

## ENHANCING LEGAL AND POLICY FRAMEWORKS FOR CLIMATE RESPONSIVE CHILD PROTECTION

BY

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### Abstract

Children in Kenya are increasingly exposed to climate-related threats. Although the country has relatively strong frameworks for child rights and climate governance, these systems mainly operate separately and have not been fully integrated. This study explores ways of enhancing legal and policy frameworks for climate responsive child protection. The study was guided by two objectives: assessing the international, regional, and national legal and policy frameworks for the protection of children in climate change response, and evaluating the effectiveness and potential enhancements of these frameworks. The study was grounded in the Rights-Based Approach Theory. The study employed a desktop review design. The desktop review consisted of gathering and analyzing already available information from written sources. The study focused on the policy and legal frameworks in Kenya. Data collection involved database searches and entailed systematically identifying, retrieving, assessing, and organizing existing secondary data sourced from credible materials such as academic works, policy documents, legal texts, and institutional reports to meet the research objectives. The findings reveal that while there are strong international frameworks acknowledging children's rights and vulnerabilities concerning climate change, their execution is inconsistent due to differing levels of state commitment and resources. Regionally, instruments such as the African Charter on the Rights and Welfare of the Child and Agenda 2063 highlight the importance of shielding children from environmental hazards, but their practical incorporation into climate policies is limited, with most tending to broadly address sustainability without considering children's specific vulnerabilities. On a national level, Kenya has child protection and climate-related policies, yet these remain fragmented and poorly coordinated, with climate strategies emphasizing environmental protection instead of child-focused approaches, leading to deficiencies in adequately addressing threats such as displacement, health challenges, and disruptions in education brought on by climate change. The study concludes that there is a need for a roadmap for implementation that transforms the current framing of vulnerability into actionable and monitored rights-based protection for the children of Kenya. By employing a Rights-Based Approach, the study goes beyond merely assessing policies in theory to evaluating their real-world effects on children's rights.

**Keywords:** Child Protection, Climate Change, Legal Frameworks, Policy, Social Protection

### Introduction

The issue of climate change poses a serious threat to children's rights. Young people are particularly hard hit by the effects of climate change. According to Treichel (2020), children's survival, safety, and health are at risk due to the short-term consequences of climate change, and their youth suggests that they will be subject to the growing effects for a greater proportion of their lives. According to the study, children are often portrayed as vulnerable people who especially need help in conversations, studies, and

campaigns related to climate change. As a result, children are frequently portrayed as defenseless victims.

In their study of children's vulnerability to climate change and their ability to support climate adaptation initiatives in East Asia and the Pacific, Lawler & Patel (2012) discovered that greenhouse gas emissions will have a number of detrimental and possibly catastrophic effects on children. Children in the present and future generations will face growing food production challenges, declining water security, and increased

risks of disease and disasters, all of which will have long-term effects on their development. This is especially troubling because millions of children in East Asia and the Pacific are already facing major developmental challenges, such as disease, malnourishment, and limited access to clean water and sanitation.

Every community needs to think carefully about how to protect its children, according to Wulczyn et al. (2010). Laws, cultural customs, and religious beliefs are examples of normative standards that can impact how community members choose to safeguard their children, and these choices have the potential to radically change the idea of childhood. The study made clear how important families are to a child's safety, especially during the early years of life. Children also live in a larger community setting where their roles, relationships, and involvement change over time and become more significant. Therefore, it is both a personal and a collective responsibility to protect children.

According to Cuartas et al. (2025), climate change is a contributing factor to violence against children. According to their research, the sustainability of human communities is at risk as global temperatures are expected to increase by 2.1 to 2.9 degrees relative to pre-industrial levels by the end of the century. The ecological deterioration caused by the crisis has put human natural systems under extreme strain. Emissions worldwide peaked in 2022. Climate change has increased the frequency and severity of severe weather events like floods, wildfires, and droughts. Rising sea levels, deteriorating air and water quality, a lack of resources such as arable land, and an increase in the spread and transmission of zoonotic and infectious diseases are all contributing to widespread suffering and fatalities (Tollefson, 2022).

According to Rees (2021), almost half of the world's children live in nations that are at very high risk of experiencing environmental disruptions and a worsening climate. The climate crisis will have disproportionate and compounding effects on future generations of children, negatively impacting their livelihoods, cultures, health, and well-being, according

to a UNICEF report from 2021. Children are among the most negatively impacted groups, according to evidence from previous humanitarian crises, such as the COVID-19 pandemic. Due to overlapping global challenges and growing environmental emergencies, children are growing up in an environment where inequality has increased both within and between nations. Some people consider these structural injustices—which include the exploitation and abuse of ecosystems and environmental resources—to be types of structural violence.

According to Ahun et al. (2023), the adoption of UNICEF and WHO's Care for Child Development package has resulted in a rise in international policy and program initiatives targeted at promoting early childhood development. In response to the increasing need in this field, UNICEF and WHO developed this package, which is an essential resource. It is designed to be incorporated into current services to improve nurturing care for child development and consists of two age-specific, evidence-based recommendations for caregivers: playing and communicating with children ages 0–5 and interacting responsively with them.

