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Special Rapporteur on human rights and the environment
Special Procedures
Office of the High Commissioner for Human Rights (OHCHR)
Palais des Nations
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Submission from the International Development Law Organization (IDLO) in response to the call for inputs from the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment – “Women, Girls and the Right to a Clean, Healthy and Sustainable Environment”, to be presented to the Human Rights Council in March 2023.

IDLO recognizes and supports the significant work of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and welcomes the theme of the upcoming report on “Women, Girls and the Right to a Clean, Healthy and Sustainable Environment”.

Introduction:

The International Development Law Organization (IDLO) is the only global intergovernmental organisation exclusively devoted to promoting the rule of law to advance peace and sustainable development. IDLO works to enable governments and empower people to reform laws and strengthen institutions to promote peace, justice, sustainable development, gender equality, and economic opportunity. Its programmes, research and policy advocacy cover the spectrum of rule of law, from peace and institution building to social development and economic recovery in countries emerging from conflict and striving towards democracy. Established as an intergovernmental organisation in 1988, IDLO has had United Nations Observer Status since 2001.

“Reducing the justice gap for women and girls” (Strategic Objective 3) and “Climate justice and sustainable use of natural resources” (Strategic Objective 5) are two of IDLO’s six strategic objectives

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in its [Strategic Plan 2021-24](#). IDLO recognizes that climate change represents the single largest threat to sustainable development, and is committed to promoting the legal empowerment and environmental rights of women and girls in all their diversity in relation to climate justice, biodiversity, and the governance of land and other natural resources. Its November 2021 policy brief, [Climate Justice: A Rule of Law Approach for Transformative Climate Action](#), provides guidance to policymakers on ways to advance fair, inclusive and effective action on climate adaptation and mitigation – including a specific recommendation to champion feminist climate action and integrate gender-transformative approaches. Building on this, IDLO published a policy brief in March 2022 on [Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#), calling for an explicitly feminist approach to climate change, based on the rule of law, to ensure gender-transformative approaches to environmental governance, equal access to justice, and more inclusive and impactful climate and environmental laws and policies.

Response to the Questionnaire:

IDLO’s submission to the Questionnaire on “Women, Girls and the Right to a Clean, Healthy and Sustainable Environment” seeks to respond to **questions 1, 2, 4, 9, and 10**.

Question 1. How are the climate, pollution, and biodiversity crises adversely impacting women and girls? What are the principal barriers facing these rightsholders’ realization of the right to a clean, healthy and sustainable environment, a right that includes: clean air; a safe climate; access to safe water and adequate sanitation; healthy and sustainably produced food; non-toxic environments in which to live, work, study and play; healthy biodiversity and ecosystems; access to environmental and climate information; participation in environmental and climate decision-making processes; access to justice and an affective remedy when the aforementioned rights are violated.

IDLO’s response to this question will address the principal barriers facing women and girls as key rightsholders and as agents of change. Within this context, it is important to note that women and girls are not a homogenous group, and the effects of climate change, nature loss, pollution, and disaster risks do not affect all women and girls in the same way. Climate and environmental impacts are shaped by intersecting vulnerabilities and differences in, among others, socio-economic status, sex, gender, identity, race, ethnicity, age, and disability. As climate change aggravates existing inequalities, it will produce different effects on the human rights of different groups of women and girls. Intersectionality is therefore an important concept for understanding the challenges that people may experience, and helps to frame many of the socio-economic barriers that stand between millions of women and girls and the full realization of their right to a clean, healthy and sustainable environment. In particular, specific attention should be paid to girls and young women, indigenous women, and women displaced by sudden- or slow-onset disasters.¹

¹ IDLO, [“Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action”](#) (2022), p.11.

