

El-Nino and Development: An analysis of the realisation of the right to development for women with disabilities in the climate crisis in Zimbabwe

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Abstract

The right to development has been recognised as a universal and inalienable right that is central to the realisation of other fundamental human rights. Persons with disability are entitled to the right to development without discrimination based on their disability as provided by Sustainable Development Goal 4. The El-Nino-Southern Oscillation is a significant climate change occurrence upsetting worldwide life-threatening weather patterns with large-scale socio-economic effects. El-Nino influences on weather patterns and its related biophysical and socioeconomic effects are intricate. Climate change affects disproportionately women with disabilities as they are a vulnerable group. Women with disabilities are deprived of the realisation of the right to development due to a lack of proactive laws, lack of equitable policies and sensitization programmes. Against this backdrop, this article will examine the legal status of the right to development in international law and its inclusion as a socio-economic and cultural right. This article examines the international, regional and national legislative and institutional frameworks for the realization of the right to development for women with disabilities in a climate crisis induced by the El-Nino phenomenon. Gaps in the legislative and institutional frameworks on the realisation of the right to development in a climate crisis will be identified. Recommendations will be proffered for law and institutional reforms.

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1. Introduction

The right to development is a necessary tool in basic human development. The realisation of the right to development is affected by a climate change crisis. Climate change is one of the biggest threats facing global development (Mpambela, & Mabvurira, 2017). The relationship between climate change and human rights is an evolving phenomenon in global development agenda. Climate change as a global environmental challenge facing humanity and devastating impacts (Murombo, 2019). The El-Nino phenomenon leads to extreme weather conditions including among others droughts and floods. The impact of the El-Nino phenomenon worsens the condition of persons with disabilities particular women with disabilities. Women with disabilities face a multitude of disadvantages in the face of climate change crisis.

The right to development is one of the most argued rights that attracts the attention of academics in the development discourse (Tadeg, 2010). The right to development remains controversial as scholars and practitioners alike have inquired into its enforceability (Okafor & Dzah, 2021). Although there are still legal disagreements surrounding the right to development, the emerging consensus reinvigorate the prospects of its implementation. (Tadeg, 2010). The right to development in the Zimbabwe legal framework is not entrenched as a stand-alone right. This further brings the debate on the right to development. The right to development is entrenched in section 13 of the Constitution of Zimbabwe and is not recognised as a separate right in Chapter 4 of the Constitution which is dedicated to the fundamental rights and freedoms. Climate change is a contemporary issue with increasing contention in Zimbabwe as its effects are becoming more visible (Moyo, 2017). Zimbabwe is currently under *El Niño* phenomenon. Zimbabwe is therefore vulnerable to climate change crisis with substantial impacts on crop production forecasted, with two-thirds of employment in agriculture (World Bank, 2021). (Sithole et al, 2023) ultimately negatively impacting on the realisation of the right to development for all people in general and women with disabilities in particular. The UN General Assembly in 2022 recognised that unsustainable development and climate change are a serious threat to effectively enjoy all human rights', (Mesquita, 2023:90).

The right to development promote an international economic order that is based on equity and social justice (Tadeg,2010).The tension between economic growth and climate change is notably evident when examining Sustainable Development Goal (SDG) 8 (Mesquita,2023).Development is a continuous improvement in the economic, social and cultural wellbeing of members of the community.(Olusegun & Ajigboye,2015).The negative impacts of climate change crisis is an impediment to the full realisation of the right to development. According to the United Nations, when economic, social and cultural rights are violated, the right to development is also violated (Olusegun & Ajigboye,2015) The right to development is the conceptualisation of development as a process of economic, social, cultural and political development that accelerates the realisation of all human rights. (Moyo,2018). The right to development is linked to the right to the environment (Okafor & Dzah,2021). If the environment is affected by a climate change crisis it is evident that the right to development is also subsequently negatively affected. An environment which is affected by climate change crisis is not ideal for the realization of the right to development. A climate change crisis will affect the realisation of economic, social and cultural rights resultantly negatively affecting the

realization of the right to development. Realisation of the right to development in its universal, indivisible, interdependent nature is predicated on the control and use of natural wealth and resources (Ashukem & Ngang, 2022). The natural wealth and resources are largely dependent on the environment. If the environment is affected by a climate change crisis, the natural wealth and resources are also affected.