The study looked at UNICEF and Save the Children's commitment to respecting Article 19 of the UN Convention on the Rights of the Child, which is focused on shielding children from exploitation, abuse, and violence (Giusti, 2024). The report underlined how urgent it is to address children's growing vulnerabilities in a global setting where forced migration, economic instability, conflict, climate change, and the quick development of digital technologies are all factors. The study also emphasized the vital roles that Save the Children and UNICEF play in promoting children's rights through awareness campaigns, support services, and preventive programs. Mechanisms for protecting children's rights are important issues at both the national and international levels (Al-Hammouri, Al-Billeh, & Derbal, 2023). To give many NGOs and individuals a forum to express their opinions on broad issues that may affect their safety or lives, direct consultations at the national level are crucial. The study came to the conclusion that both international and national laws should create protective measures aimed at mitigating and adapting to the effects of climate change, so that children can exercise their rights, because they are seen as marginalized

groups that need additional protection. The climate crisis, which is currently having a severe detrimental effect on children's wellbeing worldwide, is the biggest threat to human and child rights in the world today.

According to Rees (2021), in order to effectively address this crisis, it is critical to understand where and how children are particularly vulnerable. In order to prioritize action for those who are most at risk and, ultimately, secure a livable planet for today's children, the Children's Climate Risk Index provides the first comprehensive perspective on children's exposure and vulnerability to the effects of climate change. The number of children currently facing various climate and environmental hazards, shocks, and stresses was revealed by this study using high-resolution geographic data. The results of this study provide the first comprehensive examination of climate risk from a child's perspective by combining data on children's vulnerability with the expanding body of new evidence. The biggest danger to the development, health, and well-being of present and future generations is the climate crisis.

According to Cuartas et al. (2025), there is a lot of evidence about how climate change directly affects human livelihoods, but little is known about how children and young people are affected, and there is little evidence or discussion about how the climate crisis may affect violence against children. The study came to the conclusion that human activity combined with insufficient government, corporate, and international organization action continues to result in unprecedented levels of environmental stress. The study discovered that the planet is predicted to warm by 2.1 to 2.9 degrees relative to pre-industrial levels by the end of the century if comprehensive reforms in policies, practices, and accountability are not implemented. This could potentially jeopardize the sustainability of human societies. The study also found that the frequency and intensity of extreme weather events—like droughts, wildfires, and floods—caused by warming have increased. Widespread distress is being caused by rising sea levels, resource shortages, poor air and water quality, and increased transmission and spread of zoonotic and infectious diseases. As a result, the climate crisis is likely to cause disproportionate and compounding harms to children in subsequent generations, negatively impacting their

livelihoods, cultures, health, and well-being. As a result, protection is vital.

Johnson & Sloth-Nielsen (2020) point out that in Africa, protecting children from all forms of violence, abuse, exploitation, and neglect is the main definition of child protection, along with other actions meant to address harm. According to the study's findings, this idea encompasses exploitation and abuse that takes place in all settings, including online and outside of a child's home. It also covers situations like children living on the streets or those in legal trouble that might not directly violate children's rights but could make them more vulnerable to harm. The results show that while child safeguarding relates to organizational accountability, child protection programs should concentrate on preventing and addressing all types of violence against children in various contexts.

Parsons et al. (2024) looked into how climate change highlights and exacerbates already-existing disparities, especially with regard to the health of children and the welfare of future generations. According to the study, there is an unequal distribution of climate change risks and vulnerabilities as well as the ability to adapt to its adverse effects, which include health problems, economic consequences, and displacement. The effects of climate change are already being exacerbated by existing disparities. Compared to previous generations, children today and those in the future will encounter a notably greater number of unfavorable climate circumstances, with a particular emphasis on children from low-income backgrounds, marginalized communities of color, and Indigenous populations. It is crucial to implement methodical worldwide initiatives to protect children and future generations while encouraging youth-led environmental activism and participation in climate policymaking in order to address the climate crisis's associated inequality issues. Climate patterns are shifting in Kenya, according to Radeny et al. (2020), with estimates showing that average annual temperatures will increase by 0.8 to 1.5°C by the 2030s and by 1.6 to 2.7°C by the 2060s. Although there are regional variations, temperature increases have been observed in all seasons from 1960 to 2023, particularly between March and May. Rainfall patterns are also changing; notable model differences indicate projections that range from no change to a 26% increase by the 2060s and from a 5% decrease to

a 17% increase by the 2030s. Climate-sensitive industries like agriculture, water, and energy are likely to suffer from the predicted changes in temperature and precipitation. In addition, conflicts over natural resources are intensified and security is threatened by the increasing frequency and severity of extreme weather events.

The international legal and economic-security dimensions of protecting children's rights and interests within the current legal framework emphasize the need for collaboration between governments and organizations in developing national and international policies to stop violence against children (Safonchyk, Stefanchishen, & Hlyniana, 25). However, the examination of relevant court cases highlights the challenges faced by national systems in providing adequate child protection. The European Court of Human Rights regularly steps in when national actions are insufficient, referring to the UNCRC to hold governments responsible and set precedents that raise the bar for child protection.

