The World Human Rights Cities Forum

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Paper Series II
WHRCF 2021

Human Rights Cities' Responses to the COVID-19 Pandemic:

Localization of Human Rights Based Solutions for the Development of Inclusive Societies

Paper Series III
WHRCF 2022

Human Rights, Environment and Climate Change:

Developing Human Rights Based Solution for Sustainable, Inclusive and Climate-resilient Cities

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CHONNAM NATIONAL UNIVERSITY
The Education and Research Program for Fostering Cultural Memory Curators
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CONTENTS

Introduction

Introduction

In an increasingly interconnected and urbanized world, the concept of Human Rights Cities has emerged as a pivotal framework that resonates with the core values of justice, inclusivity, and empowerment. As defined by the Gwangju Declaration (2011), a human rights city is "both a local community and a socio-political process in a local context where human rights play a key role as fundamental values and guiding principles".[1]

The human rights city concept supports a process where local authorities (LAs), including their deliberative organs, civil society organizations (CSOs), the private sector and other relevant stakeholders ensure the application of international human rights standards.[2] In particular, by engaging local communities, promoting dialogue, and emphasizing the principles of human rights, these cities have laid the groundwork for building resilient and inclusive societies that can navigate future challenges while upholding fundamental rights and freedoms.

As our global population gravitates towards urban centers, cities have evolved into crucibles of diversity, innovation, and progress. However, this urban transformation has also underscored the urgent need to protect and advance human rights within these dynamic landscapes. Human Rights Cities stand as beacons of hope, embodying the principle that every individual, irrespective of their background, possesses inherent rights demanding protection and fulfilment.

This publication represents a deliberate editorial decision in which we have combined specific papers from both the 2021 and 2022 Human Rights Paper Series of the World Human Rights Cities Forum (WHRCF), while preserving the integrity of their respective thematic focuses. Through this combination, our goal is to offer a comprehensive perspective on the challenges that these forums were originally designed to address, particularly those related to climate change and the COVID-19 pandemic. This synthesis captures the evolution of ideas and initiatives, illustrating how Human Rights Cities have adapted to the ever-changing dynamics of our world.

[1] See Gwangju Declaration on Human Right City, 2011 World Human Rights Cities Forum, para. 4. Available at: https://www.uclg-cisdp.org/sites/default/files/Gwangju_Declaration_on_HR_City_final_edited_version_110524.pdf

[2] See http://rwi.lu.se/the-swedish-human-rights-city-project/

In this spirit, our first section of this publication is addressing the issue of "Human Rights Cities' Responses to the COVID-19 Pandemic: Localization of Human Rights Based Solutions for the Development of Inclusive Societies". In the wake of the global COVID-19 pandemic, the world has been thrust into a state of unprecedented challenge. The profound impact of the pandemic has permeated every aspect of society--disrupting economies, communities, politics, and culture. Alongside these disruptions, human rights have faced increasing threats, with rising unemployment, deepening inequalities, and the curtailment of fundamental freedoms such as expression, assembly, and privacy. The pandemic has brought to the fore the social and cultural dimensions of inequality, shining a spotlight on the linkages between disparities and discrimination. As societies grapple with the multifaceted consequences of the pandemic, local authorities (LAs) have recognized the urgent need to address the widened and deepened human rights challenges that have emerged.

Cities and local governments have become critical players in navigating the socio-economic effects of the COVID-19 pandemic. They have faced daily challenges in striking a delicate balance between protecting public health and upholding fundamental rights and freedoms. However, measures implemented by LAs, while aiming to address the public health emergency, have sometimes had disproportionate effects on the livelihoods of individuals. Such actions have, in some instances, led to unjustified interference by the state and violations of fundamental human rights, particularly toward vulnerable populations.[3]

In this regard, the COVID-19 pandemic has underscored the obligation and critical role played by LAs in fostering cohesive and inclusive communities where everyone has equal access to services. LAs are instrumental in realizing the Sustainable Development Goals (SDGs) at the local level, ensuring that no one is left behind. To achieve this, LAs need to adopt human rights-based approaches and align their actions with international, regional, and domestic legal systems. Collaboration with civil society organizations, in the context of the COVID-19 pandemic, has become an essential tool in addressing the socio-economic effects of the pandemic and advancing the SDGs, particularly in education, gender equality, and long-term sustainability. Additionally, building the capacity of local government officials to identify and address human rights challenges and promoting collaborative frameworks among LAs can strengthen the international human rights movement and contribute to the realization of inclusive and sustainable cities.

For these reasons, the first section of the publication seeks to highlight the role of cities and local authorities in addressing the challenges posed by the global COVID-19 pandemic within the overarching theme of "**Human Rights in Times of Challenge: A New Social Contract**." The papers delve into the impact of government interventions, or lack thereof, on access to essential services during the crisis and how this has affected the enjoyment of fundamental rights and freedoms by residents. Specifically, the papers within this compilation shed light on the systemic socio-economic issues that have been generated or exacerbated by the pandemic; further

[3] Fuentes A., COVID-19: Core Human Rights Obligations Cannot Be Disregarded, in RWI Series on COVID-19 & Human Rights (April 2020).

widening the gap in the enjoyment of rights and marginalizing the most vulnerable sectors of the population.

Moreover, this first section explores the role of cities and local governments in managing the transition to a post-pandemic "normalcy," envisioning the reconfiguration of urban spaces and local communities. By examining the experiences, successes, and challenges faced by cities and local authorities, these papers contribute to the ongoing discourse on building a new social contract in times of crisis.

The authors represented in this publication offer diverse perspectives, drawing on their expertise and experiences from various areas around the world--from Cambodia to Austria. Their contributions provide valuable insights into the local dynamics of human rights challenges and highlight innovative approaches to address them. By examining the actions, policies, and practices of cities and local authorities, this publication aims to generate knowledge that can inform future decision-making and policy development in the pursuit of human rights in times of challenge.

Additionally, this publication explores the localization of human rights-based solutions to challenges presented by the COVID-19 pandemic for the development of sustainable and exclusive societies. We made the editorial decision to combine these two papers in this publication under the joint theme stated above. In "Human Rights City Reports as a collaborative means to identify and mitigate the challenges of the COVID-19 pandemic at the local level," Livia Perschy explores how the City of Graz, Austria can consider urban resilience and the right to adequate housing in its participatory Human Rights Reports in order to mitigate long-term stressors resulting from the COVID-19 pandemic. Along the theme of education, in "Inclusive Higher Education in the Context of COVID-19: Perspectives of University Lecturers in Cambodia," Boravin Tann and Sophorn Tuy account for the experience of lecturers in the transition to digital remote teaching as a result of school closures in Cambodia.

For the reasons mentioned above, this first section serves as a platform for critical analysis and knowledge exchange, bringing together research papers that explore the pivotal role of cities and local authorities in navigating the complexities of the COVID-19 pandemic and its impact on human rights. By examining the intersection of local governance, access to essential services, and the enjoyment of fundamental rights, these papers offer valuable contributions toward shaping a more inclusive and rights-based future as we emerge from the pandemic and look ahead.

The second section of this publication focuses on the issue of "**Human Rights, Environment and Climate Change: developing human rights based solutions for sustainable, inclusive and climate-resilient cities**". Climate-related issues, such as compromised air quality, inadequate housing, and restricted access to vital services, pose direct threats to fundamental human rights. It is in this arena that Human Rights Cities distinguish themselves by adopting human rights-based approaches (HRBAs) as the bedrock of their climate response strategies. Integral to their approach is a commitment to inclusivity. They understand that in order to achieve true climate resilience, particular attention must be given to vulnerable populations. Whether it be the elderly, children, or marginalized communities, these cities prioritize safeguarding the rights of all residents, ensuring equitable access to resources, and actively involving communities in decision-making processes.