Zimbabwe like most Sub-Saharan countries is in the grip of El-Nino-induced drought which has resulted in massive crop failure and depletion of water resources. (Government of Zimbabwe, 2024). Women in Zimbabwe currently face a multitude of challenges. Women with disabilities are not an exception to the wanton challenges affecting women in general like access to resources and control over decision-making mechanisms. These social, economic and cultural challenges will likely to disproportionately affect women with disabilities in a climate change crisis. Against this background this paper seeks to examine the impact of El-Nino phenomenon on women with disabilities in Zimbabwe on their realisation of the right to development. The paper is arranged as follows, Section 1 is the introduction to the paper. Section 2 of the paper explored the relation between development and human rights. Section 3 and 4 examined the international and regional framework on the right to development respectively. Section 5 of the paper examined the national legal framework on the right to development. Barriers of Women with Disabilities in Zimbabwe and right to development were discussed in section 6. Section 7 examined the impacts of El Niño on Women with Disabilities in Zimbabwe. Section 8 proffered recommendations leading to conclusion of the paper in Section 9.

2. Linking Development and Human Rights

The right to development is fundamentally linked to human rights instruments and Sustainable Development Agenda. It is increasingly difficult to talk of development without discussing the issue of human rights. Development is symbiotically related to the realisation of human rights. A key feature of the right to development is the recognition of the interrelatedness and interdependence of all human rights (Moyo, 2018). The Preamble to the Charter endorses the indivisibility and interrelatedness of all human rights, pointing out that ‘civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as their universality (Preamble of the African Charter, 1986). Development entails a comprehensive economic, social, cultural and political process which aims at the constant improvement of the well-being of the entire population (Moyo, 2018). For development to manifest economic, social cultural dimensions of life are at centre stage.

The link between human rights and development was first formally recognised in Article 22 of the African Charter (Moseli, 2022). Article 22 of the African Charter highlighted the issue of human rights and development. Human rights are the product of the human struggle throughout history (Tadeg, 2010). The human struggle has been anchored on the issue of the realisation of human rights. However, human rights and development have long been understood and treated separately (Moseli, 2022). This is an anomaly as it is difficult to separate human rights and development as these two concepts are closely related to each other. A Right-Based Approach

(RBA) to climate change action ensures enhanced stakeholder participation and provides for attention to integrating the views of the marginalised. (Mukherjee & Mustafa, 2019). The human rights based approach is therefore critically important to be used in the discussion of climate change crisis. The right to development includes among other fundamental aspects such as non-discrimination, equity, accountability, and participation (Birtha, 2013). These fundamental aspects have a footprint in the human rights dialogue. The right to development is therefore significantly related to the notion of a rights-based process of development (R. F. Oppong, 2006)

One of the most far-reaching decisions of the United Nations General Assembly was the adoption of the Declaration on the Right to Development in 1986 (Nagan, 2013). The Right to Development dialogue provides that the development process must respect all human rights and fundamental freedoms (Mukherjee & Mustafa, 2019:5). Human rights and development cannot therefore be understood in isolation, as development and human rights share the same goals like the promotion of the dignity. (Moseli, 2022). The right to development in an international context is the result of the struggle of developing countries for a new international economic order (Tadeg, 2011). In light of the existing climate change regime surrounding the UN Framework Convention on Climate Change, climate change should be addressed from a human rights perspective (Kahl, 2022). It is appropriate to point out that there is a close connection exists between the full realisation of other human rights and the right to development (Oduwale and Akintayo, 2017). There is no doubt that the right to development makes a unique contribution to the discourse on human rights and development in linking the nexus between development and human rights (Moyo, 2013)

3. The International Legislative Framework of the Right to Development

The legal status and implementation of the right to development at the international level have been debated since the adoption of the United Nations Declaration on the Right to Development. (Moyo, 2018). The Right to Development as enshrined in the United Nations Declaration on the Right to Development (1986) stresses the right to have access to opportunities that to lead a fulfilling life. The realisation of the right to development is tied to equality and non-discrimination. Women with disabilities face systemic exclusionary challenges in the realisation of the right to development. Women with Disabilities often experience intersecting discrimination based on gender and disability leading to enhanced vulnerabilities during crises such as those created by El Niño-related climate change crisis.

Some scholars contend that the series of resolutions and declarations on the right to development have transformed it into a norm of *jus cogens* that creates a legal obligation on states (Tadeg, 2010). The discussion of the right to development is ubiquitous hence some scholars believe that it has transformed itself to being a peremptory norm. The International Bill of Rights, comprising the Universal Declaration, the ICCPR and the ICESCR, is the precursor to the Right to Development (Oduwale and Akintayo, 2017). The Right to Development took tangible shape with the passing of the UN Declaration on the Right to

Development in 1986 (Mukherjee & Mustafa,2019). The integration of the right to development in the 2030 Agenda has re-activated the discussion on the right to development with regard to the new Sustainable Development Goals (SDGs) (Mekonnen,2021) Even though the legal foundation of the right to development was laid in 1986, its origin may be traced to the Universal Declaration of Human Rights (Tadeg,2011).The right to development is contained in the Rio Declaration, the Universal Declaration of Human Rights (Universal Declaration), the International Covenant on Economic, Social, and Cultural Rights (ICESCR) (Mekonnen,2021). The ICESCR protects socio-economic rights by imposing specific obligations on ratifying states regarding the domestic implementation of the instrument (Moyo, 2018). The protection of the economic, social, and cultural rights by the ICESCR further cements the notion that development and human rights are intertwined. A number of General Comments of the Committee on Economic, Social and Cultural Rights (ESCR Committee) have stressed the importance of the minimum core content obligations to ensure the satisfaction of minimum levels of the socio-economic rights (Kapindu,2014). General Comments of ESCR Committee have also buttressed the relationship between development and human rights.