According to Naeku (2020), Kenya's climate change legislation is regarded as progressive, making it one of the first countries in Africa to enact comprehensive climate laws and policies that guide both national and local efforts. A comprehensive legal framework seeks to enable a more coordinated strategy for tackling climate change issues across the nation. However, Kenya continues to face important climate change-related challenges that have increased its vulnerability to biodiversity loss, ecosystem degradation, and dire repercussions for infrastructure and livelihoods in both rural and urban areas. Extreme events and disasters brought on by climate change have had a significant negative influence on the most vulnerable groups, especially marginalized communities, children, and Indigenous Peoples. The purpose of this study was to investigate methods for fortifying Kenya's legal and policy frameworks pertaining to child protection.

### **Statement of the problem**

Environmental degradation, climate change, and exploitative business practices pose immediate threats to the health and prospects of children and adolescents around the world. Due to their developmental stage, children are especially vulnerable to these risks. They are emotionally and physiologically weak, and they

frequently lack the authority needed to demand their basic rights to information, to participate in environmental decision-making, and to pursue justice on their behalf. Despite these serious environmental risks, children continuously demonstrate the ability to respond to these issues in a meaningful and positive way. The biggest danger to the development, health, and general well-being of current and future generations is the climate crisis.

Cuartas et al. (2025) state that although there is a wealth of evidence demonstrating the direct effects of climate change on livelihoods, little is known about the effects on children and youth, and even less is known about the potential effects of the climate crisis on children and human activities. The lack of government action has led to record levels of environmental stress. Despite a strong child protection system based on the Kenyan Constitution and the Children Act, as well as a developing climate governance framework, children around the world—including those in Kenya—are disproportionately affected by climate-related hazards. This raises the question of whether there are sufficient legal and policy frameworks for child protection. Therefore, the purpose of this study was to assess how well these legal and policy frameworks for climate-responsive child protection have improved.

### **Research Objectives**

The study focused on two primary objectives: analyzing the international, regional, and national legal and policy frameworks that safeguard children in the context of climate change response, and assessing the effectiveness and enhancement of these frameworks in their role of protecting children amidst climate change challenges.

### **Theoretical framework**

This study is based on the Rights-Based Approach (RBA).

#### **The Rights-Based Approach (RBA)**

This framework emerged in the 1990s as a model for development and governance promoted by the United Nations and its agencies, particularly UNICEF and UNDP. It developed from previous human rights instruments like the Universal Declaration of Human Rights (1948) and the Convention on the Rights of the Child (1989), which established that children possess

rights and that states have responsibilities as duty bearers. The formal incorporation of the RBA into programming was propelled by the 1997 UN Programme for Reform, which integrated human rights principles into development practices, clarifying that rights are not optional benefits but rather enforceable entitlements. This signified the institutional adoption of the approach, shifting the emphasis from charity- or needs-driven development to a framework focused on accountability, participation, and empowerment.

This approach informed this study by providing a robust theoretical basis that frames international, regional, and national frameworks not just as policy instruments but as binding state obligations to safeguard children in climate actions. The approach aids in examining these frameworks through the lens of their acknowledgment and support of children's rights to survival, development, and participation in climate governance. Additionally, the approach provides clear standards for effectiveness and enhancement by highlighting accountability mechanisms, resource distribution, and the active participation of children as stakeholders. Consequently, the RBA guarantees that the study goes beyond merely evaluating policies in theory to assessing their real impact on children's rights, thus aligning climate responses with child protection as an obligation rather than a voluntary policy option

### **Literature review**

This section reviews literature based on the research objectives as follows;

#### **International legal and policy frameworks for Protection of Children from the Effects of Climate Change**

Even though children's rights are severely impacted by climate change, major international legal and policy frameworks meant to protect children largely fail to acknowledge these rights. The right to a healthy environment is categorized as a third-generation right and is considered the most affirmative right, according to Al-Hammouri, Al-Billeh, and Derbal (2023), who explain that human rights are part of an interconnected system that can be divided into three generations based on their historical emergence. According to the study, less wealthy countries should do more to protect the welfare of their children because the future of all

children is at risk due to the excessive carbon emissions from wealthier countries. In addition to malnutrition, children will suffer catastrophic health effects from rising sea levels, intense heat, and an increase in diseases like dengue fever and malaria if global temperatures rise above 4 degrees Celsius by 2100, as current projections indicate.

The main area of uncertainty surrounding these issues, according to Al-Hammouri, Al-Billeh, and Derbal (2023), is what policymakers will do in response. International environmental law can therefore be the target of legal scholars' criticisms of public international law.