Four contributions have been incorporated in this section. The first two contributions are related to the identification of the substantive correlation between climate change and human rights and determining the roles of cities and local authorities in dealing with human rights issues in areas such as housing, culture, and the environment. The first contribution, titled “Cities Driving the Shift to Rights-Based and Circular Construction Practices” by Annabel Short, Andreia Fidalgo, Dr. Ying-Chih Deng-Sommer, and Dr. Natalie Galea, details how poor construction models are interconnected with climate change and how human rights-based models could improve climate change, human rights, and more eco-friendly development for a greener future. As cities attempt to mitigate and adapt to the effects of climate change, whether by developing new construction practices or policies, there is an opportunity to interconnect their efforts with human rights-based initiatives for change. The second contribution, titled “Peri-Urbanisation in Zimbabwe: A Human Rights Perspective,” by N. A. Kwangwama and J. Matai, is an in-depth case study that illustrates how the practice of peri-urbanization, which involves urban expansion and transformation at the outskirts of existing urban areas, has a severe impact on human rights in Zimbabwe. It also highlights how the transformation of the Domboshava and Seke regions into Human Rights Cities could improve the lives of Zimbabweans.

The third and forth contributions are interconnected by the imperative need for innovative actions to combat climate change. This involves promoting international cooperation and critically analysing the interventions, or lack thereof, by local authorities to mitigate the adverse impacts of climate change. In the third contribution, titled “A Quixotic Quest to Sustainable Cities – A Criminal Law Perspective,” Ilvana Dedja persuasively argues that for human rights cities to flourish, climate wrongdoers must be held accountable; otherwise, the pursuit of sustainability becomes a quixotic endeavour. Dedja's analysis primarily focuses on establishing accountability, both for corporations and national governments, under international law for their adverse environmental impacts. The final and fourth contribution, titled “Ensuring the Right to Food in the Context of Climate Change - Challenges for Developing Countries: The Case of Vietnam,” authored by Dr. Nguyen Thi Hong Yen and Nguyen Phuong Dung, conducts a comprehensive case study of Vietnam's ongoing climate change crisis. This study vividly illustrates how the loss of valuable agricultural lands and declining food production result in hunger, food insecurity, and migration, while proposing the adaptation of the UN Sustainable Development Goals to mitigate these pressing issues.

In conclusion, this second section of the publication serves as a pivotal platform for comprehensive exploration and knowledge exchange, uniting research papers that delve into the intricate dynamics of climate change, human rights, and their interconnectedness with the responsibilities of cities and local authorities. By dissecting the interplay between climate change, human rights, and the roles of urban centers in addressing these challenges, these contributions provide invaluable insights that pave the way for a more sustainable, inclusive, and rights-driven future.

Finally, I would like to express my gratitude to the organizations that sponsored and made this publication possible, including the World Human Rights Cities Forum (WHRCF) and the Raoul Wallenberg Institute for Human Rights and Humanitarian Law. I want to thank, in particular, Yunseon Cho from the WHRCF Secretariat for coordinating these efforts, keeping us all informed and on the same page, along with Shane Pimentel and Omar Hajajra, who showed strong dedication in ensuring the quality of our publication's content, providing valuable edits, and paying meticulous attention to detail.

Lastly, but most significantly, my profound thanks go to the individual authors who have entrusted us with their scholarly contributions. Their unwavering commitment to addressing critical issues, offering innovative solutions, and their patience and collaboration throughout the rigorous editorial process are greatly appreciated.

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Human Rights Cities' Responses to the COVID-19 Pandemic:
Localization of Human Rights Based Solutions for the Development of Inclusive Societies

Human Rights City Reports as a collaborative means to identify and mitigate the challenges of the COVID-19 pandemic at the local level

Livia Perschy*

Abstract

The Human Rights City of Graz and its Human Rights Council have a long tradition of reporting on the human rights situation through the city's annual Human Rights Report. The Reports follow a human rights-based approach to policy making and present recommendations to local governments. Given the impact of the COVID-19 pandemic, the existing methodology had to be adapted to include a more holistic approach, allowing for the far-reaching human rights consequences of the pandemic to be reflected, and providing a strong theoretical framework within which to host the recommendations. Urban resilience was chosen as a concept to supplement the human rights-based, participatory approach to reporting. It describes the capacity of cities to handle long-term stresses and sudden shocks threatening the continuous and effective performance and service provision of these urban systems.

Using the example of the right to adequate housing, which was identified as a key problem area in Graz in the 2020 Report, the new methodology provides a basis for the new 2021 Report. This new Report presents an in-depth analysis of the realisation of the right to adequate housing in Graz. It also presents recommendations to the city government along the four dimensions of urban resilience: economic, social, institutional, and ecological. The paper at hand presents the process and methodology applied for preparing the Human Rights Reports of the City of Graz, outlines the key findings, and highlights the contribution Human Rights Reports can generally make to identify and mitigate the challenges of the COVID-19 pandemic at the local level.

Key words: human rights, urban resilience, local level, right to adequate housing, human rights reporting, human rights monitoring.

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Introduction

This paper introduces the practice of compiling the annual Human Rights Report of the Human Rights City of Graz as a collaborative means to identify and mitigate challenges of the COVID-19 pandemic. The first Human Rights Report was published in 2007 by the Human Rights Council of the City and has since become a well-established and successful instrument to monitor the city's human rights situation (Menschenrechtsbeirat der Stadt Graz, 2008). The methodology used comprises a human rights-based and participatory approach, raising awareness for the fulfilment, protection, respect, and promotion of human rights among all local actors from diverse working fields.

The COVID-19 pandemic disrupted the everyday lives of the whole city. The 2020 Human Rights Report identified several long-term stresses which have been provoking inequalities among citizens for a long time. Further, it showed that the outbreak of the pandemic as a sudden shock made these stresses visible and intensified them significantly. In particular, these problems led to the constant deterioration of the housing sector in Graz, which affects the non-discriminatory implementation of the right to adequate housing for all citizens. The Report indicated that Graz is not resilient enough as a city and, therefore, faces significant problems in withstanding the ever-growing challenges highlighted and caused by the pandemic. This led to the introduction of a new methodology for the 2021 Human Rights Report. The methodology connects the human rights-based, participatory approach of the regular Human Rights Reports with the holistic concept of urban resilience. Thus, the aim of the new 2021 Report is to provide concrete recommendations in the inter-related social, economic, ecological, and institutional spheres on how the local city government and administration can foster the city's urban resilience. Considering the particular effect of the pandemic on the right to adequate housing, the Report focuses especially on the fulfilment of this right as a significant challenge.

This paper elaborates on the process and methodology applied to compile the new 2021 Human Rights Report in light of the COVID-19 pandemic with the goal of improving the city's urban resilience, using the right to adequate housing as a case example. The first section provides some context by presenting a brief history of Graz as a Human Rights City, and the basic system of the Human Rights Report. Next, it focuses on the newly developed methodology of the 2021 Human Rights Report in the light of the COVID-19 pandemic, as well as the key concept of urban resilience, which is linked with the human rights-based and participatory approach of the Human Rights Reports. The subsequent section illustrates the case example of the right to adequate housing as a context-specific challenge the City of Graz faced with regard to the pandemic. Finally, the concrete methodology and process of elaborating the 2021 Report, and its implications for other cities as good practice, are presented.

The Human Rights Council and the Human Rights Report in Graz, Austria

The following section presents a brief history of Graz as Europe's first Human Rights City. It introduces the city's Human Rights Council as a vital institution within the Human Rights City Process. It also goes into detail on one of the Council's major tasks, namely the practice of regularly monitoring the human rights situation in the city by means of the annual Human Rights Report.