The greatest achievement of the Universal Declaration of Human Rights was, in fact, its inclusion of economic, social and cultural rights and that are indispensable for a person's dignity and the free development of a person's personality (Tadeg, 2010). Although none of these international instruments expressly mentions the Right to Development, Article 22 of the Universal Declaration states as follows:

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. (Article 22 of the Universal Declaration of Human Rights, 1948)

The Right to Development also echoes Article 28 of the Universal Declaration of Human Rights in seeking international co-operation among states (Oduwole and Akintayo, 2017). The Universal Declaration of Human Rights castigates that everyone is entitled to a social and international order for the rights and freedoms to be fully realised. (Article 22 of the Universal Declaration of Human Rights, 1948). In 1977, the UN Commission on Human Rights adopted a resolution which for the first time formally recognised the right to development as a human right. (Tadeg,2010). The Preamble to the Declaration of the Right to Development (RTD) recites that development is a comprehensive economic, social and cultural process which aims at the constant improvement (Oppong,2006). The UN Declaration on the Right to Development (RTD Declaration) proclaims the right to development as an inalienable human right (Atabongawung, 2021).

Articles 2(3) and 3(3) declare a duty on states to formulate appropriate national development policies, and to cooperate with each other in ensuring development and eliminating obstacles to development respectively (Oduwole and Akintayo, 2017) The Right to Development was universally established by article 1(1) of the UNDRTD, which states:

‘The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. (Article 1(1) of the United Nations Declaration on the Right to Development, 1977)

The adoption of framework conventions such as that of the Convention on the Rights of Persons with Disabilities new developments in human rights and important lessons relevant for the right to development. (Tadeg, 2010). Persons with disabilities have protection in the international treaty CRPD which advocates for the right to development. Article 6 (2) Of the CRPD states that:

‘States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention. ‘(Article 6 (2) of the CRPD, 2006)

CRPD as a Convention dedicated to the protection of the right of person with disabilities emphasises the right to development of women with disabilities.

Article 1(1) of the 1986 Declaration on the Right to Development recognises peoples’ rights to contribute to the enjoyment of economic, social, political and cultural that is consistent with human rights and fundamental freedoms (Agaba, 2021). Bedjaoui argues that the right to development is ‘the alpha and omega of human rights and is the core right from which all the others stem (Mekonnen,2021:1031). It can also be validly concluded that the Right to Development Declaration demonstrates that development and human rights are closely related.

At the international level, the original climate change convention, the United Nations Framework Convention on Climate Change (UNFCCC), set the tone and provided the foundational principles of law and policy that should inform action on climate change. (Murombo, 2019). The Right to Development emerged in the United Nations Framework Convention on Climate Change (UNFCCC) in 1992 (Mekonnen, 2021). Article 3(4) of the UNFCCC provides that:

‘The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change’ (Article 3(4) (UNFCCC),1992)

The right to development was also reaffirmed by the Vienna Declaration and Programme of Action (Vienna Declaration) in the World Conference on Human Rights in 1993, as a universal and inalienable right and an integral part of fundamental human rights (Tadeg, 2011). According to the Declaration, the right to development refers to a process of development that leads to the fulfillment of all human rights through a rights-based approach (Tadeg, 2011). The

UN Declaration on the Right to Development states that the right to development is inalienable and all people are entitled to enjoy economic, social and cultural development in which all human rights and fundamental freedoms can be fully realised (Atabongawung,2021).

International and national legal instruments were put in place with the aim of improving the overall wellbeing of all people or specifically people with disabilities namely the Universal Declaration of Human Rights (UDHR) of and the International Convention on the Rights of People with Disabilities (ICRPD)((Tom & Munemo,2015),Article 12 of the CRPD, underscores that all persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, and that the existence of a disability is not a rationale for removal of legal personhood. (Article 12 of CRPD, 2006). Article 6 of CRPD note the experience of multiple discrimination of women with disabilities and requires states to take the appropriate measures to ensure women's full enjoyment of human rights. (Article 6 of CRPD, 2006) Article 6 of the CRPD specifically addresses women with disabilities by urging states to take all appropriate measures to ensure the full development, advancement and empowerment of women.” (*Article 6 of CRPD, 2006*). The UN Committee on the Rights of Persons with Disabilities in its 2016 General comment No. 3 on women and girls with disabilities expressed concerns that discrimination experienced by women and girls with disabilities on account of their gender and disability is not sufficiently addressed in legislation and policies. (*General Comment No.3, 2016*). The CRPD which is the international framework that protects the rights of persons with disabilities also reiterates that development and human rights are intertwined. The right to development for women with disabilities is protected at the international level to demonstrate the international community's commitment to ensure that women with disabilities realise their right to development even in a climate change crisis.