The international legal and policy frameworks include;

#### **1. The 1948 Universal Declaration of Human Rights**

The International Covenant on Civil and Political Rights also protects the right to life, which is guaranteed by this convention. Although it is clear that the human right to life must be protected from violations, this guarantee also necessitates environmental conditions that support the sustainability of life on Earth. Protecting the human right to life becomes difficult, if not impossible, in the absence of access to sustainable environmental resources, clean air, and drinkable water. The Universal Declaration of Human Rights' Article 25 declares that everyone has the right to a standard of living that promotes their health, the health of their families, and their general well-being. This includes the right to food, clothing, medical care, and basic social services, even though it makes no mention of environmental protection.

#### **2. International Covenant on Economic, Social and Cultural Rights**

A person's right to a sufficient standard of living for themselves and their family, including enough food, clothing, and drinking water, is recognized in Article 11 of this Covenant, while the right to the best possible standard of health is outlined in Article 12. Maintaining a number of industrial and environmental elements is necessary to reach this objective. When these charters were drafted, environmental awareness was still growing and threats were only starting to surface. Another essential component of environmental rights is the ability to participate in decision-making. This engagement can take place through a national direct consultation process that



gives a diverse range of NGOs and individuals the opportunity to express their views on more general issues that could affect their safety or lives, either directly or through their elected representatives.

In order to prioritize environmental protection as a shared responsibility between the public and private sectors, as well as all members of the community, nations must work in a participatory manner with civil society organizations that are concerned with environmental issues, offering both material and moral support (Alshible, 2023). Property rights and the sanctity of individual privacy are linked to the right to a healthy environment, particularly when pollution affects one's property and health.

This notion was supported by the European Court of Human Rights, which declared that governments must make environmental information accessible and seek assessments of environmental effects that could impair the exercise of human rights. The Court found that granting factory licenses for operations near residential areas results in environmental contamination, which is a violation of housing integrity and private life. According to the European Court, nations have a vital duty to establish legal and administrative frameworks that guard against violations of the right to life brought on by natural disasters and risky operations like running chemical plants and waste management facilities. This will enable the proper response to such violations.

### **3. United Nations Convention on the Rights of the Child (CRC)**

The CRC is one of the most extensively ratified international treaties and is acknowledged as a crucial tool in advancing children's rights. The CRC acknowledges children as unique individuals with human rights based on their distinct identities, as Bekink (2024) points out. As stated in Articles 2, 3, 6, and 12, the CRC lays out four fundamental principles that are necessary for its overall implementation: the right to be free from discrimination; the right to prioritize the child's best interests; the inherent right to life; and respect for the child's viewpoints. The CRC does not, however, specifically grant children independent environmental rights; rather, it derives them from other rights, including the rights to life, survival, and development, health, and education, as well as the rights to play, leisure, and rest.

Despite the fact that children were greatly impacted by the creation of the CRC, they were not given the opportunity to express their opinions in relation to Article 12. States Parties are required by Article 12 of the CRC to guarantee that children who are able to form their own opinions have the freedom to express those opinions on any issue that affects them, with their opinions being given the weight that is appropriate for their age and maturity. While "child participation" is not explicitly mentioned in Article 12, the Committee on the Rights of the Child makes it clear in its General Comment 12 that the article's goal is to encourage child involvement.

State parties are required by Article 12 to ensure that children have the freedom to form and express their opinions on any matter that affects them. Youngsters can express their opinions through representation or direct involvement. According to the child's age and maturity, these viewpoints must be taken seriously in either scenario. It is important to acknowledge children's viewpoints as valid in their own right. Active child participation in decision-making should be viewed as a legal requirement that is a child's right rather than as an adult choice. Thus, it is more important to consider the degree and mode of children's involvement than whether or not they should participate in order to fulfill their rights to do so.

### **4. Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC)**

To address the issues of children involved in armed conflict, the exploitation of children for commercial purposes, such as prostitution and pornography, and to provide children with the ability to file complaints, appeals, and petitions in the event that their rights are violated, three optional protocols were created. When it comes to protecting children from the effects of environmental degradation, the third optional protocol is especially important.

In accordance with Article 5 of OPIC, people or organizations who allege that a state party has violated any of the rights outlined in the CRC or its optional protocols may communicate directly or through a representative. Children can formally complain about rights violations resulting from environmental degradation thanks to this provision. A recent climate-related communication that was submitted by sixteen

children from different parts of the world was based on this article. For a number of reasons, this protocol has been praised as groundbreaking. First of all, it recognizes that children's human rights under the CRC are seriously threatened by climate change and that failing to take precautions against predictable harm could constitute a violation of these rights. Second, it acknowledges states' extraterritorial obligations with regard to the harmful consequences of emissions generated within their boundaries. Thirdly, it states that a state party's obligation to lower emissions on an individual basis is not absolved by the fact that climate change is a collective phenomenon. Fourth, it takes the climate change debate to a global level where child complainants can exercise their right to stop participating in decision-making processes during private hearings by directly presenting their arguments to the Committee. This is particularly relevant to the current issue.