The Human Rights City of Graz

The year 2021 marks the 20th anniversary of Graz as a Human Rights City. In 2001, the city government and council self-committed to "be guided in their actions by the principles of international human rights" [1] by adopting the Human Rights Declaration of the City of Graz (Starl 2016; Gomes & Möstl, 2020; Fischer & Oberleitner, 2020). The Human Rights Declaration of the City of Graz lays the groundwork for the establishment of several important institutions and initiatives aimed at ensuring the fulfilment, protection, respect, and promotion of human rights for all citizens. One significant milestone in the city's continuous Human Rights City journey was the mayor's establishment of the Human Rights Council (HRC) in 2007 (Starl, 2016). At the time of writing, it comprises 28 members from various human rights-related local fields, namely politics, judiciary, administration, and civil society organisations (Menschenrechtsbeirat der Stadt Graz, 2023). The chairperson is elected by all members for a period of two years. It has an Executive Office, namely the European Training and Research Centre for Human Rights and Democracy. The mayor nominates the members of the HRC, who work independently, in an honorary capacity, and based on the HRC's Internal Rules. These Rules specify, inter alia, the Council's core tasks. These include advising local decision-makers, namely the mayor, city government, and city council, on relevant human rights issues, as well as conducting local election monitoring, and closely monitoring the human rights situation in the City of Graz. The latter is achieved by compiling the annual Human Rights Report (HRR), which is explained in more detail in subsequent sections (Menschenrechtsbeirat der Stadt Graz, 2019).

According to Starl (2016), the culture of human rights in Graz is present through several characteristics. These include self-commitment to being a Human Rights City, the formal decision translated by the Human Rights Declaration of the City of Graz, as well as the consequent institutionalisation, e.g. establishment of the Human Rights Council. This is in addition to the constant collaborative working initiatives between the local authorities and administration, NGOs, and civil society. As a result, all citizens are more aware of their human rights. This process has "created resilience against anti-democratic, nationalist, fundamentalist or other tendencies hostile to human rights in politics and society. It has become part of the city's identity […]" (Gomes & Möstl, 2020, p. 59). Further, the city's dynamics very much correspond to the Organisation for Economic Co-operation and Development's (OECD) (2016) view that strengthening resilience in a city is best achieved by making all relevant actors, which include authorities, administration, NGOs, as well as civil society, more aware of their human rights possibilities. By ensuring that a broad spectrum of voices is heard when elaborating policies, a city can feasibly become more "inclusive, safe, resilient, and sustainable" as foreseen by Sustainable Development Goal (SDG) 11 on sustainable cities and communities (United Nations, 2021). The compilation of the HRR translates these aspects into practice by applying a human rights-based, participatory approach, thereby engaging diverse local actors of various spheres to actively participate in local policymaking. The following section explains the regular practice of the HRR.

[1] English translation from German source by the author. For the German original see: City of Graz. (2001). Menschenrechtserklärung der Stadt Graz [Human Rights Declaration of the City of Graz]. Graz, Austria. https://www.graz.at/cms/dokumente/10284065_7771447/a361963e/Menschenrechtserklaerung%20der%20Stadt%20Graz.pdf

The practice of Human Rights Reports

As already mentioned, one of the core results of the Human Rights Declaration of the City of Graz is the annual HRR, compiled by the HRC of the city. It is directly addressed to the mayor, local city government, and city administration. Its objective is to closely examine the human rights situation of the city by applying a human rights-based[2] and participatory methodology, to elaborate a set of concrete recommendations for improvement, and to monitor the implementation of these recommendations. The HRR is published every year on 10 December, the International Human Rights Day (Gomes & Möstl, 2020; Fischer & Oberleitner 2020).

In general, there are two types of HHR: the State-of-the-art Report and the Follow-up Report, which are alternately published on an annual basis. The State-of-the-art Report aims to draw a picture of the human rights situation of the previous year in Graz. The HRC tasks its Executive Office with the compilation of the Report. Consequently, a working group consisting of employees of the Executive Office and some members of the HRC is formed to complete the task. The input is generated by inviting around 200 local actors from various spheres to complete a questionnaire structured along, in total, 26 Articles of the 1948 Universal Declaration of Human Rights (UDHR). These local actors include all departments of the local city administration, civil society organisations, NGOs, and academia, all members of the Human Rights Council, and all political parties represented in the local city council. The relevant Articles comprise civil and political rights (Articles 2-21 UDHR), economic and social rights (Articles 22-26 UDHR), and cultural rights (Article 27 UDHR) (Gomes & Möstl, 2020; Fischer & Oberleitner, 2020). The participatory and human rights-based approach is fulfilled by inviting local actors to share their knowledge and by keeping the Articles of the UDHR at the core of the process and structure of the HRR.

In the questionnaire, each right is listed separately, and all actors are asked to choose the right(s) their respective daily work mostly corresponds to. Regarding each right, the following aspects are required to be filled out: 1) data, facts and statistics, 2) problems and deficits, 3) good practices (and reasons supporting this), and 4) new recommendations. Further, the Reports include a focus chapter putting its main emphasis on core topics relevant at the time of writing, e.g., risk of poverty, islamophobia, and racism (Menschenrechtsbeirat der Stadt Graz, 2008), children's

[2] The human rights-based approach is a conceptual framework and methodology for policymaking, which puts human rights standards at its core so as to promote the fulfilment of human rights. It builds on two vital principles: First, the aim is to empower rights holders to claim and exercise their rights, and to strengthen the capacity of duty bearers to ensure that they respect and fulfil their human rights obligations. Second, the approach is applied on all stages of the policy cycle based on five human rights core principles derived from international legislation: participation, accountability, non-discrimination and equality, empowerment, and legality (PANEL). This is the basis of the human rights work conducted by many international organisations. Particular attention is placed on the principle of accountability throughout the policy-cycle. This means that when applying a human rights-based approach to the examination of policies, the relevant actors (policymakers) are held accountable based on the five PANEL principles. For further information and examples of application consult European Network of National Human Rights Institutions (ENNHRI). (2021). *Human Rights-Based Approach*. https://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies/#sthash.WbJbL9gZ.dpuf; United Nations Office of the High Commissioner of Human Rights (OHCHR). (n.d.). *Summary Reflection Guide on a Human Rights-Based Approach to Health.* https://www.ohchr.org/Documents/Issues/Women/WRGS/Health/RGuide_HealthPolicyMakers.pdf; United Nations Office of the High Commissioner of Human Rights (OHCHR). (2018). *A Human Rights-Based Approach To Data*. https://www.ohchr.org/en/issues/indicators/pages/documents.aspx

and women's rights (Menschenrechtsbeirat der Stadt Graz, 2010), health (Menschenrechtsbeirat der Stadt Graz, 2012a), or dealing with the COVID-19 pandemic in Graz in 2020 (Menschenrechtsbeirat der Stadt Graz, 2020). After receiving input from the invited actors, the HRR is compiled by following the structure of the relevant Articles. The actor's contributions are not changed; only transitions and a language check, if necessary, are applied to provide better readability. This method ensures transparency so that all voices are heard appropriately. The focus chapter is written as a coherent and cohesive text based on the input received.

Based on the received information, the members of the HRC develop a set of recommendations for the consequent improvement of the identified problems from a human rights perspective. These are presented at the end of the Report and directly addressed to the city government and administration. The recommendations are not binding for the local government. However, the city government's implementation of many of these recommendations shows its commitment to the Reports (Gomes & Möstl, 2020; Fischer & Oberleitner, 2020).

This commitment to the HRR and its recommendations is also reflected in the second type of Report, namely the Follow-up Report (Fischer & Oberleitner, 2020). The key aim of this Report is to evaluate the implementation of the set of recommendations established in the year prior, consequently earning the name of Evaluation Report. The applied methodology for the evaluation depends on the specific recommendations and topics (Fischer & Oberleitner, 2020). Mostly, focus group discussions or questionnaires are chosen as methods, evolving around the central question "have the individual recommendations been implemented or not, and to what extent (completely/partially)?" The relevant local actors are once again consulted in order to answer this question appropriately (Menschenrechtsbeirat der Stadt Graz, 2012b). Overall, the alternation of State-of-the-art and Evaluation Reports in Graz has proven effective in highlighting challenges as well as achievements in the human rights sphere in the city. It has also provided vital insights to the local government on how to best employ a human-rights based approach in policy making.

Nonetheless, with regard to the ongoing global health crisis, even the status as Human Rights City does not prevent Graz from major difficulties when facing and attempting to deal with a tremendous shock like the COVID-19 pandemic. However, as a Human Rights City, several mechanisms and instruments are in place which can prove to be very effective in detecting and improving shortcomings related to the pandemic. In Graz, the HRR turned out to be a useful instrument in completing this task. However, it was necessary to introduce a new methodology to the Human Rights Reporting Process to respond to the newly arisen and uncovered pandemic problems in the most efficient way. The following section introduces the newly elaborated methodology.

