean water and sanitation and on climate change education.¹⁹⁷

5.3.1. Delving into the Kiribati Development Plan and Kiribati National Labour Migration Policy

Keeping in mind the potential need for relocation, the *Kiribati Development Plan ('KDP')* aims to improve the education standards (literacy and numeracy skills) so that its citizens are able to compete at the international level by possessing skillsets that can help them find work in neighbouring countries such as Australia and New Zealand.¹⁹⁸ The KDP appears to be inspired and supported by the *Kiribati National Labour Migration Policy ('KNLMP')* which advocates for 'Migration with Dignity' as a long-term relocation strategy.¹⁹⁹ The KNLMP acknowledges that countries like Australia are looking for migrants who possess

¹⁹³ *Supra* Note 176, at 58 and 75.

¹⁹⁴ Article 19 (1), UNCRC.

¹⁹⁵ Climate Change Impacts on Children in the Pacific: Kiribati and Vanuatu, at 16.

¹⁹⁶ *Supra* Note 191, at 17.

¹⁹⁷ Building Resilience through Education in Kiribati, <<https://www.dfat.gov.au/sites/default/files/kiribati-building-resilience-through-educationposter-series.pdf>>

¹⁹⁸ Kiribati Development Plan, 2016-2019: Towards a better educated, healthier, more prosperous nation with a higher quality of life, at 19.

¹⁹⁹ Kiribati National Migration Policy, 2015, at 8.

adequate English language skills and come from high quality education systems as it helps in easily fitting into the workplace.²⁰⁰

In line with the KNLMP, the KDP provides for a wide-set of objectives with regards to development of human resources. On one end of the spectrum is the objective of accelerated transition to education in English language and on the other end of spectrum is the objective of ensuring the safety of school buildings and facilities, providing appropriate teacher training for capacity building, strengthening early childhood education etc.²⁰¹ It is in line with The Committee on the Rights of the Child's recommendation that environmental education should be provided at all levels of schooling,²⁰² including "kindergartens, pre-schools, schools and extracurricular youth education".²⁰³

The latter shows that the KDP acknowledges the need to provide quality education through its education system so that its citizens are able to secure livelihood in the international job market. While the former also appears to be focused on similar objectives, it also appears to pave the path for relatively easier transition of children from the schools in Kiribati to elsewhere (if relocated) by improving its focus on English language education. Kiribati appears to be attempting to ensure that education in the place of relocation remains at least accessible to the children by trying to eliminate the language barrier.

While this can ensure that the children can access education in the Host States and are equipped to use their education for securing livelihood, it does appear to sideline some of the cultural and educational rights of children as these children have to right to receive education in their mother tongue (Kiribati). It certainly is the need of the hour for children of Kiribati to be prepared for relocation, but the efforts of the State of Kiribati should be complemented with appropriate measures by the States that would be receiving these children so that their education and cultural rights are safeguarded at least to a certain extent. Such measures can be in the form of providing the option to learn the language (Kiribati) through the academic curriculum, providing the option to be taught (medium of education and instruction) in such language if possible, incorporating subjects/chapters about the history, culture, values, traditions etc. of Kiribati and its people in the academic curriculum etc. These measures can ensure that the children, whose cultural and educational rights are dented due to the relocation, do not get further alienated in the education system of the Host States and do not completely lose their identity due to such forced relocation. These measures can in fact fulfil the obligations of the States (Host) to provide education that is acceptable and adaptable to the needs of the Kiribati children.

Bringing the focus back to the KNLMP, emphasis must be placed on two of its goals and objectives. One of them is "to develop strategies to link the provision of education and training in Kiribati with employment opportunities abroad".²⁰⁴ As explained earlier, this is one of the main focal points of the KDP. The other is "to enhance the resilience of I-Kiribati communities and people against climate change and ensure that

²⁰⁰ *id*, page 15.

²⁰¹ Kiribati Development Plan, 2016-2019: Towards a better educated, healthier, more prosperous nation with a higher quality of life, at 50 to 51.

²⁰² Committee On The Rights Of The Child Report Of The 2016 Day Of General Discussion, Children's Rights and the Environment, at 33.

²⁰³ *id*, at 18.

²⁰⁴ Kiribati National Migration Policy, 2015, at 17.