#### **5. General Comment No 26 on Children's Rights and the Environment with a Special Focus on Climate Change (GC26)**

On August 22, 2023, the Committee ratified General Comment No. 26 on Children's Rights and the Environment with a Special Focus on Climate Change (2023), also known as GC26. The Committee in GC26 emphasized the pressing need to address the detrimental effects of climate change on children, promote a thorough comprehension of children's rights in connection with environmental preservation, and outline the obligations of state parties. Children and young people around the world provided their perspectives during consultations on the concept note, and the comment prominently features the inclusion of children's right to voice their opinions on climate change.

The Committee affirmed that age should not be a barrier and emphasized the importance of children's perspectives in its GC. Children can contribute to the quality of environmental solutions from an early age by providing insightful opinions on issues such as the effectiveness of early warning systems for environmental threats. Instead of being restricted to conventional means, they should be allowed to express themselves creatively through music and art. Additionally, children who are disadvantaged—such as those with disabilities, children from minority

backgrounds, and children living in vulnerable areas—are given special recognition. When needed, more specialized techniques and support should be provided to enable them to express their thoughts.

While acknowledging the difficulties in achieving digital inclusion, the Committee promotes the use of digital platforms and tools to expand consultations with children and to enhance their capacities and opportunities to participate meaningfully in environmental issues. In order to regularly solicit children's opinions during all stages of environmental decision-making involving legislation, policies, regulations, projects, and activities that could affect them, state parties are required to establish age-appropriate, safe, and accessible channels. This ought to take place on a local, national, and worldwide scale.

#### **6. Paris Agreement (2015)**

Adopted in 2015, the Paris Agreement is a legally binding international agreement addressing climate change that aims to limit global warming to 1.5°C and significantly less than 2°C relative to pre-industrial levels. All parties are required to take action to reduce greenhouse gas emissions and adapt to the consequences of climate change. The agreement, which went into effect in 2016, gave countries a framework for setting their own emission reduction targets and reporting on their progress. The preamble emphasizes the importance of "climate justice" and calls on parties to respect human rights, including those of the younger generation, even though it does not specifically address children.

Children are implicitly included in the need to strengthen adaptive capacity, which is emphasized in Article 7. A global issue that cuts across national boundaries is climate change. It demands coordinated responses at all levels and international cooperation. On November 4, 2016, the Agreement became a legally binding international treaty. The Paris Agreement currently has 195 parties, including the European Union and four states.

#### **7. Sendai Framework for Disaster Risk Reduction (2015-2030)**

The Sendai Framework for Disaster Risk Reduction 2015-2030 was created during the Third United Nations World Conference on Disaster Risk Reduction. This conference took place from March 14 to 18, 2015, in Sendai, Miyagi, Japan. It provided a

chance for countries to: (a) adopt a clear, focused, future-oriented, and action-driven framework for disaster risk reduction after 2015; (b) complete the evaluation and review of the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters; (c) consider lessons learned from regional and national disaster risk reduction strategies, institutions, and plans, along with their recommendations and relevant regional agreements tied to the Hyogo Framework for Action; (d) identify ways to work together based on commitments to implement a post-2015 framework for disaster risk reduction; (e) outline processes for regularly reviewing the implementation of the post-2015 disaster risk reduction framework.

During the World Conference, countries reaffirmed their commitment to address disaster risk reduction and improve resilience to disasters with renewed urgency. They aimed to do this within the framework of sustainable development and poverty alleviation. All parties committed to integrating disaster risk reduction and resilience-building into policies, plans, programs, and budgets at all levels, as well as considering both within relevant frameworks. Key International Policy Frameworks and Initiatives International policy frameworks and initiatives are agreed-upon global structures and plans that guide cooperation between nations on common issues. The initiatives involve concrete actions, plans, or commitments to implement these frameworks on a global level. They include: a. UNICEF's Climate Strategy (2022-2030) UNICEF is focused on achieving the changes needed for children to thrive in a sustainable, clean, and safe environment. In line with UNICEF's climate, environment, energy, and disaster risk reduction strategy (2022-2030), which aims to uphold children's rights in a changing climate, UNICEF is launching its Sustainability and Climate Change Action Plan (SCAP) for 2023-2030.

The SCAP, as pointed out by Cannon & Dominelli (2022), stresses the need for urgent climate action through systematic changes in partnership with both public and private sectors to meet the needs of children and young people while improving their resilience against climate-related challenges. The plan seeks to weave sustainability and climate action into all aspects of UNICEF's work, protecting children's lives, health,

and well-being. It aims to strengthen community resilience through the adaptation of vital social services, provide children with development opportunities and skills, and reduce emissions and environmental impacts resulting from UNICEF's operations. Extreme weather patterns, rising temperatures, and shifting rainfall trends create significant risks for developing nations with fragile social, economic, and political systems.

According to Ara et al. (2025), social protection is essential for children because they are more vulnerable than adults. Social protection programs positively impact various aspects of child well-being, often in indirect ways. There has been a recent push among international development leaders for a more "child-sensitive" approach to social protection. While the focus on the socioeconomic effects of climate change has increased, existing survey studies show considerable variability and rarely analyze these impacts together, which hampers effective policy coordination.