A new methodology: human rights-based approach and urban resilience

This section focuses on the newly developed methodology for the 2021 HRR in light of the COVID-19 pandemic. It presents the rationale behind the new methodology employed to identify and mitigate the challenges of this health crisis at the local level. Most importantly, it introduces the conceptual notion of urban resilience as a vital new element to the regular reporting method.

Human Rights Reporting during the COVID-19 pandemic

The COVID-19 pandemic has given rise to a range of short-term and long-term challenges that cannot be adequately catered to using the standard HRR methodology outlined above. While the human rights-based and participatory methodology does give insight into shortcomings, it is difficult to evaluate them and to prescribe concrete recommendations on how to improve the situation. In addition, given that uncovered problems are both amplifications of existing problems, as well as new vulnerabilities, the question arises as to which methodological framework can provide the necessary holistic nature to adequately conceptualise, address, and utilise the findings in a manner meaningful to the local government.

Human Rights Reports can serve as an effective means to respond to the challenges of the COVID-19 pandemic at the local level. This can be achieved in two steps: first, the existing State-of-the-art Report can indeed successfully identify challenges related to the pandemic; however, the procedure must be adapted slightly. Second, mitigating the uncovered challenges by means of recommendations must follow a newly developed methodology, leading to the development of a new Recommendations Report in 2021.

The State-of-the-art Report during COVID-19

Ever since its establishment, the State-of-the-art Report has been an effective tool to identify prevailing challenges and deficits from a human rights perspective at the local level in Graz by asking local actors from a diverse range of working fields to share their experiences and expertise. In the year 2020, the elaboration of a State-of-the-art Report was foreseen by the HRC of the City of Graz following its regular, alternating system. As usual, the HRC tasked its Executive Office with the establishment of the Report. Consequently, a working group consisting of two employees of the Executive Office and five members of the HRC was formed to complete this task. The HRC decided to adapt its regular working procedure in two ways to account for and identify the challenges arising due to the outbreak of the COVID-19 pandemic.

First, even though this type of Report always focuses on the previous year (here 2019), the HRC deemed it necessary to consider the extraordinary and challenging situation provoked by the COVID-19 pandemic. Therefore, the focus chapter was dedicated to highlighting the human rights aspects and consequences of the first months of living (mostly in lockdown) amidst this tremendous health crisis (Menschenrechtsbeirat der Stadt Graz, 2020). The HRC wanted to examine how the City of Graz dealt with the crisis in order to identify good practices, shortcomings, and possible suggestions for improvement. After deciding on this topic of the focus chapter, the working group slightly modified the standardised questionnaire. A fifth point was added to the four aspects already mentioned above: COVID-19 experiences within the timeframe of the disease outbreak until the end of August 2020. The relevant actors were asked to complete the fifth aspect with regard to the following questions: What effect did the COVID-19 outbreak have on your activities, resources, and target group(s)? Where did problems occur? What worked particularly well? With regard to the future (e.g. a possible second wave), what would you need/wish for?

Second, the members of the HRC usually elaborate a set of concrete recommendations at the end of every State-of-the-art Report (Menschenrechtsbeirat

der Stadt Graz, 2008). However, due to the acute health crisis and the many prevailing uncertainties, the HRC ultimately decided to refrain from addressing recommendations to the local city government and administration. It was agreed to dedicate the entire 2021 HRR to the elaboration of recommendations, thereby creating the first separate Recommendations Report with the aim to mitigate the identified challenges in the State-of-the-art Report.

The 2020 Human Rights Report clearly emphasised shortcomings with regard to the human rights situation in the City of Graz in 2019, which became even more visible when faced with the tremendous shock of the COVID-19 pandemic in early 2020. The following examples make this more tangible: With regard to public spaces in Graz, the 2020 HRR clearly showed that especially the youth are at a disadvantage.

There exist several conflicts of interests between young people and older generations, e.g. using some public spaces in the city centre for skating or getting together with friends in the evenings in city parks, both of which create too much noise for neighbours. On the one hand, this led to the perception of youth being inconsiderate. On the other hand, youth did not feel welcome in the public space of Graz anymore. During the pandemic, young people in general were further driven out of public life due to safety measures taken by the state government, restricting their private and school life to their homes. For some time during the first lockdown, young people were also seen as main transmitters of the COVID-19 disease (Menschenrechtsbeirat der Stadt Graz, 2020).

Responses from representatives of organisations working with children and young people clearly indicated that this target group felt unwelcome, insecure, and highly burdened (Menschenrechtsbeirat der Stadt Graz, 2020). Another problem in relation to the pandemic was the high pressure put on families to deal with homeschooling and home office at the same time. Many families live in very small apartments without balconies and simply cannot afford the technical equipment for working and following school from home. This led to significant tensions in family life. Besides families, it was found that also migrants, refugees, the elderly, people with low German skills or people with a lower educational background did not have the necessary financial means and digital expertise to access services needed These target groups were considered particularly hard to reach by several representative organisations (Menschenrechtsbeirat der Stadt Graz, 2020).

Another problem in relation to having to spend more time at home was an increase in conflicts in neighbourhoods due to higher noise pollution, in particular in areas where a lot of people live in very small apartments. Furthermore, as a final example, an increase in discrimination was indicated in the private but also public sphere. In particular, discriminatory practices regulating the access to community housing, which have already been strongly criticised by several NGOs and institutions over the past years, became clearly visible. The most affected groups were homeless people, and Convention refugees, which are also the ones with the highest need of an adequate housing space, especially during a global pandemic (Menschenrechtsbeirat der Stadt Graz, 2020).

These examples together with the rest of the received input show one major finding of the 2020 HRR: The City of Graz is not resilient enough to adequately deal with the new problems brought about by the pandemic. Concretely, existing fault lines in the city's socio-economic and socio-political fabric, particularly vis-à-vis marginalised groups, are deeply anchored in the city's make-up, therefore requiring a more deep-seated approach to mitigating them. This led to a vital question: How can

Graz become more resilient in order to make the city more inclusive, safe, and sustainable in the long-term?

Step two: the new Recommendations Report

This final question posed by the 2020 HRR was the starting point for the 2021 HRR, and led to the development of the new methodology. It became the main objective of the 2021 HRR to mitigate the identified challenges of the previous report by means of a set of concrete recommendations from a human rights perspective to strengthen the overall resilience of the City of Graz. It became quite clear that elaborating recommendations to increase the city's resilience after suffering a tremendous disruptive event like the COVID-19 pandemic is more complex than usual. In general, the members of the HRC develop their recommendations based on the input and suggestions for improvement they received from various participating actors. These recommendations are not necessarily interrelated, and normally address many different working fields and areas of daily life. When dealing with a highly complex situation as a health crisis, the need for a theoretic and holistic resilience framework, which can be combined with the existing human rights-based and participatory approach for the elaboration of recommendations, became obvious. The 2020 State-of-the-art Report clearly showed the close interrelatedness of so many areas of the city as well as of underlying human rights which were significantly affected by the crisis.

After conducting desk research on resilience, the concept of urban resilience proved to be the most useful framework for the new methodology of the HRR 2021. The OECD defines urban resilience as:

> the ongoing capacity of cities to absorb, adapt, transform and prepare for shocks and stresses along the economic, social, institutional and environmental dimensions, with the aim of maintaining the functions of a city and improving response to future shocks. (Figueiredo, Honiden & Schumann, 2018, p. 10)

Therefore, urban resilience is viewed as a capacity, which cities can acquire and increase if they manage to complete certain actions, namely, to absorb, adapt, transform, and prepare for shocks and stresses (Figueiredo, Honiden & Schumann, 2018).