4. Regional legislative of the right to development

In the African human rights system, the legal status of the right to development is unambiguously protected in the African Charter as a legally binding norm imposing enforceable obligations on African state parties (Moyo, 2018). African states are already duty-bound to realise the right to development under the African Charter (Atabongawung, 2021). The African Charter imposes an obligation on African states to adopt legislative or other measures to give effect to the rights protected under the Charter. (Article 1 of the African Charter).

Within the African regional human rights system, the African Charter promulgated a legally binding right to development with corresponding duties and remains one of the precious few hard law guarantees of a right to development that currently exist in the realm of international human rights (Atabongawung, 2021). The African Charter is the only human rights instrument that recognises the right to development as a legally-binding right (Tadeg, 2010). The African human rights system has also equipped human rights systems with valuable normative resources to campaign for the implementation of the right to development. (Okafor & Dzah, 2021). The African Charter underscore the significance of the right to development (Weldehaimanot, 2008). The right to development originated in Africa in response to Africa's

struggle for global socio-economic justice (Okafor & Dzah, 2021). The African Charter was globally, the first human rights treaty to specify it in express terms (Magliveras & Naldi, 2022). The African Charter was the first binding instrument to explicitly recognise the right to a healthy environment (Masekesa, 2022). A healthy environment is important in the realisation of the right to development. The African Charter recognises collective rights, like the right to development (Roesch, 2016). The right to development is an umbrella right that merges all other rights and seeks to mainstream human rights principles into development (Atabongawung, 2021).

The Preamble of the African Charter highlights the emphasis given to the right to development by stating that it is important to pay attention to the right to development (Tadeg, 2010). The African Charter guarantees collective rights or individual rights with a collective dimension including the right development in terms of Article 22 of the African Charter (Ndahinda, 2016). In terms of Article 22 of the African Charter collective rights or individual rights like the right to development are guaranteed (Ndahinda, 2016). Article 22, which spells out the normative basis of the right to development, states:

'All peoples have the right to their economic, social, and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. States shall have the duty, individually and collectively, to ensure the exercise of the right to development' (Article 22 of the African Charter, 1986).

With reference to articles 21, 22 and 24 of the African Charter on Human and Peoples' Rights, women have the right to fully enjoy their right to development. State parties shall take all measures to avoid the negative impacts of commercial and economic policies which accentuate the impoverishment of women. (Mengesha, 2006). Article 22 of the African Charter guarantees to all peoples the right to economic, social, and cultural development (Okafor & Ugochukwu, 2011).

The African Charter on Human and Peoples' Rights, in its Protocol on the Rights of Persons with Disabilities in Africa, has a specific article on women with disabilities. Women with disabilities are protected in terms of this Protocol to realise their right to development. It can be concluded that the African Human Rights System has a legislative framework which ensures that women with disabilities are entitled to realise their right to development in climate change crisis. (Article 20 of the African Charter, 1981). Article 20 of the African Charter states that:

'All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen,' (Article 20 of the African).

The jurisprudence emerging from the African human rights system has emphasised the need for international cooperation in realising the right to development. The African Commission on Human and Peoples' Rights has ruled on cases concerning the right to development. The African Commission invoked its jurisprudence in *Ogoni* in finding a violation of article 21 of

the African Charter on the right of peoples to freely dispose of their wealth and natural resources (Ndahinda, 2016). The African Commission in its landmark decision of the *Ogoniland* case, stated that the state of Nigeria has violated their right to food implicitly incorporated in the right to development (Tadeg, 2010). The case was also brought before the *African Commission by the Social and Economic Rights Action Centre (SERAC)* concerning environmental degradation and health concerns (Atabongawung, 2021). The African Commission held that the state is required to take reasonable measures to secure an ecologically sustainable development (Masekesa, 2022).