#### **b. United Nations Framework Convention on Climate Change (UNFCCC) – Nairobi Work Programme**

The Nairobi Work Programme (NWP) was created by the United Nations Framework Convention on Climate Change (UNFCCC) during COP 11 in 2005. It serves as the UNFCCC's center for turning knowledge into action for climate adaptation and resilience. Its main goal is to help Parties, especially those in developing countries, improve their understanding of climate change effects, vulnerabilities, and adaptation strategies. This understanding allows them to make informed choices and implement effective adaptation measures based on scientific, technical, and socioeconomic information. The NWP achieves this by identifying and addressing knowledge gaps through initiatives at national, subregional, and regional levels, involving a broad network of stakeholders, and developing resources on the Adaptation Knowledge Portal.

#### **The regional legal and policy frameworks**

This section discusses the regional legal mechanisms, which include:



### **1. The African Charter on the Rights and the Welfare of the Child (ACRWC)**

The ACRWC reflects the African view on children's rights and aims to uphold and protect children's rights and well-being across Africa. The ACRWC and the CRC work together to create a framework that strengthens child protection on the continent. Like the CRC, the ACRWC includes four key principles that are essential for a child rights-centered approach in government actions. These principles are the best interests of the child, non-discrimination, the right to life, survival, and development, and the right to participate. A crucial part of the ACRWC is its focus on prioritizing the best interests of the child.

The ACRWC places the principle of best interests at the forefront, offering better safeguards for children. This means that governments must consider, incorporate, and apply the best interests of the child in all their actions or decisions, including those related to climate change. Article 4.2 of the ACRWC addresses a child's right to be heard. It states that in all judicial or administrative matters affecting a capable child, the child should have an opportunity to express their views either directly or through an unbiased representative. These views must be accounted for by the relevant authority in line with applicable laws. While Article 4.2 ensures children can voice their opinions, this right is limited to judicial and administrative matters that concern them. Moreover, this right depends on the child's ability to communicate their views. According to the ACRWC, the opinions of the child must be included in the decision-making by the relevant authority according to current laws.

### **2. The African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee)**

The African Committee of Experts on the Rights and Welfare of the Child, also known as the African Children's Committee, is part of the African Union. It was created by the African Charter on the Rights and Welfare of the Child (ACRWC) to advocate for and protect children's rights as outlined in the ACRWC. This committee has been active in raising awareness about how climate change affects children's rights through its general comments and various action plans.

While it does not mention climate change directly, it falls under the broader issue of environmental degradation, which puts the rights of future generations at risk. By linking the principle of the best interest of the child to their right to a healthy environment, it reaffirms the obligation of states to consider these interests in climate-related decisions.

Some countries, like Kenya, have set up children's parliaments to encourage child participation in government. The African Children's Committee has praised nations that have started children's parliaments and has urged those that have not to implement this practice. State parties must ensure that children's viewpoints are reflected in their reports to treaty bodies, including the ACRWC. Despite its regional focus, the African Children's Committee plays an important role in defending African children against the harmful effects of climate change. In 2020, the committee established a Working Group on Children's Rights and Climate Change. This group is dedicated to promoting a child rights-based approach to climate action across the continent.

### **The East African Community (EAC) legal and policy frameworks for the protection of children in climate change response**

The East African Community (EAC) addresses the protection of children in climate change responses through a combination of broader legal and policy instruments on children's rights and specific frameworks on climate change. While there is no single, dedicated treaty on children and climate change, several documents require member states to protect vulnerable groups, including children, from the impacts of natural disasters and environmental degradation. These instruments are;

#### **1. The Treaty for the Establishment of the EAC (1999)**

Article 7(2) requires member states to adhere to human rights standards, including social justice. Article 120(c) mandates cooperation in developing common approaches for marginalized and disadvantaged groups, which explicitly includes children. This provides the basis for child-specific policy development.

## 2.EAC Child Policy (2016)

This policy provides a comprehensive framework for promoting and protecting child rights and is the primary EAC instrument dedicated to children. The policy includes provisions for child protection in conflict and emergency situations, a category that includes natural disasters exacerbated by climate change. It aims to harmonize partner states' laws and policies on children in line with international instruments like the UN Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). It strengthens national child protection systems to address issues like child displacement and trafficking across borders, which are both amplified by climate disasters.

## 3. EAC Climate Change Policy (2011)

The policy focuses on guiding adaptation and mitigation strategies to increase the resilience of vulnerable populations and ecosystems. It identifies "vulnerable populations" as a priority and cites adaptation as essential for the region, which is highly vulnerable to the impacts of climate change. The policy's strategic actions include the need to strengthen efforts to relocate vulnerable communities, households, and individuals from areas prone to flooding.

## 4. EAC Climate Change Master Plan

This plan works in conjunction with the Climate Change Policy to operationalize a comprehensive framework for adaptation and mitigation. Its vision is to ensure that the people, economies, and ecosystems of the EAC are "climate resilient" and can adapt to climate change.