Urban resilience at the local level

The degree of urban resilience of a city is measured against the occurrence of a disruptive event, namely stresses or shocks, which undermines the proper functioning of the city and increases vulnerabilities of inhabitants (Figueiredo, Honiden & Schumann, 2018). According to the OECD, stresses are defined as "[l]onger term trends that undermine the performance of a given system and increase the vulnerability of actors within it, such as natural resource degradations, loss of agricultural production, demographic changes, climate change, […]" (Figueiredo, Honiden & Schumann, 2018, p. 6). Shocks are "[s]udden events that affect the performance of a system, such as disease outbreaks, floods, high winds, […]." With regard to the COVID-19 pandemic, the outbreak clearly qualifies as a shock according to the definition. The World Health Organization (2020) officially declared the COVID-19 outbreak a "Public Health Emergency of International Concern." It suddenly and tremendously disrupted everyday lives of humans worldwide, and still continues to

have an enormous impact on social, economic, ecological, and institutional scales, requiring actions at all governance levels.

Cities are viewed as complex urban systems, indicating that all elements of the system are interrelated, and if one part is exposed to change, the whole system is influenced (Silva, Kernaghan & Luque, 2012). This means that stresses or shocks occurring in certain areas of a city, e.g., health system, information systems, educational sector, etc., undermine the proper functioning of the city system as a whole. Therefore, a city requires a certain amount of urban resilience in order to be able to effectively respond to these disruptive and harmful events (Figueiredo, Honiden & Schumann, 2018).

The concept of urban resilience follows an evolutionary resilience perspective, stressing that achieving a state of new normality after a shock or stress occurred must be the main objective, since returning to the old way would mean returning to the state which provoked the stress or shock in the first place (White & O'Hare, 2014). Consequently, the local policy level is crucial for fostering the resilience of cities. Local actors like city governments are experts on their cities, providing in-depth expertise on risk and resource assessment, as well as the elaboration of concrete mitigating policies. By creating a new normal, local authorities exchange stability for dynamic change, thereby turning a negative event into an opportunity and a driver for improvement (Figueiredo, Honiden & Schumann, 2018).

In general, urban resilience can be fostered along four dimensions, namely economic, social, ecological, and institutional. The economic resilience dimension postulates that a city should not focus on one or two industry sectors but aim at a varied range of industries. This way, shocks or stresses harming one type of industry can be balanced with other existing branches. Further, an economically resilient city welcomes and encourages innovation, as well as enables the founding of more businesses. It fosters education and skills development for all citizens to create a strong and well-educated workforce, and upholds a stable labour market. It is vital to ensure that households dispose of the necessary financial resources to meet their needs and generate economic growth (OECD, 2016). The social dimension calls for a decrease of inequalities among a city's society. Resilient societies are inclusive, and citizens have a certain amount of expertise and necessary skills to react to shocks and stresses themselves by having effective citizens networks in place. In this way, citizens feel empowered. Good health conditions and institutional services promoting citizens' health are a core requirement, as well as the provision of jobs which enable people to lead a well-balanced life (OECD, 2014).

The ecological dimension refers to risks related to "environmental degradation, the overuse of resources, and the potential costs of climate change" (OECD, 2014, p. 6). A city can achieve ecological resilience by knowing their specific challenges in this sphere, and responding accordingly, namely, taking concrete actions in the city which improve the ecological environment for all its inhabitants (OECD, 2014; Figueiredo, Honiden & Schumann, 2018). Finally, the institutional dimension refers to the vital role that institutions play in responding to shocks and stresses. Resilience in this sphere can be achieved by ensuring institutional policy-making processes that are "open, transparent, and inclusive", meaning that citizens trust their local authorities and are able to participate effectively in decision-making. This way, public services are directly catered to the citizens' needs (OECD, 2014, p. 5). Furthermore, it is required that institutions also cooperate with other governance levels, and policies or strategies are elaborated with an eye to the future (Figueiredo, Honiden & Schumann, 2018).

In line with systemic thinking, these four dimensions are also interrelated: if a shock or stress is identified, proper local government management reactions should incorporate policies on more than just one of these dimensions, since, once again, a measure taken in one area influences the others. Consequently, applying a holistic approach when aiming at the strengthening of urban resilience is recommended because improvement measures in all four dimensions ensure a more positive outcome for the system as a whole (Figueiredo, Honiden & Schumann, 2018).

Urban resilience and human rights in the 2021 Recommendations Report

With regard to the elaboration of recommendations for the 2021 HRR, this conceptual framework is very effective. The concept of urban resilience views the local policy level as vital for strengthening a city's resilience. Local governments are experts on their cities and, therefore, the most important actors in realising concrete mitigating policies. The HRR and, in particular, its recommendations, directly address the local policy level, namely the city government and administration. In general, recommendations elaborated by the HRC for the HRR are rather diverse since they are based on data collected from local actors working in different human rights-related fields. Therefore, these recommendations normally already touch upon the social, economic, ecological, and institutional spheres with regard to human rights aspects. Consequently, the OECD's approach to enhancing urban resilience by reacting to shocks or stresses in the four resilience dimensions directly corresponds to the working method for the establishment of recommendations. This means that the local government as addressee of the recommendations, as well as the type of recommendations themselves, already align with the concept of strengthening urban resilience. The recommendations of the 2021 HRR just needed to be clearly subsumed under the four dimensions of urban resilience to create a holistic set of concrete suggestions from a human rights perspective.

As each city is embedded in a very specific socio-economic, and geographical context, the OECD emphasises the need for context-related resilience strategies, since "[t]he focus of policies varies with the challenges faced" (Figueiredo, Honiden & Schumann, 2018, p. 5). An analysis of the input to the 2020 HRR indicates that the vast majority of identified issues was directly linked to the area of housing. These issues encompass long-term, negative stresses in the housing sector of the City of Graz, which became visible and further increased due to the outbreak of the COVID-19 pandemic. All in all, these problems led to the constant deterioration of the City's housing sector, and showed that the right to adequate housing was not fulfilled equally and adequately for all inhabitants. In times when staying at home is required to eventually save the lives of others, it is essential to ensure that all citizens have a home with an adequate living space. In line with the OECD's call for context-related resilience strategies, the members of the HRC decided to put the emphasis of the 2021 HRR on Article 25: the right to a standard of living adequate for the health and well-being, including housing, of the UDHR.[3] Focusing on this human right is not a

[3] Article 25 (1) UDHR states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." from the UN. (2021). *Universal Declaration of Human Rights*. https://www.un.org/en/about-us/universal-declaration-of-human-rights

limitation, as all issues identified in the 2020 State-of-the-art Report are also interrelated with other human rights. These include, for example, the right to work, social security, family life, health, education, and the principle of non-discrimination. The deterioration of the housing sector is a vital development which turned out to be particularly affected by the pandemic in the City of Graz. Thus, the HRR 2021 focuses on this issue as an illustration of how to strengthen the City's resilience from a human rights perspective by means of recommendations along the four dimensions of urban resilience.

To sum up, the concept of urban resilience proves to be an effective framework for the application of a human rights-based, participatory approach. Cities are viewed as urban systems, thereby negative effects on one element of the system also negatively impact the functioning of the city as a whole. Consequently, if human rights are not fulfilled for all citizens equally, and several groups are marginalised, this leads to a decrease of the city's urban resilience. Therefore, urban resilience and human rights complement each other, and need to be considered together, since one will never reach its full potential without the other.

In the following section, the case example of the right to adequate housing in Graz as key topic for the 2021 HRR is used to examine how human rights and urban resilience are linked and to derive meaningful recommendations for local government.

Case example: The right to adequate housing in Graz

In this section, the newly developed methodology of the 2021 HRR is presented using the case example of the right to adequate housing, particularly illustrating the effectiveness of combining a human rights-based approach with the concept of urban resilience. The section outlines the working process, explains the underpinning methodological considerations, and analyses the implications and take-aways from the development of the 2021 HRR.