A similarly impressive decision was reached by the African Commission on the application of article 22 of the African Charter, on the right to development, in *Centre for Minority Rights Development and Others v Kenya (Endorois case)* (Okafor & Ugochukwu, 2011). The landmark decision of the African Commission in the *Endorois* shows that the judicial application of the right to development is feasible in the current legal discourse. (Tadeg, 2011) The African Commission in the *Endorois* community noted the importance of choice to the right to development which must be respected (Oduwole and Akintayo, 2017). The *Endorois* case has also been hailed for the positive finding of a violation of the right to development. (Ndahinda, 2016). The court's decision highlights the state's role as a duty bearer to guarantee people's participation and clarifies the beneficiaries of the right to development (Birtha, 2013)

In *Institute for Human Rights and Development in Africa v Democratic Republic of Congo* the Commission considered that the right to development under article 22 of the African Charter was both an individual and a collective right (Makunya, 2021). Clear findings of a violation of Article 22 of the African Charter are also found in the *Democratic Republic of the Congo v Burundi, Rwanda, and Uganda* (Tadeg, 2010). *Gunme and Others v Cameroon* concerning the right to development under the African Charter, the complainants alleged economic marginalisation by the Cameroonian government as well as a denial to them of economic infrastructure (Okafor & Ugochukwu, 2011:417).

The above cases emphasise the notion that the right to development is justifiable. The Jurisprudence of the African Commission is critically important in the interpretation and explanation of the right to development in the African footprint in a climate change crisis. These cases also buttress the aspect that the right to development first found its expression in the African Human Rights system.

5. National Legislative Framework

The right to development in the Zimbabwean legal framework is not as explicit as other rights entrenched in Chapter 4 of the Zimbabwe Constitution. The aspect of the right to development is inferred in section 13 of the Constitution of Zimbabwe on the national objectives. Section 13 of the Constitution titled 'national development' enjoins

'the state and all its institutions at every level to 'endeavour to facilitate rapid and equitable development' through taking 'measures to bring about balanced development

of the different areas of Zimbabwe, in particular, a proper balance in the development of rural and urban area' (Section 13 of the Constitution of Zimbabwe, 2013)

The right to development in Zimbabwe can be inferred from the realisation of economic, social and cultural rights. Section 73 of the Constitution of Zimbabwe states that:

- (1) Every person has the right—*
 - (a) to an environment that is not harmful to their health or well-being; and*
 - (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that—*
 - (i) prevent pollution and ecological degradation;*
 - (ii) promote conservation; and*
 - (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development*

A legal interpretation of section 73 of the Constitution can be derived from the South African case of *The Director: Mineral Development, Gauteng Region and Sasol Mining v Save the Vaal Environment and Others* which explains section 24 of the Constitution of the Republic of South Africa. In South Africa, section 24 of their Constitution is a replica of the Zimbabwean Section 73. (Moyo, 2017). Sustainable development is one such emerging concept to protect the environment without stifling reasonable socio-economic development (Murombo, 2011). The inclusion of environmental rights places the environment within its proper legal framework and shows a commitment to sustainable development (Murombo, 2011)

The Constitution of Zimbabwe protects women to realise their right to development in terms of section 80. The Constitution of Zimbabwe provides that every woman has full and equal dignity of the person with men and this includes equal opportunities in political, economic, and social activities. (*Section 80(1) of the Constitution of Zimbabwe, 2013*). The Constitution also establishes a Gender Commission to spearhead the implementation of women's rights. (Section 245 of the Constitution of Zimbabwe, 2013) The Constitution also accentuates the obligation of the state to ensure that local communities benefit from the resources in their communities. (Section 13(4) of the Constitution of Zimbabwe, 2013). The Constitution also imposes an obligation on the state to take practical measures to ensure that all local communities have equitable access to resources to promote their development' (Section 18(2) of the Constitution of Zimbabwe, 2013)

The Constitution of Zimbabwe also provides for the protection of the person with disabilities to realise their right to development in a climate change crisis. Section 83 provides that the state must take appropriate measures within the limits of the resources available to it to ensure that persons with disabilities realise their full mental and physical potential....' (Section 83 of the Constitution of Zimbabwe, 2013)

The constitutionalisation of the right to a healthy environment is a notable development as it affirms the country's acknowledgment of the significance of that right in any environmental regulatory framework. (Masekesa, 2022). The Constitution also provides for the rights to

national development, self-determination, economic freedom, agricultural land, and a safe and clean environment (Constitution of Zimbabwe, 2013)

This environmental right can be enforced through approaching a court of law and alleging that it is being infringed. The court will grant appropriate relief which includes a declaration of rights and a compensation award. (Moyo, 2017)

Section 85 of the Constitution lists the capacities of people who can be heard in court alleging such an infringement and these include any individual acting in their interests, any person who is acting on behalf of a person who is incapable of acting for themselves, any person acting on behalf of the interests of a group or class of people, any person acting in the public interest or any association acting on behalf of its members. (The Constitution of Zimbabwe Amendment No. 20 of 2013)

The above mentioned Constitutional provisions are evident to the notion that the right to development is protected at national level in climate change crisis. In an attempt to address the impact of climate change, Zimbabwe has adopted the National Climate Policy that seeks to create a pathway towards a climate resilient economy in which the people develop in harmony with the environment (Zhakata,2019).The purpose of the policy is to guide climate change management and enhance national adaptive capacity to ensure compliance to the global mechanisms (Zhakata,2019) The government of Zimbabwe also developed the National Climate Change Response Strategy (NCCRS) to guide national response measures in addressing the impacts of climate change (Zhakata,2019).These policies are meant to ensure that the environment is ideal for development. If the environment is affected by an adverse environment due to a climate change crisis it is noted that the right to development will be severely compromised for the women with disabilities in Zimbabwe. The policies demonstrate Zimbabwe's commitment to ensure that a suitable environment is important for the realisation of the right to development.