## National legal and policy frameworks for Protection of Children

This section discusses the national legal mechanisms for the protection of children. These include;

### 1) Constitutional of Kenya

Article 53 of the Kenyan Constitution outlines extensive rights for children, including protection from abuse, neglect, and harmful practices. It also ensures access to essential needs such as education, healthcare, and shelter. The key provisions emphasize the importance of prioritizing a child's best interests in all

matters concerning them and require parents to take responsibility for their care.

The Children Act, 2022 builds on these constitutional rights. It establishes a legal framework for child protection services that includes measures for alternative care, adoption, and support for children in conflict with the law. A key principle affirmed in Article 53 is that the best interests of the child must take priority in every decision or action that affects them. This principle guides all efforts to promote children's rights and overall well-being.

According to Nyukuri (2021), integrating the Best Interests of the Child Principle into Kenya's Climate Change Regime, along with the existing child protection legal framework, is strong. Children are now seen not merely as subjects needing care, attention, and welfare but as rights holders whose views matter. However, children continue to suffer the worst effects of climate change, leading to major challenges in realizing their rights. If this issue is not addressed, their rights may remain just theoretical. Unfortunately, the rights of children are often ignored in the creation and implementation of climate change policies worldwide.

Fambasayi (2021) notes that the effects of climate change in urban areas are worsened by factors like the built environment, high energy use, air pollution, and urban growth. Children living in cities are especially vulnerable to climate change due to their physical characteristics and developmental needs. City authorities must use their constitutional and legislative powers in climate governance to protect children from the negative impacts of climate change. The research found that municipalities have the constitutional and legislative power to plan, implement, and manage specific climate-related functions, which could help ensure the protection of children.

### 2. Children Act, 2022

The Children's Act puts Article 53 of the Constitution into action and broadens the definition of a child in need of care and protection. It improves coordination structures that can integrate climate and disaster risk into child protection responsibilities, programming, and financial planning.

Brian Sang (2022) examines the legal effects of the Children Act, 2022 on reforming child law and protecting children's rights in Kenya. Based on both

Kenyan constitutional and international law, the Children Act, 2022 represents significant progress in aligning Kenya's legal framework with its international commitments.

The Children Act, 2022 incorporates international children's rights into domestic Kenyan law, establishes new rights and duties for children, and reflects principles of child-friendly justice. The research concludes that the Children Act, 2022 represents a comprehensive reform of child law in Kenya, taking a holistic approach to child rights and responsibilities.

### 3. The Climate Change Act of 2016

The Climate Change Act of 2016 was amended in September 2023 to create a regulatory framework for carbon markets. The 2023 amendment requires supporters of carbon trading initiatives to detail the expected environmental, economic, and social benefits of their projects. All initiatives must be carried out according to a community development agreement recorded in the National Carbon Registry. The Kenya Climate Change Act of 2016 provides a legal framework for promoting low-carbon, climate-resilient development by incorporating climate change factors into national planning, improving adaptive capacity, and establishing institutions like the National Climate Change Council and the Climate Change Directorate. The Act encourages cooperation between national and county governments, requires plans for climate action in specific sectors, and supports the creation of a Climate Change Fund to finance these efforts. Climate change poses significant challenges for Kenya, impacting sectors such as agriculture, water resources, health, and infrastructure. The nation is vulnerable to droughts, floods, and severe weather events, which harm food security, water supply, and livelihoods (Naeku, 2020). The main goal of the Climate Change Act of 2016 is to ensure Kenya's response to climate change aligns with its national development goals by achieving low-carbon, climate-resilient growth. It establishes a thorough legal and institutional framework for managing climate risks and promoting sustainable development.

### Methodology

This study used a desk-based literature review. The study systematically examined primary legal texts,

national climate policies and legal framework. The analysis relies on publicly available documents and does not incorporate primary fieldwork or key informant interviews. Empirical validation of proposed indicators and financing pathways at county level is recommended for future research. Data collected in this study involved systematically identifying, retrieving, evaluating, and organizing existing secondary data from reliable sources such as academic literature, policy documents, legal texts, and institutional reports to address the research objectives. The collected data was then analyzed after the findings from these different sources were synthesized to draw meaningful insights and then the researcher integrated them into a coherent narrative.

### Study Findings

The results of this research show that worldwide, legal and policy frameworks provide a strong foundation for protecting children's rights regarding climate change. This supports the Rights-Based Approach (RBA). Key instruments like the United Nations Convention on the Rights of the Child (CRC), the Paris Agreement, and the Sendai Framework for Disaster Risk Reduction recognize children as rights holders entitled to survival, growth, and participation. They also define states and institutions as duty bearers responsible for safeguarding those rights. However, even with this solid rights framework, the implementation varies across different contexts and depends heavily on the political will, institutional capabilities, and resource distribution of individual nations. This point was reinforced by a study by Gasparri et al. (2021), which found that climate change poses the biggest global threat to our planet and human rights in the 21st century. The study concluded that there is now broad international agreement that climate change poses direct and indirect risks to all human rights, especially the rights to life, health, and food. Wealthier industrialized nations produce most of the world's greenhouse gas emissions, driving climate change. Yet, the people who will face the heaviest consequences are children. Climate change threatens their rights to education, food, and recreation. Since children are generally less responsible for climate change than adults, this issue creates significant intergenerational injustice. At the regional level,