Applying the new methodology

The in-depth analysis of the 2020 HRR clearly showed that the main challenges the City of Graz faced were linked to deficits in the right to adequate housing (Menschenrechtsbeirat der Stadt Graz, 2021). In every city, housing is a key issue, which has also been highlighted ever since the outbreak of the pandemic. Housing is a holistic topic because it has effects on all areas of daily life, and is interrelated with numerous relevant aspects of human rights. In Graz, the right to adequate housing is not implemented in a non-discriminatory manner for all its citizens. Since the city is viewed as a system, the discrimination against certain groups of citizens has negative effects on the city as a whole, thereby harming its urban resilience. The strengthening of urban resilience of the city was prioritised by means of recommendations for the improvement of the implementation of the right to adequate housing. This was intended to happen in all four resilience dimensions from a human rights perspective and based on the expertise of relevant local actors. Thus, a holistic, human rights-based, and participatory approach to enhancing urban resilience in the City of Graz was provided.

With regard to urban resilience, as a first step, an in-depth analysis of the 2020 Human Rights Report was conducted to identify the main stresses as reported by the local participating actors. First, the year 2019 was examined. A list of topics and their

relevant human rights articles was compiled, indicating that Article 25 of the UDHR (the right to an adequate standard of living) was mentioned the most often (Menschenrechtsbeirat der Stadt Graz, 2021). Collected data indicated several worrying stresses in the area of housing, like a constant increase in rents, residential segregation in certain districts, intensification of buildings in already densely populated areas, correlation between homelessness and psychiatric disorders, which all lead up to a continuous deterioration of the housing sector in Graz. Further, these stresses negatively impact the citizens' quality of life, and continue to increase inequalities. Next, the 2020 focus chapter, which specifically touched on the effects of the pandemic, was analysed following the same procedure. It clearly indicated that the shock of the COVID-19 pandemic further intensified these negative stresses in the housing sector in Graz (Menschenrechtsbeirat der Stadt Graz, 2021). Based on this in-depth analysis, clustered data showed a total of nine thematic issues which provoke the deterioration of the housing sector in Graz, and, therefore, were identified as relevant stresses. These include: 1) construction boom and development of rental prices; 2) densely populated areas, soil sealing, and noise pollution due to motorised private transport; 3) conflicts of interest in public spaces, and offer of leisure activities; 4) increase in rents, and precarious leases; 5) discriminatory access to community housing; 6) problems arising when changing the status of asylum seeker to Convention refugee; 7) increased correlation between homelessness and psychiatric disorders; 8) inadequate placement and care for children and youths; and, 9) domestic violence (Menschenrechtsbeirat der Stadt Graz, 2021).

Since these issues were raised in 2020, the ongoing pertinence of these stresses at the local level needed to be verified in a next step. Therefore, individual inquiries were sent out to relevant local actors. The identified relevant actors were for the most part the ones who contributed specific insights to the 2020 HRR, and further generally known actors in the field of housing from various areas. Each identified actor received an inquiry consisting of one or, if applicable, more of the identified stresses based on their field of work and expertise. The inquiry stated the specific issue and three to four findings of the 2020 HRR, as well as three questions the participants were asked to answer. These questions were: 1) "Please, assess these statements: Are they correct?"; 2) "Are there any new developments in these areas?"; and, 3) "What could be possible solutions for these problems? Which actors of the City of Graz are best suited to implement these solutions?" This method of data collection by means of individual inquiries ensures the application of the participatory element of the general approach of the HRR.

Using the framework of urban resilience does not contradict the human rights-based approach employed in previous years. In fact, the 2021 Report's focus on the right to adequate housing puts human rights centre stage. However, the term "adequate housing" needed further specification to ensure that all relevant aspects of this right are considered. General Comment No. 4: The Right to Adequate Housing (1991) of the Committee on Economic, Social and Cultural Rights (CESCR) of the United Nations Office of the High Commissioner of Human Rights served as an explanatory basis for this. The Comment postulates seven vital aspects which should always be considered when working on the implementation of the right to adequate housing: 1) Legal security of tenure; 2) Availability of services, materials, facilities and infrastructure; 3) Affordability; 4) Habitability; 5) Accessibility; 6) Location; and, 7)

Cultural Adequacy.[4] The 2021 HRR incorporates these aspects in its methodological framework by linking all identified stresses to one of these areas, and by structuring the main chapter of the Report along these aspects. These consequent sub-chapters titled with the aspects provide a transparent overview on how these core points of the right to adequate housing are or are not fulfilled in the City of Graz. Therefore, all contributions were examined, and the input was linked to these aspects. The sub-chapters stated received improvements or corrections of the 2020 HRR findings, good practices, as well as possible solutions to ensure that all information provided was entirely portrayed.

The last section of the main chapter presents a final summarising assessment of the city's urban resilience from a human rights perspective with regard to the right to adequate housing. The assessment is structured along the four urban resilience dimensions to clearly indicate the major problems in each sphere. The following provides an exemplary and non-exhaustive overview of the findings in each dimension. The social dimension draws attention to the fact that homelessness is stigmatised in society, leading to shame and the non-utilisation of preventive services. Further, people suffering from a psychiatric disorder, in particular, are increasingly prone to becoming homeless. The economic dimension indicates that certain groups, like people suffering from mental disorders, families with many children, single parents, unemployed people, migrants, etc., cannot afford an adequate housing space due to the increase in rents and initial costs related to housing like rental deposits. Even community housing is still too expensive. Financial aid from the city is very often not timely provided (Menschenrechtsbeirat der Stadt Graz, 2021).

Furthermore, the city suffers from residential segregation because truly affordable housing for people with a low socio-economic background is only provided in certain districts. The problems related to the ecological dimension are conflicts of interest in using the public space of the city, conflicts arising in very densely populated areas, as well as a need to increase the number of green and consumption-free areas. Finally, with regard to the institutional dimension, it was found that access regulations to community housing were discriminating against homeless people and Convention refugees (Menschenrechtsbeirat der Stadt Graz, 2021). These findings mean that the recommendations needed to cater to the improvement of these aspects in each dimension.

When it comes to the elaboration of recommendations, the working group decided they should be subsumed under the four dimensions of urban resilience to provide an interrelated, holistic strategy for the improvement of the city's resilience from a human rights perspective, by focusing on strengthening and non-discriminatory implementation of the right to adequate housing. The suggestions for possible solutions of all contributing actors, and the final assessment of the city's resilience with regard to the right to adequate housing, served as basis for the elaboration of the HRC's recommendations in order to ensure a participatory approach. These suggestions were regrouped and subsumed under the four urban resilience dimensions. Based on this, the working group elaborated a first draft of recommendations in an editorial meeting. Then, this draft was discussed by all

[4] For further reading on the definition of these aspects, consider the UN Committee on Economic, Social and Cultural Rights (CESCR). (1991). *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23. https://www.refworld.org/docid/47a7079a1.html 4

members of the HRC in the following regular Council's meeting. As a general rule, the members have to agree to these recommendations unanimously.

The final result of the 2021 HRR was a set of ten recommendations structured along the social, economic, ecological, and institutional dimensions. This was a holistic strategy to strengthen the city's resilience using the improvement of the implementation of the right to adequate housing for all citizens in Graz. The following four recommendations taken from the 2021 HRR shall serve as an example. First, with regard to the ecological resilience dimension, "[t]he Human Rights Council of the City of Graz recommends to the City Graz to grant financial aid reasonably with regard to amount and type, as well as in a non-discriminatory manner"[5] (Menschenrechtsbeirat der Stadt Graz, 2021, p. 39). This recommendation aims at providing people in need with a reasonable amount and type of financial aid to ensure that they can meet their needs and participate in the economy effectively. Meeting their needs in this context refers to the specific issue of being able to afford an adequate housing space, which is also the basis for their health, work, etc. With regard to the social resilience dimension, "[t]he Human Rights Council of the City of Graz recommends to the City Graz to renounce evictions in the city's area of competence"[6] (Menschenrechtsbeirat der Stadt Graz, 2021, p. 39). This recommendation refers to evictions from apartments in the sphere of community housing in Graz. People living in community housing are already socio-economically disadvantaged. The recommendation aims at ensuring that these people keep their adequate housing space so as not to become homeless. With regard to the ecological resilience dimension, "[t]he Human Rights Council of the City of Graz recommends the city to collect and consider the needs of all potential users to prevent conflicts of usage in the public sphere by means of participatory procedures […]"[7] (Menschenrechtsbeirat der Stadt Graz, 2021, p. 40). This recommendation aims at ensuring that the City's public space can be used by all citizens without tensions and conflicts, where citizens actively participate in the usage and planning of public space to meet their needs. With regard to the institutional resilience dimension, "[t]he Human Rights Council of the City of Graz recommends to the City Graz to examine all access regulations based on their lawfulness and non-discrimination, as well as demand orientation, and to put regulations in place that correspond to human rights and constitutional provisions […]"[8] (Menschenrechtsbeirat der Stadt Graz, 2021, p. 40). This recommendation aims directly at regulations as set forth by the local government which regulate access to community housing and discriminate against certain groups at the time of writing. The goal is to achieve inclusive access regulations for all people living in Graz.