Due to the frequency of droughts caused by climate change, the Government of Zimbabwe embraced Africa Risk Capacity Sovereign Drought Insurance Policy as one of the pre-disaster risk financing tools to complement the traditional response mechanisms (Government of Zimbabwe, 2024). The implementation of the right to development requires the adoption of legislative, policy, and programmatic measures backed by adequate resources if this right is to be meaningful (Moyo,2018) However, on the other hand the Zimbabwean court will have to grapple with numerous difficult issues around the question of the justiciability of the right to development (Myo,2018). Creating remedies for violations of the right to development is particularly complex in the Zimbabwean situation. Regardless of the above-mentioned challenges, it is prudent to note that the Constitution of Zimbabwe provides the necessary protection for the realisation of the right to development for women with disabilities in Zimbabwe.

However, there is a huge challenge in the legislation which specifically deals with persons with difficulties. The current Disabled Persons Act does not provide the necessary protection and is not consistent with the Constitution of Zimbabwe on the realisation of the right to development for women with disabilities in the climate change crisis. The major loophole in the Zimbabwean Constitution regarding persons with disabilities is that it enshrines the rights of persons with disabilities in writing but does not adequately emphasise the role that the Government should play in enforcing these rights, in alignment with the UNCRPD (Shumba & Magadze, 2022)

6. Barriers to Women with Disabilities in Zimbabwe and right to development

Women with disabilities in Zimbabwe face a range of social, cultural, and economic barriers that hinder their ability to access the rights and opportunities necessary for development. Women and children with disabilities in Zimbabwe suffer more human rights violations as they have other vulnerabilities. (Mandipa, 2013). Women with disabilities are often affected because their intersecting of being women and disabled puts them in a disadvantageous position. The legal and policy frameworks that promote the rights of women with disabilities are missing further exacerbating the plight of women with disabilities in a climate change crisis.

Globally, climate-induced hazards are on the increase and becoming more complex to manage as observed over the past decade and these include droughts, floods, cyclones, and strong winds. Drought is the most common natural hazard experienced in Zimbabwe. Some of the effects of global climate change are evident with increased incidences of droughts and floods. (Mpambela, & Mabvurira, 2017). Women with disabilities often face mobility challenges due to poorly designed infrastructure and healthcare facilities, and public spaces. These physical barriers prevent them from accessing essential services, such as healthcare, education, and relief during climate. Societal attitudes toward disability in Zimbabwe often result in marginalization, stigmatization, and limited participation in public life. This social exclusion is compounded by gender-based discrimination, leaving women with disabilities more vulnerable during crises like El Niño events. During natural disasters, access to timely and accurate information is critical. However, women with disabilities are often excluded from communication networks due to inadequate accessibility features (e.g., lack of sign language interpreters, braille materials, or accessible radio broadcasts). Women with disabilities are often disproportionately affected by economic marginalization. They are less likely to be employed or own property, which limits their capacity to recover from climate-related disasters. Moreover, in rural areas, women with disabilities are particularly reliant on agriculture for survival, and climate change threatens their ability to produce food and sustain livelihoods.

Women with disabilities in Zimbabwe have borne the yoke of social discrimination and exclusion. (Mudzlingwa, 2017) Though legislation and policies have been put in place, concerns have been raised that women with disabilities continue to encounter barriers. (Shumba & Magadze, 2022). Notwithstanding the existence of the national Constitution and many other policies in place such as the National Disability Policy (2021) women with disabilities continue

to be discriminated against. (Tome, 2022). Maja et al. (2011) point out that discrimination against people with disabilities is a result of negative attitudes (Maziriri & Madinga & Lose, 2017). Discrimination is an enduring issue for all people with disabilities. Women with disabilities, however, are subjected to double discrimination that is sexism as well as disability (Mapuranga & Musodza & Gandari, 2015). Women with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or maltreatment, or exploitation of life (Mudzingwa, 2017).