Principal barriers to the realization of the right to a clean, healthy and sustainable environment include:

- **Gender-blind laws and regulatory frameworks:** Hundreds of millions of women live in countries where they face legal discrimination in the family, the workplace, and the community² – exacerbating the injustices of climate change and environmental degradation.³ In contexts where only men are recognized as *de facto* heads of households, gender-insensitive laws and policies contribute to the dispossession of women by failing to uphold their equal rights to inherit, access, own or dispose of land. Studies have shown that a majority of national legal and policy frameworks, including nationally determined contributions (NDCs), do not include principles on gender equality or women’s participation in decision-making,⁴ and so will not adequately address the existing structural inequalities that hinder women and girls from being more meaningfully involved in climate action initiatives.
- **Under-representation in climate governance and decision-making:** While women and girls are fundamental in the management of land and natural resources, they are under-represented or excluded from most decision-making processes relevant to climate action at all levels and across all sectors. The marginalization of women is the result of the interplay of direct discrimination in both statutory and customary laws that excludes them from land ownership or political representation, as well as gender stereotypes and social norms.⁵ Women attempting to access decision-making spheres are often subjected to threats or violence. The structural barriers to women’s participation and the denial of their agency over their right to a clean, healthy and sustainable environment are a result of the failure of policies, authorities and powerful social actors to acknowledge and value women’s contributions to climate adaptation and mitigation strategies and disaster risk reduction and post-disaster management.
- **Inaccessible pathways to justice:** Across the world, women have been at the forefront of environmental justice claims – from the European Court of Human Rights⁶ to the High Court of Lahore.⁷ Yet they continue to face broad challenges to equal access to justice due to systemic discrimination and diverse cultural barriers which will prevent them from upholding and enforcing their right to a clean, healthy and sustainable environment. Such barriers include reliance on men for assistance, discriminatory laws that prevent women from fully and equally exercising their legal capacity, non-availability of justice services in rural and remote regions, the time and cost of pursuing legal action, and the difficulty of claiming compensation for climate-related losses. Women often have limited access to

² UN Women, IDLO, World Bank, and Task Force on Justice, “[Justice for Women: High-level Group Report](#)” (2019), p.19

³ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p.12.

⁴ M. Picard, “[Empowering Women in Climate, Environment and Disaster Risk Governance: from National Policy to Local Action](#)”, UN Women (2021), p. 26.

⁵ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p.12.

⁶ [Union of Swiss Senior Women for Climate Protection v. Swiss Federal Council and Others](#).

⁷ [Maria Khan et al. v. Federation of Pakistan et al.](#)

information concerning their environmental rights, or lack the legal and social standing to initiate environmental cases. Insofar as these challenges intersect with other forms of marginalization, young women and girls, indigenous women, and women affected by climate migration face the most significant disadvantages in accessing justice.⁸

Question 2. What are the specific obligations of States in terms of adopting a gender-responsive approach to protecting women’s and girls’ rights to a clean, healthy and sustainable environment? Please provide specific examples of constitutional provisions, legislation, institutions, regulations, standards, jurisprudence, policies and programs that apply a gender-responsive approach to ensuring the right to a clean, healthy and sustainable environment.

Women and girls have a right to participate in and lead climate action efforts, as rights holders and agents of change. It is a fundamental principle inscribed in core international legal instruments⁹ – a right that all States have an obligation to respect, promote and fulfil. IDLO welcomes the approach taken by the Special Rapporteur wherein the right to a clean, healthy and sustainable environment also comprises, *inter alia*, participation in environmental and climate decision-making processes, and access to justice and an effective remedy when the component parts of this right are violated.

Question 4. What steps has your organization taken to employ a gender-responsive, rights-based approach to addressing the impacts of the climate, biodiversity and pollution crises and to accelerate gender equality related to environmental decision-making processes, benefit-sharing processes, and outcomes? Please identify specific challenges that your Government, business, or organization has faced in these endeavours.

IDLO published a policy brief on [Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#) in March 2022, and shared the key insights and recommendations in a side event on [Feminist Climate Action and the Rule of Law](#) at the 66th Session of the Commission on the Status of Women (CSW66).