agreements like the African Charter on the Rights and Welfare of the Child and the African Union's Agenda 2063 uphold the idea that children's rights should be protected from environmental threats. Regional economic partnerships, such as the East African Community (EAC) and the Southern African Development Community (SADC), have included environmental sustainability in their agenda. However, they often treat children as just a vulnerable group instead of distinct rights holders. This limited approach shows a shortfall in turning children's inherent rights into real protections against climate threats, failing to meet the RBA principle of making duty bearers accountable. Balsiger and Prys (2016) examined regional agreements in international environmental politics and found that these agreements help reduce climate change, protect biodiversity, or fight desertification. They noted that regional agreements make up two-thirds of all international treaties. Despite this, regional cooperation often receives little attention or gets grouped with global treaties without thorough analysis. This lack of understanding about the history and current status of regional governance presents a significant challenge to grasping the structure of global environmental governance and to addressing existing barriers in international environmental cooperation.

The examination of national frameworks reveals disjointed and poorly coordinated approaches that inconsistently integrate child rights into climate policies. Child protection frameworks generally advocate for children's welfare. However, climate policies focus on environmental adaptation and mitigation, offering little recognition of the unique vulnerabilities and rights of children. This weak link between child protection and climate-related policies undermines the RBA's principle of indivisibility of rights. As a result, children remain vulnerable to displacement, interrupted education, and health risks from climate-induced disasters. Lassa et al. (2023) explored how NGOs and governments can work together to institutionalize child-centered disaster resilience and climate change adaptation. They ensured that children's unique needs, capacities, and knowledge were included in planning and decision-making to help them enact real change. The study focused on educating, empowering, and facilitating children to

drive overall societal resilience. It emphasized advocating for children's participation in reducing disaster risk, adapting to climate extremes, emergency planning, and building resilience. However, these ideas have not yet materialized. Regarding effectiveness, the study shows that while international and regional frameworks provide strong rights-based guidance, their effectiveness suffers due to poor domestic translation into enforceable laws, insufficient funding, limited coordination among institutions, and weak accountability mechanisms. Importantly, children's involvement in governance processes is low, which goes against the RBA's focus on the right to participate and have a voice in matters that affect their lives. Treichel (2020) conducted a literature review on child-centered climate change adaptation approaches. The review found that climate change severely impacts children. These effects not only threaten children's health, safety, and survival in the short term, but their younger age also means they will face increasing consequences throughout their lives. Consequently, children often appear in climate change debates, research, and practices as especially vulnerable and in need of support. However, given the growing recognition of children and young people's roles in climate advocacy, it is important to consider how to include them more effectively in climate change adaptation efforts and the impact on them and their communities. The gap between rights established in global and regional frameworks and their realization at the national level highlights a failure in states' responsibilities as duty bearers. Ultimately, the research points out critical areas for improvement. These include the need to integrate child rights into national climate policies, improve connections between environmental and child protection agencies, and provide adequate resources specifically for climate-responsive child protection. Building strong accountability and monitoring systems is vital to ensure that states meet their obligations under international and regional rights frameworks. To advance these frameworks in line with the RBA, we need legal reform, strong political will, collaboration across sectors, and active engagement from children and communities in shaping climate strategies that affect their present and future well-being.

### Recommendations

The study recommends the following for policymakers:

1. **Child-Centered Approaches Mainstreamed:** Governments should include children's perspectives in climate change policies and action plans. This will ensure that the specific vulnerabilities of children are clearly addressed in both mitigation and adaptation efforts.
2. **Improve Institutional Collaboration:** Stronger connections should be built between child protection agencies, environmental authorities, and disaster management organizations. This will foster a unified and effective response to climate-related threats affecting children.
3. **Improve Legal and Policy Implementation:** Countries should turn international and regional agreements into enforceable national laws and well-coordinated policies. This will ensure that child rights frameworks and climate governance match up.
4. **Enhance Accountability Mechanisms:** Systems for monitoring and evaluation should be created to track progress, assess effectiveness, and ensure accountability in implementing climate-responsive measures for child protection.

### Conclusion

Kenya has established strong but separate frameworks for child protection and climate governance. There is a need to combine these systems into a unified, rights-based, climate-responsive child protection framework. This integration requires legislative changes that clearly define children's roles in climate legislation. It also calls for improved coordination across regions, the creation of systems that work together, reliable and dedicated funding, thorough child-focused monitoring, and accessible remedies. If these changes are made together, they will transform Kenya's approach from simply seeing children as "vulnerable" to recognizing them as rights holders. The Rights-Based Approach shows that while both international and regional agreements recognize children as rights holders concerning climate change, the fulfillment of these rights is inconsistent due to fragmented national execution and weak accountability. Ultimately, improving the effectiveness of legal and policy frameworks for child protection responsive to climate

needs involves legal reforms, better institutional collaboration, and ongoing political commitment. This will ensure that children's rights to survival, development, and participation are thoroughly protected in the context of climate change.

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