Climate change not only interferes with sustainable development and the right to development it also undermines the enjoyment of other human rights such as the rights to life and security (Addaney & Moyo, 2018:2). Living with a physical disability interferes with an individual's ability to participate actively in economic and social life (Maziriri & Madinga & Lose, 2017). Nkomo (2014) observed that some environmental and infrastructural factors hinder women with disabilities access to various resources (Maruzani & Mapuranga, 2016). Physical barriers, such as lack of access to adapted facilities and equipment (Olasagasti-Ibargoien et al, 2023) Cultural beliefs, and practices weigh too heavily against the realisation of the rights of women with disabilities. Mandipa, 2013). Social barriers include discrimination and stigma (Olasagasti-Ibargoien et al, 2023) Poverty, misery, illiteracy, joblessness, and social exclusion are some of the common plights that women with disabilities face in Zimbabwe. Mandipa, 2013). Women across the world are prone to poverty in comparison to men as a consequence of uneven access to economic resources, finance, and decision-making. (Addaney & Moyo, 2018:3). Psychological barriers, include low levels of self-esteem and lack of motivation (Olasagasti-Ibargoien et al, 2023).

Women with disabilities (WWD) in Zimbabwe are unable to enjoy fundamental rights and freedoms (Dziva & du Plessis, 2022). Climate change affects women disproportionately because of their higher dependence on natural resources to fulfil their responsibilities of securing food, water, and fuel (UN Women 2022). The existence of strong linkages between climate change, gender, and human rights and the need to guarantee that states incorporate gender and human rights into climate change law, policy and programmes has become conventional in academic and policy circles (Addaney & Moyo, 2018:4). People with disabilities are among the most vulnerable group as they are under-educated, untrained, unemployed and poor. Even though men and women with disabilities are subject to discrimination women face further disadvantage because of the combined discrimination based on gender and disability.

Women with disabilities are exposed to a myriad of barriers that result in them failing to realise their right to development. It is essential for government to promulgate legislation that protects women with disabilities from exposure to the negative impacts of a climate change crisis. Women with disabilities are more vulnerable to the negative impacts of a climate change crisis in the realisation of their right to development. In a climate change crisis, it is noted that

economic social, and cultural rights are negatively impacted by a climate change crisis like the El Niño phenomenon.

7. Impacts of El Niño on Women with Disabilities in Zimbabwe

Eli-Nino effects will have severe consequences on food and nutrition security and livelihoods across the region (RIASCO,2024). Insufficient access to essential nutrients can have long-term consequences on health. When the right to health is not adequately realised, the right to development is also not realised. The government must ensure that there are policies in place to litigate the effects of the climate change crisis in the realisation of the right to health which is essential in the realisation of the right to development. Heavy storms, floods, landslides, drought, and heat waves exacerbate human suffering and affect the enjoyment of fundamental human rights and freedom (Moyo, 2019). Eli-Nino-related droughts and floods exacerbate the vulnerabilities of women with disabilities in Zimbabwe. El-Nino's affects a wide range of sustainable development issues such as health, food security, employment, livelihoods, gender equality, education, and housing either directly or indirectly (Mpambela, & Mabvurira, 2017). Eli-Nino-induced droughts destroy crops and deplete water sources, increasing the physical strain on women with disabilities who may have limited mobility. Climate change effects have impoverished a lot of people around the globe. (Mpambela, & Mabvurira, 2017). Drought and water scarcity lead to malnutrition and the spread of waterborne diseases. Women with disabilities face heightened health risks due to limited access to healthcare facilities, particularly in rural or remote areas, and often lack accessible healthcare options.

Climate shocks can have devastating consequences for vulnerable populations whose developmental trajectories are often severely disrupted (Gudyanga et al., 2019). Climate-induced displacement leads to the breakdown of community structures and social support networks. Women with disabilities who are displaced may find themselves in refugee camps or temporary shelters where accessibility and basic facilities are not available. They are often excluded from the distribution of humanitarian aid due to both physical and social barriers. Disruption to education systems during climate crises disproportionately women with disabilities. El-Nino's induced drought is creating numerous health issues affecting women, including disease outbreaks and increased levels of malnutrition. The El-Nino induced drought increases household's poverty and vulnerability of women with disabilities.

Climate change has of late presented insurmountable challenges such as poverty and food insecurity to the lives of many people in Zimbabwe particularly the rural folks (Mpambela, & Mabvurira, 2017). El-Nino is exacerbating food insecurity across the world. Food insecurity impacts economic growth and increases poverty resulting in the reduction realisation of the right to development. Lack of funding remains a key obstacle to effective food security interventions. Women with disabilities face in the form of increased vulnerability to food insecurity and income loss. Programmes targeted at promoting social, economic and human development ought to take place in an environmentally sustainable fashion (Moyo,2019) Food insecurity has gender implications in that in developing countries women play a key role in

food security. During droughts, women shoulder the responsibility of securing water for their families, often walking long distances to collect water. (UN Women, 2023)