It contains recommendations for policymakers to:

- Recognize and promote women’s active leadership and participation in climate decision-making and governance at all levels, including in the justice sector;

⁸ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p.13.

⁹ See, for example: Articles 7 and 8 of the Convention on the Elimination of Discrimination Against Women (CEDAW) and CEDAW Committee’s General Recommendation 37 on “gender-related dimensions of disaster risk reduction in the context of climate change”, as well as processes relating to the United Nations Framework Convention on Climate Change (UNFCCC), including the Paris Agreement, which recognizes the need for gender equality and the empowerment of women in addressing climate change, and the Glasgow Climate Pact, which calls on States to increase the full, meaningful and equal participation of women in climate action. Also under the UNFCCC, the enhanced Lima Work Program on Gender and the 2017 Gender Action Plan have promoted gender mainstreaming and the advancement of gender-responsive climate policies.

- Empower women and girls to realize their environmental rights, especially climate-vulnerable women such as indigenous women and women affected by climate migration;
- Support action by women- and youth-led organizations, and increase financial support for frontline women environmental human rights defenders;
- Reform laws, policies and justice institutions to make them more responsive to the climate needs of women and girls, in line with international human rights standards and national development plans;
- Strengthen women’s rights to land and natural resources, including through better tenure security, elimination of discriminatory laws, and greater gender-responsiveness of customary and informal justice institutions;
- Foster an approach to climate finance that promotes more equitable funding for women-led climate change adaptation and mitigation initiatives;
- Mobilize global multi-stakeholder coalitions to accelerate feminist action for climate justice.

IDLO has provided technical assistance to the Government of Kenya on the development of national legislation on natural resource management and climate change. Most notably, IDLO provided support towards the adoption of the Climate Change Act (2016), the first framework law on climate change in Africa, which is guided by Article 42 of the Constitution of Kenya regarding the right to a clean and healthy environment. The Climate Change Act seeks to mainstream gender equity in all aspects of climate change responses,¹⁰ and formulate a national gender and intergenerational responsive public education and awareness strategy on climate change,¹¹ and ensures gender and intergenerational equity in access to money from the national Climate Change Fund.¹²

IDLO is also currently investing €500.000 of its own funds to implement a project of work on “Advancing Women’s and Girls’ Action for Climate Justice through the Rule of Law”. The project aims to strengthen the ability of women and girls to promote and protect their environmental rights, including their right to a clean, healthy and sustainable environment, and bolster their capacity to shape climate action. The activities within this project contain a combination of programming, research, and policy advocacy initiatives. In Burkina Faso and the Philippines, IDLO will pilot two gender assessments of national climate-related legal and regulatory frameworks in order to identify laws and provisions that are still in effect and which have either direct or indirect, as well as intersecting, discriminatory provisions against women, and therefore holds them back from fully realizing their right to a clean, healthy and sustainable environment.

Recognizing the urgency for a feminist response to the triple planetary crisis, IDLO joined the Generation Equality Forum, in particular the Action Coalition on Feminist Action for Climate Justice, to help catalyse tangible results in the next five years. As a [Commitment Maker](#), IDLO commits to working on empowering women in claiming environmental rights and actively participating in climate-related decision-making processes, supporting the development of gender-responsive climate adaptation measures, and improving women’s ability to access and benefit from land and

¹⁰ Republic of Kenya, [Climate Change Act \(2016\)](#), Article 3 (2) (e).

¹¹ Republic of Kenya, [Climate Change Act \(2016\)](#), Article 8 (2) (c).

¹² Republic of Kenya, [Climate Change Act \(2016\)](#), Article 25 (5) (e).

natural resources. At the Stockholm+50 international meeting on 3 June 2022, IDLO convened a leading group of gender and climate stakeholders for an event on [Feminist Climate Justice: Empowering Women & Girls through the Rule of Law](#), to strengthen multilateral cooperation to accelerate feminist action for climate justice.