In 2022, following again the regular system of HHR, the formerly mentioned second type of HHR was elaborated by the HRC. The objective of the 2022 Report was to evaluate the implementation of recommendations by the city government.

The findings of this evaluation indicated that all ten recommendations were taken into consideration by the city government. Some recommendations had already been fully implemented after one year by the local government; the others still are in the process of being implemented. This reflects the city government's commitment to continuously improving the human rights situation; in particular the full realisation of the right to adequate housing for all people living in Graz. Based on the current state

[5] Translated from German by the author of this paper.
[6] Translated from German by the author of this paper.
[7] Translated from German by the author of this paper.
[8] Translated from German by the author of this paper.

of implementation of these recommendations, it is found that the city's urban resilience is in the process of improvement (Menschenrechtsbeirat der Stadt Graz, 2022).

Implications of the HRR

The well-established practice of compiling the HRR by the HRC of the City of Graz revealed its promising potential as an effective instrument for monitoring the human rights situation of the city in the light of the COVID-19 pandemic. It was possible to adapt the methodology of the Report to the challenging pandemic situation in order to identify and mitigate challenges at the local level from a human rights perspective, thereby proving the Report's flexibility. The newly-developed methodology links the human rights-based approach to the city's Human Rights Monitoring with the concept of urban resilience. This is achieved in two steps. First, stresses in the city are identified by collecting data applying a participatory approach. Second, these stresses are consequently mitigated by means of elaborating a concrete set of recommendations. These are aimed at fostering the city's urban resilience on the social, economic, ecological, and institutional spheres, and addressed at the city government and administration. In Graz, this practice enabled the detection of several stresses made visible due to the pandemic; leading to the continuous deterioration of the housing sector. Therefore, the right to adequate housing was placed at the centre of the elaboration of recommendations. The development of specific recommendations on how to improve the non-discriminatory realisation of the right to adequate housing for all citizens of Graz in all four urban resilience dimensions provides for a holistic, human rights-based, and participatory resilience strategy. This fosters the City's capacity to react to major disruptive events in a fruitful manner, thereby aiming for a more inclusive state of new normal.

The practice of an HRR indicates several significant benefits for the improvement of the human rights situation at the local level and can be easily replicated in other cities. First, the annual HRR is an instrument to monitor the human rights situation of a city on a regular basis. By continuously raising awareness of the implementation of human rights at the specific local level, it ensures that human rights are part of the city's discourse not only at the political but also the civil society level. This enhanced awareness leads to a lived culture of human rights in a city. Second, the methodology of compiling the HRR is very adaptable. The Articles of the UDHR chosen for the questionnaire and the questions can, for example, be adapted to the specific needs of a city. Further, the focus chapter can concentrate on any issue which is important in the specific socio-economic, and geographical context. Third, since the recommendations are elaborated from a human rights perspective and directly addressed at the city government, local authorities are confronted with the language and viewpoints of human rights. Over time, this leads to a better understanding at the local governance level on how to incorporate human rights-relevant aspects in their policies. Notably, human rights concerns are put on the agenda on a regular basis and require regular discussion and elaboration, particularly given that the local government's activities are monitored and evaluated every second year.

Applying the holistic concept of urban resilience to policymaking at the local level is a chance for positive change. The concept postulates that cities can acquire the capacity to react even to major shocks, like the COVID-19 pandemic, and create a new, more inclusive, and sustainable state of normality for their citizens. The objective of making a city a better place to live holds a bridging function between

differing opinions represented at the local political level and among civil society. Enhancing urban resilience is the underlying common ground for all local actors.

Conclusion

This paper set out to present the methodology and process of the practice of the HRR of the HRC of the City of Graz as an effective means to identify and mitigate the challenges of the COVID-19 pandemic at the local level. The elaboration of the HRR is by now a well-established and effective tool of monitoring the human rights situation in Graz. In light of the ongoing global health crisis, the HRR has revealed its great potential to adequately respond to the problems arising from a human rights perspective. However, its methodology needed to be adapted, thereby linking the human rights-based and participatory approach with the holistic, theoretical concept of urban resilience.

One of the biggest achievements of the Human Rights City of Graz is the establishment of a regular monitoring instrument of the human rights situation in Graz, namely the HRR. This is a key task of the established body of the HRC. By applying a human rights-based, and participatory approach, the HRC examines the human rights situation as a whole. It also identifies shortcomings, elaborates mitigating recommendations, addresses them directly at the local government and administration, and, finally, evaluates the local authorities' commitment to these recommendations. This is achieved by alternately publishing two types of Reports, namely the State-of-the-art Report, which identifies human rights challenges and elaborates recommendations, and the Follow-up Report, which evaluates the previously developed recommendations one year later.

In 2020, the HRR detected relevant deficiencies in human rights in Graz, which became even more visible when faced with the COVID-19 pandemic at the beginning of the year. The Report indicated that the majority of problems are directly related to the right to adequate housing and provoked a constant deterioration of the housing sector in Graz. One major finding was that Graz was not resilient enough to sustainably withstand the challenges brought forth by the pandemic (Menschenrechtsbeirat der Stadt Graz, 2020). The remaining vital question was: How can Graz become more resilient in order to make the city more inclusive, safe, and sustainable? At this point, the objective of the 2021 HRR was to elaborate a set of recommendations to strengthen the overall resilience of the city by improving the non-discriminatory implementation of the right to adequate housing for all citizens. However, this would need to be done outside the established dual reporting system. A new Recommendations Report 2021 had to be defined in place of the regular Evaluation Report, using a new methodology to reflect the complexity of the COVID-19 pandemic and its implications, and within which to embed the recommendations to the local government.

Urban resilience defines a city's capacity to respond to and prepare for future disruptive events harming the city's functioning and increasing vulnerabilities among citizens. These negative events, which decrease a city's resilience, can be long-term stresses or very suddenly erupting shocks, like the COVID-19 pandemic. A holistic resilience strategy incorporates measures on the economic, social, institutional, and ecological dimensions. It is a key factor in responding to such events and improving a city's overall resilience. The goal is to achieve a new state of improved normality, and not to return to the way things were before the stress or shock hits a city. Local governments are seen as experts on their cities, meaning they exhibit the necessary

knowledge and means to appropriately react to disruptive events, and conduct risk management.

In line with this, the specific socio-economic, and geographical context of the City of Graz showed that the right to adequate housing was of particular importance nd needed to be fostered to reduce inequalities among citizens. The term adequate housing was specified by incorporating the seven vital aspects of the General Comment No. 4: The Right to Adequate Housing (1991) of the CESCR. Following the established participatory approach, individual inquiries stating several identified issues with regard to the right to adequate housing in Graz were sent to relevant local actors. They were asked to provide their expertise, and possible solutions for the named problems. Based on this input, a summarised general assessment of the urban resilience of Graz with regard to adequate housing from a human rights perspective was provided by structuring it along the four resilience dimensions.

Finally, a set of ten recommendations was elaborated by the HRC along the four dimensions of urban resilience. These recommendations cater to the social, economic, ecological or institutional spheres. As a result, policy suggestions provide for a holistic, human rights-based, and participatory urban resilience strategy for the City of Graz aiming at improving the realisation of the right to adequate housing for all citizens.