The United Nations High Commissioner for Refugees (UNHCR) has stressed that persons with disabilities suffer the highest mortality when access to healthcare and social protection systems is disrupted (UNHCR 2022). Access to health services could be caused by a climate change crisis like flood or drought which could be induced by the El Niño-induced climate crises. Health is impacted by several socioeconomic as well as environmental factors. Global recessions and international trade may intersect with the climate crisis and influence the realisation of the right to health which ultimately results in the right to development to effectively realised by women with disabilities. The risk of food insecurity is increased by higher temperatures, water scarcity, and drought, which when combined, will negatively impact agricultural production (WHO. 2015). Food insecurity would cause the right to health to be partially realised and this negates the overall realisation of the right to development. Mental health is one of the principal health outcomes affected by climate change according to WHO. Women with disabilities in a climate change crisis are not an exception to the negative effects of mental health problems and this will also result in the right to development not fully realised as it is difficult to develop economically, socially and culturally with a mentally ill population due to Eli-Nino-induced climate crises

8. Conclusion

8. The connection between Eli-Nino-induced climate crises and the realisation of the right to development for women with disabilities in Zimbabwe presents a serious human rights issue. Eli-Nino-induced droughts have negative impacts on persons with disabilities in the realisation of the right to development. Eli-Nino-induced droughts impact negatively the realisation of economic, social, and cultural rights due to reduced crop and animal production. Lack of adequate realisation of the right to economic, social, and cultural rights will subsequently fail to realise the right to development. Tackling this pertinent issue requires a comprehensive approach that incorporates disability rights into climate change adaptation and mitigation mechanisms. The right to development is protected by international regional and national legislative frameworks. The African regional legal framework was the first framework to have the right development incorporated. The right to development in the Zimbabwean legal framework is not explicitly entrenched. The Constitution of Zimbabwe does not have an explicit right to development. However, the realisation of economic, social, and cultural rights is prudent enough to infer the right to development. The right to development cannot be discussed in isolation to human rights. Women with disabilities encounter a multitude of physical, and psychological barriers which hinder the realisation of the right to development. It is paramount for the government of Zimbabwe to align the legislative framework on persons with disabilities with the Constitution of Zimbabwe. The government of Zimbabwe should take bold steps in framing policies and setting up institutions that enhance the realisation of the right to development for

women with disabilities in the climate change crisis. Zimbabwe can make bold steps in fulfilling the realisation of the right to development for women with disabilities by designing programmes of mitigation processes that do not exclude women with disabilities.

9. Recommendations

The government of Zimbabwe should craft legislation that promotes the right to development for women with disabilities. The persons with disabilities legislation must be consistent with the Constitution and also be consistent with international and regional legal frameworks. The State must develop policies and programs that specifically address the needs of women with disabilities in climate adaptation and disaster risk management. There must be greater work to design policies that help households protect against harmful shocks that have the characteristic of affecting life-long development (Aguillar & Vicarelli (2022). The government of Zimbabwe should ensure that there is no discrimination against women with disabilities in the realisation of the right to development. Discrimination in all spheres of life-based on one's disability status should be prohibited (Mapuranga & Musodza & Gandari, 2015).

To ensure that the right to development is fully realized for women with disabilities in Zimbabwe in the context of climate change, several steps must be taken. The government of Zimbabwe should take all appropriate measures to eliminate discrimination by any person, organisation or private enterprise against women with disabilities in Zimbabwe. (Mudzingwa, 2017).

Early warning systems, evacuation plans, and post-disaster support services should be made accessible for women with disabilities. Adequate infrastructure should be accessible to women with disabilities and social services should be designed to meet their specific needs during climate crises. The State must invest in training for government officials and community leaders on disability inclusion, with a focus on ensuring that women with disabilities are not excluded from aid processes. Awareness programmes should be instituted with local communities to raise awareness of the unique challenges faced by women with disabilities so that they are not left behind in climate resilience programmes. Zimbabwe should seek to enhance its cooperation with international organisations to secure funding to address the rights and needs of women with disabilities. The CRPD engages non-state actors as agents for normative social change (Stein & Lord, 2008).

Climate-smart agriculture improves the resilience of women farmers, (OECD, 2023). The government must train women farmers in climate-smart agriculture has the potential to improve their resilience to heat waves and drought. Addressing the impacts of climate change on household food security requires a holistic approach, involving collaboration between government agencies and relevant stakeholders. (Muzerengi, & Gandidzanwa & Chirubvu, 2023). The government of Zimbabwe must actively include women with disabilities in participatory and inclusive decision-making processes to ensure that future climate policy responds to the vulnerabilities of women with disabilities.

The jurisprudence emerging from the African human rights system on the right to development has emphasised the need for international cooperation among states in achieving the right to development. (Atabongawung, 2021). The government of Zimbabwe must engage with other states and non-governmental organization in the promotion of the realization of the right to development for women with disabilities. The government of Zimbabwe must explore adaptation funds like the UNFCCC Adaptation Fund to support innovative projects and programmes that will be used effectively to benefit women with disabilities.

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