Question 9. Please share any good practices for: i) protecting women’s and girl’s rights to a safe, clean, healthy and sustainable environment; ii) empowering women and girls to act as positive agents of environmental justice; and iii) encouraging men and boys to act as allies in these endeavours.

Women and girls are at the forefront of climate justice, and must be recognized as active agents of change who possess diverse knowledge and skills essential to transformative climate action. An explicitly feminist approach to climate change, based on the rule of law, is needed to ensure women’s inclusion in decision-making processes related to climate governance, equal access to justice, and the enactment of inclusive and effective climate laws and policies. A multi-faceted, intersectional, gender-responsive approach to climate change is essential to understand how gender identities relate to the impacts of climate change and the importance of women’s participation in catalysing climate action. Addressing structural inequalities – especially in relation to political representation and participation in decision-making on environmental governance – is key to achieving climate and gender justice goals in the long-term.¹³

- **Legal empowerment for environmental rights:** The legal empowerment of women and girls is essential for women and girls to access environmental rights in the context of the triple planetary crisis. Best practices for supporting the realization of these rights, including the right to a clean, healthy and sustainable environment, can include legal education, the provision of paralegal and legal services,¹⁴ efforts to improve the social accountability of justice providers, and protecting civic space for women’s advocacy. The protection of civic space for women environmental human rights defenders must be a priority, as grassroots women and indigenous activists face compounding threats of violence in their advocacy due to racial and gender-based discrimination. The protection of frontline women environmental human rights defenders might be achieved, for example, through elevation and replication of regional frameworks such as the Escazú Agreement.¹⁵
- **Regulatory frameworks to advance gender-transformative climate action:** Regulatory frameworks and institutional practices related to climate and environmental governance must be gender-transformative and sustainable. Key policy frameworks, such as nationally determined contributions (NDCs) and national adaptation plans (NAPs) should be animated by a strong commitment to gender equality and centred on a solid human rights-based

¹³ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p.4.

¹⁴ IDLO, “[Community Paralegals and Customary and Informal Justice](#)” (2021).

¹⁵ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p. 18.

approach. Diverse groups of women must be involved in designing climate governance frameworks, and they should play key roles in overseeing the institutions charged with their implementation. The integration of international obligations on both gender equality and climate adaptation into domestic law must be an immediate priority for all States, while enhancing their institutional capacity to address the consequences for women and girls of climate change, nature loss and pollution. This should include gender assessments of policies and programmes, gender-responsive budgeting, and gender-focused monitoring and evaluation – with indicators linked to gender goals and targets.¹⁶

- **Strengthening Formal and Informal Justice Institutions:** Securing prospects for climate-resilient development will depend on ensuring that justice institutions – both formal as well as customary and informal¹⁷ – have the capacity to deliver on the promise of climate and environmental justice. It is essential to support climate-vulnerable women and girls to realize their environmental rights and hold those in power accountable. Specific approaches to strengthen justice institutions to advance the right to a clean, healthy and sustainable environment for women and girls may include:
 - Mainstreaming environmental and gender analysis into justice sector training, planning, and evaluation practices;
 - Provide support to judicial and oversight bodies to incorporate analysis of climate and gender impacts and gender-transformative approaches in laws, policies and standard operating procedures;
 - Improve channels of consultation and establish platforms for regular exchange between justice institutions and environmental regulatory bodies;
 - Increase the participation of climate-vulnerable women in justice administration.¹⁸

- **Promoting gender-transformative governance of land and natural resources:** Women constitute 43 per cent of the rural labour force in the Global South,¹⁹ yet account for less than 15 per cent of all landowners.²⁰ Gender-transformative governance of land and natural resources is vital for empowering women and girls to be positive agents of climate and environmental action by promoting their active participation in the management of their natural environment. Reforming laws that restrict women’s ownership can have significant positive impacts on women’s ability to realize rights to land. For land rights to be effective and transformative for women, they must integrate respect for a broad spectrum of forms of tenure, supported by a coordinated and coherent legal and policy framework, subjected to ongoing monitoring and accountability mechanisms, and guaranteed through adequate and sustainable resource allocations.²¹ For indigenous women in particular, promoting,

¹⁶ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p. 19.