Kiribati as a nation, culture and people will not perish as a result of climate change”.²⁰⁵ Considering the impending relocation of its citizens, one of the ways in which Kiribati can ensure that its nation, culture and people do not perish due to climate change is by effectively persuading the international community, especially the potential Host States to adapt their education system to incorporate the cultural aspects of Kiribati. As already suggested, one of the ways is to have the option of learning their language and being taught in their language. This can in fact safeguard the collective cultural and linguistic rights of children and the community as a whole, while also ensuring that the Kiribati children are able to not only access the education in the Host States but can effectively enjoy their education rights.

5.4. Climate Change Education: Building Capacities of the Kiribati Children

Kiribati, like other pacific countries, had committed to the *Pacific Islands Framework for Action on Climate Change*. Two of the processes (focus on education) through which the framework attempted to build the capacity of the communities to be resilient to the impacts of climate change are – “improving people’s understanding of climate change” and “promoting education, training and awareness”.²⁰⁶

The *Kiribati Climate Change Policy* specifically acknowledges the role of climate change education, through inclusion in formal curriculum, in adapting to climate change as it enhances the adaptive capacities of the individuals.²⁰⁷ While it does not explicitly refer to children’s adaptive capacities, by referring to inclusion of climate change education in both primary and secondary education, it can be inferred that Kiribati acknowledges the role of education in improving the capacities of children to respond to climate change and to adapt to it. Moreover, there are reports which indicate that climate change education is primarily carried out through the education system due to which children who are out of school do not have access to relevant information on climate change.²⁰⁸ Further, even the children within the schools, though might be aware of physical damage that climate change can cause, were not aware of its impact on their health.²⁰⁹ It brings out the lacunae in Kiribati’s climate change education as it is not effectively reaching all the children and is also not comprehensive to make the children understand its effects. Therefore, it affects their right to information and expression as enumerated in Article 13 (1) of the UNCRC as well as their right to be heard under Article 12 of the UNCRC – as lack of information can diminish the value of views that the children might express. The children need the information, not only to be able to respond and adapt to climate change, but also to make informed decisions regarding relocation.

5.4.1. The Kiribati Joint Implementation Plan for climate change and disaster risk management (‘KJIP’) and Kiribati’s Education Act

²⁰⁵ *id.*, at 17.

²⁰⁶ Climate Change Impacts on Children in the Pacific: Kiribati and Vanuatu, at 32.

²⁰⁷ Kiribati Climate Change Policy, at 20.

²⁰⁸ C. de Albuquerque Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Mission to Kiribati (23-26 July 2012), 2013, UN Doc. A/HRC/24/44/Add.1, at 18.

²⁰⁹ *id.*

A positive development in this regards is the *Kiribati Joint Implementation Plan for climate change and disaster risk management* ('KJIP') which identifies "delivering appropriate education, training and awareness programmes" as one of the 12 strategies to reduce the vulnerabilities of individuals to climate change.²¹⁰ It specifically aims to build the capacities of students to be involved in adaptation processes, risk reduction and coping strategies, as well as in mitigation activities.²¹¹ A key adaptation priority of the KJIP aims at providing accurate information on climate change through the national curriculums,²¹² and to also incorporate relevant topics of climate change education for children as young as 3 years old.²¹³

Finally, consider the objects of Kiribati's *Education Act 2013* which includes providing high quality education that will "enable the student to become an effective and informed member of the community".²¹⁴ This provision relates both to the cultural and identity aspects of the children – without which they cannot become 'effective and informed members', and also to their climate change education – which is at the core of responding and adapting to its effects both as individual members and as a community. It essentially requires their education rights, right to expression and information, cultural and identity rights, right to be heard etc. to be safeguarded in order to become effective and informed members of the community. While children might not be experts on various climate change related aspects, they are very well capable of forming their own opinions and expressing their views on these matters as they affect them.²¹⁵ It drives the point that children should not only be perceived as a vulnerable group in the context of climate change, but also as drivers of change to address the impacts of climate change.²¹⁶

5.5. Concluding Remarks

As a whole, the focus of Kiribati on improving the quality of education is in fact a positive development resulting from climate change, even though the same is to ensure that the citizens of Kiribati are able to compete in the international job market and secure their livelihood upon relocation. The domestic policies, strategies and legislations appear to be in line with this objective, but the children in outer islands still face considerable accessibility issues with respect to their education rights. Therefore, Kiribati still has a long way to go in ensuring access and availability of education rights for its children (first part of the three-pronged framework).

While there is a need to further improve the quality of education, there is also a need to coordinate with neighbouring States and international community at large to adapt their education system, if they host Kiribati children, to ensure that the cultural, identity and educational rights of children are not jeopardized any further. Further, climate change education needs to be widely available and even for children who are out of school due to one or the other reason. Only by focusing on both adaptation and mitigation

²¹⁰ KJIP at 67,

²¹¹ Strategy 7.1, KJIP, at 73.

²¹² KJIP, at 73.

²¹³ KJIP, at 147.

²¹⁴ Article 4 (a) (ii), Education Act 2013 (No. 12 of 2013)

²¹⁵ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc. A/HRC/37/58, at 13.

²¹⁶ Joint Statement on "Human Rights and Climate Change", 16th September 2019, at 2.

strategies through education and involving children in these strategies, can there be any considerable reduction in the risks posed by climate change.

This chapter therefore helps in situating the education and cultural rights of children impacted by climate change, showcases the seriousness of violation of these rights, and highlights its effects on right to development, education rights, cultural rights, right to identity, right to information and expression. It helps in understanding the role of education as a facilitator of participation rights and as a critical element in ensuring that children are involved in climate change adaptation and mitigation policies/strategies. This again relates back to the second part of the three-pronged framework – safeguarding participation rights of children in the face of climate change.

The Chapter further clarifies the nature of special measures that need to be undertaken for children who are at an immediate risk of facing the effects of climate change in order to effectively safeguard their education rights, and the other interlinked rights as enumerated in the UNCRC. It helps in identifying some of the obligations of the States impacted by climate change as well as the neighbouring States – by relying on the need for international cooperation as enumerated in Article 4 of UNCRC. The examination of domestic policies in this regard help in identifying the components of education rights that need to be refocused on at the international level, in order to ensure that they also effectively seep into the domestic policies, laws and strategies relating to education and climate change. Therefore, along with the previous Chapter, it directly relates to the primary research question – in identifying the extent of the impact on education rights due to climate change, and the adequacy of international children's rights framework in effectively realizing these rights.

6. Conclusion

The first chapter provided the background for the thesis and laid the foundation for examining the extent to which children's education rights are impacted by climate change, and to analyse the adequacy of international legal framework to safeguard these rights. It showcases the seriousness of the impact of climate change on children's rights in general, and highlighted why it is necessary to specifically the situation of their education rights.

The second chapter showcased that education rights, to a limited extent, are enumerated in the climate change instruments. These instruments, though do not reference to children's rights and education rights of children in detail, act as a linking factor between climate change policies and education rights of children as contained in the UNCRC and other international human rights instruments. The Chapter provides an overview of the international legal framework to locate children's education rights in the context of climate change using numerous authoritative sources.

The third chapter included the analysis of Concluding Observations issued by the Committee on the Rights of the Child between 2018 to 2020, showcased that the Committee is attentive of the need to safeguard the education rights of children impacted by climate change, both if they stay in the place affected by climate change and if they were to be displaced. It identifies 4 relevant recommendations that have been issued to the States, which are - Inclusion of climate change education in the school curriculum, building resilient schools, developing policies for safeguarding the rights of climate change induced international migrant children and facilitating the participation of children in climate change related policies.

It then delved into universality of education rights, the right against discrimination, the right to development of children, and cultural and identity rights of children, to showcase the interlinked nature of these rights and their relevance to children's education rights in the context of climate change and in equipping them to effectively participate in climate change adaptation and mitigation policies/strategies. As a whole, it showcased the need to pay more attention to the education rights of children in the context of climate change and highlighted the lacunae in the current international children's rights framework in effectively safeguarding the education rights of such children.

The fourth chapter showcased the interlink between education and cultural rights of children and how the enjoyment of each of these rights is vital for the effective enjoyment of the other, especially in the context of climate change. It further established that children belonging to minorities and indigenous communities are at a heightened risk of the impact of climate change. It highlighted the importance of children's education rights for effective participation as members of the respective communities and for developing their identities. It raised concerns about the international legal framework, in the current form, as it provides a wide range of discretion to the States in implementing crucial components of education and cultural rights, and shed light on the need to establish these components (education in own language and culture) as core components of education rights, especially for children impacted by climate change. It also helped in emphasizing on the need for the States to undertake special measures in order to ensure that the children's education rights (of the ones impacted by climate change) are effectively realised.