¹⁷ IDLO, “[Navigating Complex Pathways to Justice: Women and Customary and Informal Justice Systems](#)” (2020).

¹⁸ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p. 19.

¹⁹ E. Dagousset, “[Women’s Human Rights and the Right to a Clean, Safe, Healthy, and Sustainable Environment -- Manual for Judges 2019](#)”, The Raoul Wallenberg Institute of Human Rights and Humanitarian Law (2019).

²⁰ Food and Agriculture Organization, IFAD and World Food Programme, “[Rural Women and Girls 25 Years After Beijing: Critical Agents of Positive Change](#)”, (2020).

²¹ IDLO, “[Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action](#)” (2022), p. 20.

upholding and enforcing the principle of free, prior and informed consent (FPIC) can be a vital legal tool to respect their agency and protect their right to a clean, healthy and sustainable environment.²²

Question 10. What are the potential benefits of respecting, protecting and fulfilling women’s and girl’s rights to a clean, healthy and sustainable environment? Examples that treat girls distinctly from adult women would be particularly appreciated.

Women’s and girls’ equal participation in climate-related decision-making is vital for delivering social, economic, and environmental benefits. Well-designed climate adaptation, mitigation and disaster risk reduction initiatives that provide for women’s full and effective participation can advance substantive gender equality and women’s empowerment while also ensuring that climate and environmental and sustainable development objectives are achieved. The Intergovernmental Panel on Climate Change (IPCC) has established that governance approaches that were inclusive, equitable and just lead to more effective and sustainable adaptation outcomes, while well-designed laws and policies that address gender and other social inequalities could reduce climate risks and vulnerabilities.²³

Consistent opportunities for the meaningful participation and leadership of women at all levels lead to more inclusive, responsive and durable policies, better suited to achieving transformative climate action that benefits the whole of society. Research shows that women decision-makers are more likely to design laws and policies that benefit women and address gender gaps in relation to land and natural resources.²⁴ A study of 91 countries found that a higher proportion of women in national politics led to stricter climate change policies.²⁵ Extensive international evidence demonstrates the benefits of women’s participation for the effectiveness of household renewable energy adoption, water supply and sanitation, forest regeneration, and climate change adaptation measures.²⁶

We are grateful for this opportunity to contribute to the work of the Special Rapporteur and inform his upcoming thematic report on “Women, Girls and the Right to a Clean, Healthy and Sustainable Environment”, to be presented to the Human Rights Council in March 2023. We look forward to the report and to his work on this important theme, and pledge to support his endeavours towards the widespread adoption and implementation of the right to a clean, healthy and sustainable environment.

²² IDLO, [“Climate Justice: A Rule of Law Approach for Transformative Climate Action”](#) (2021), p.11.

²³ IPCC, [“Climate Change 2022: Impacts, Adaptation and Vulnerability. Summary for Policymakers”](#) (2022).

²⁴ Asian Development Bank, [“Gender-inclusive Legislative Framework and Laws to Strengthen Women’s Resilience to Climate Change and Disasters”](#) (2021), p.11.

²⁵ A. Mavisakalyan and Y. Tarverdi. 2019. “Gender and Climate Change: Do Female Parliamentarians Make a Difference?”. European Journal of Political Economy. Volume 56. p. 151.

²⁶ Asian Development Bank, [“Gender-inclusive Legislative Framework and Laws to Strengthen Women’s Resilience to Climate Change and Disasters”](#) (2021), p.11.