Finally, Chapter 5 – a case study of education and cultural rights of Kiribati children in the context of climate change, helped in situating these rights locally, showcased the seriousness of violation of these rights, and also highlighted its effects on right to development, education rights, cultural rights, right to

identity, right to information and expression. It helped in analysing the role of education as a facilitator of participation rights and as a critical element in ensuring that children are involved in climate change adaptation and mitigation policies/strategies. It further clarified the nature of special measures that need to be undertaken for children who are at an immediate risk of facing the effects of climate change in order to effectively safeguard their education rights, and the other interlinked rights as enumerated in the UNCRC. It further helped in identifying some of the obligations of the States impacted by climate change as well as the neighbouring States – by relying on the need for international cooperation as enumerated in Article 4 of UNCRC. The examination of domestic policies in this regard helped in identifying the components of education rights that need to be refocused on at the international level, in order to ensure that they also effectively seep into the domestic policies, laws and strategies relating to education and climate change. Therefore, along with the previous Chapter, it directly relates to the primary research question – in identifying the extent of the impact on education rights due to climate change, and the adequacy of international children's rights framework in effectively realizing these rights.

6.1. Recommendations

Based on the analysis of the international human and children's rights framework, relevant academic discussion and insights, relevant inputs from the reports of NGOs, IGOs etc., and with the objective of further strengthening the realisation of education rights of children impacted by climate change, I make the following specific recommendations that can be used in drafting the upcoming General Comment No. 26 of the Committee on the Rights of the Child. These recommendations are divided based on the three-pronged framework that has been deduced and used in this thesis.

6.1.1. Ensure Availability and Accessibility of Education Rights

6.1.1.1. Resilience of Schools

In order to ensure the availability and accessibility of education, States that are at the risk of serious climate change impacts must undertake necessary measures to improve the infrastructure of schools and related facilities such that they can withstand the effects of climate change. If needed, relocation of schools to a safer area must be carried out immediately and in cases where the children and their families are displaced, there must be scope for establishing a temporary or permanent school closer to the place of relocation.

6.1.1.2. Budgetary considerations

The States must bear in mind that enjoyment of education rights cannot be sidelined, especially during and post the impact of climate change. The relevant budget for education should not be reduced in any case. Moreover, further investing in the education system must be seen as one of the solutions to build resilience and cope with the effects of climate change.

6.1.1.3. Addressing underlying factors

Loss of livelihood, adverse impact on health, reduced access to basic amenities such as food and water, etc. must be considered in the context of education rights of children, in order for the States to pay

adequate attention to the adverse impacts of these factors on children's education rights. Climate change response mechanisms, policies and strategies must attempt to address these underlying factors for further strengthening the realisation of children's education rights.

6.1.2. Ensure Children's Participation Rights

6.1.2.1. Climate Change Education

Climate change education must be incorporated in the school curriculum of all States and it must be tailored for the children of all the ages, from age 3 to 18. It must be contextualized locally while also covering the global issues. Relevant training for the teachers must be provided in this context. Climate change education must be oriented towards both mitigation and adaptation, and must equip the children to participate effectively in devising and implementing the relevant policies. In combination with children's cultural and identity rights, this aspect can help in ensuring effective participation of children, both within their communities and even generally with regards to climate change.

6.1.3. Undertake Special Measures for Children and Heightened Risk of Climate Change

6.1.3.1. Cultural and Identity Rights

Education systems of relevant states must adapt to the needs of children, even if they are displaced children, and should provide the option to learn one's own language, and to be educated in one's own language and culture. Denial of these basic components of education rights seriously impacts the cultural and identity rights of children, especially of the children belonging to minority and indigenous communities, and also results in diminished educational attainment of such children.

Similarly, States must undertake special measures for safeguarding the education rights of children belonging to all vulnerable groups, including children with disabilities and girl children.

6.1.3.2. International cooperation

International cooperation is the key to address barriers to education, including financial, linguistic and cultural, document and identity related etc. All the States must be encouraged to remove all and any kinds of barriers to education for children impacted by climate change, some of whom might be displaced internally or internationally.

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