The general practice of elaborating the HRR in the City of Graz proved to be effective for mitigating the challenges of the COVID-19 pandemic at the local level. This was particularly so when combined with the newly developed methodology linking the human rights-based, participatory approach of the Report with the holistic concept of urban resilience. This made it possible to elaborate ten recommendations regarding the problems of the non-discriminatory implementation of the right to adequate housing in the City. These recommendations directly referred to the four dimensions of urban resilience; thereby providing a holistic strategy for the improvement of the City's resilience. The practice of the HRR proved its flexibility by responding to the challenges of the pandemic in a straightforward and transparent manner. It can be easily transferred to other places since it is very versatile and adaptable to the specific socio-economic, and geographical context of each city. Finally, by incorporating the concept of urban resilience it can be viewed as a driver for positive change and improvement from a human rights perspective by putting human rights relevant issues at the core of its process.

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Inclusive Higher Education in the Context of COVID-19: Perspectives of University Lecturers in Cambodia

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Abstract

Within the context of the COVID-19 pandemic, the most obvious impact on education in Cambodia is the suspension of face-to-face learning and a rapid switch to online and distance learning without proper infrastructure in a matter of days. Such quick digitalization of learning has greatly affected students, teachers, universities, and the (higher) education system as a whole. Lecturers are greatly affected in terms of their teaching capacity and professional support. This study documents the unprecedented experiences of lecturers at universities in Cambodia during school closures. Through semi-structured interviews with eleven key informants, this paper systematically explores the closures in four key areas: lecturers' readiness, student engagement and attainment, student accessibility, and institutional challenges.

This study highlights persistent challenges for lecturers in terms of pedagogical adaptation, information and communication technology knowledge and skills, and psychological impacts on mental health. Such limitations, paired with the institutional challenges of universities, significantly hinder student engagement, attainment, and accessibility. This is in addition to pre-existing geographical, cultural, and socio-economic factors that further expose students to more vulnerable conditions and contribute to an uncertain future for their generation. This brings to light concerns about efforts to ensure the right to inclusive, equitable, and quality higher education and the resilience of the education system in Cambodia within the context of the pandemic and future crises and disruptions.

Keywords: online learning, higher education, inclusive and quality education, COVID-19, Cambodia

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Introduction

The most obvious impact on education in Cambodia and across the globe is the suspension of face-to-face learning and a rapid switch to alternative continuous learning programmes, i.e., online and distance learning, without proper infrastructure in a matter of days. Distance and online learning are completely new experiences for most students and teachers in Cambodia after the Ministry of Education, Youth and Sports (MoEYS) announced the nationwide school closures (MoEYS & UNICEF, 2021; MoEYS, 2020a; 2020c; 2021a; 2021a; 2021b). At the tertiary level, 124 public and private higher education institutes (HEIs) have been closed, affecting 16,525 education personnel and 222,879 students (MoEYS & UNICEF, 2021).

This rapid digitalization of learning has greatly and unequally affected students, teachers, non-academic staff, HEIs, and the education system as a whole. Due to their managerial autonomy, HEIs in Cambodia have received relatively few concrete guidelines and technical support for the (successful) implementation of online and distance learning and pedagogy. No uniform e-learning platform was established for tertiary education in Cambodia, either (MoEYS, 2020b). In fact, the sub-sector has been facing persistent issues, namely access, quality, equity, relevance, funding, management, and administration, despite the effort to reform (MoEYS, 2019b). Poorly resourced institutions paired with non-existent or weak ICT infrastructure have made HEIs far from ready for the swift transition, especially of public and private universities. The MoEYS has nonetheless issued general guidelines on distance learning and e-learning platforms, the Education COVID-19 Response Plan, and Standard Operating Procedures (SOPs).

While impacts on education, health, and needs of children and students at pre-school, primary, and secondary education are documented by various stakeholders (see, e.g., MoEYS & UNICEF, 2021), no empirical study or assessment has been done widely and thoroughly to understand the impacts of such change at the tertiary level in Cambodia (see, e.g., Heng and Sol, 2021; Sol, 2021). Specifically, the experiences of education personnel at universities have not been explored and documented to better understand the impacts and needs of the sub-sector, despite their role as key stakeholders in the successful implementation of ICT-integrated learning (Ali, 2020). Therefore, this study explores the experiences of university lecturers in terms of pedagogical changes and personal responses to the school closure and pandemic using the framework of a human rights-based approach (HRBA) to education and the UN's Sustainable Development Goal 4 (SDG 4) on inclusive and quality education for all. Subsequently, this study is guided by the research question: *how does online education affect inclusive and quality higher education in Cambodia?*

The section below summarises the research methods. The following section explores the concept of inclusive higher education under the framework of the HRBA for education, SDG 4, and relevant Cambodian laws and policies. These frameworks are an integral part of ensuring access to inclusive higher education during the global pandemic. With regards to research findings, the section after lecturers' readiness details the experiences of interviewees in adapting to the online mode of delivery in terms of pedagogical and personal impacts. The next section highlights the implications of such challenges on student engagement, attainment, and accessibility to online higher education in Cambodia. That is followed by the section on institutional challenges, which provides an account of problems encountered by HEIs in Cambodia. The last section offers a systematic conclusion.

Research Methods

This is a longitudinal research study built upon a previous one conducted in mid-2020 that was supported and published by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) (see Tann & Tuy, 2021). Based on qualitative research, this study is informed by eleven semi-structured interviews (June to July 2021) with Cambodian university lecturers (seven are female and four are male), and management staff based at both public and private universities in Phnom Penh, Battambang, Siem Reap, and Svay Rieng. The selection of universities and lecturers was based on geographical accessibility, convenience, and a snowball sampling strategy of lecturers. The key informants were selected based on varied teaching experiences and subjects (law, human rights, gender, social science, etc.) and status (full-time or part-time, lecturer and/or education personnel at management levels such as programme coordinators or deans). Confidentiality, anonymity, and the consent of participants were ensured throughout the study. All interviews were recorded with the explicit consent of the interviewees and later transcribed and translated using summary translation.

This article also analyses the right to (higher) education under the international human rights law and SDG framework, which Cambodia has ratified and adopted. Cambodian laws and policies are also reviewed to complement the theoretical framework. This approach offers a systematic result and adds nuance to the conceptual and empirical understanding of the subject.

Since this is not a population-based study, this paper does not aim to be representative of all lecturers at universities in Cambodia on this matter. It instead offers a critical and fact-based, rather than assumption-based, perspective via human rights and sustainable development lenses on the COVID-19 impacts on higher education in Cambodia. It also does not intend to compare online and face-to-face learning and teaching but rather investigate the lessons learned from this experience and their implications for the higher education system in Cambodia. Due to time and logistical constraints, this study is by no means exhaustive; further study is necessary to investigate each respective issue in detail. It was impossible to comprehensively assess the impacts of the pandemic as it is ongoing and unpredictable. It is, instead, documentation of the intra-period COVID-19 response and an entry point for further research on the multidimensional impacts of the pandemic on higher education in Cambodia.

Inclusive Higher Education

Inclusive Higher Education as A Human Right

Everyone has a right to higher education, including women and girls (UN, 1948; UNESCO, 1960). As a fundamental right, the right to education also enables other human rights. Access to higher education is to be ensured by the state in accordance with the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and other core human-rights instruments that Cambodia has ratified (UN, 1966; UN, 1979). Among these, the Beijing Declaration, adopted by the Fourth Conference on Women in 1995, put forward an action plan to improve the quality of education and provide equal opportunities for women and men to access education at all levels (Tuy, 2020). Article 13 of the ICESCR provides the implementation framework to progressively realise the right to education which includes the availability, accessibility, acceptability, and adaptability (AAAA or 4As) of education. Availability refers to

functioning educational institutions dependent on qualified teachers, teaching materials, and facilities, including ICT. Accessibility includes three overlapping dimensions (non-discrimination, economic accessibility, and physical accessibility) and applies to access to a distance learning programme. Acceptability emphasises education's forms and substance, including curriculum and teaching methods. Adaptability refers to flexibility to meet the needs of changing societies and communities and responsiveness to the diverse backgrounds of students (CESCR, 1999).

To realise the right under the human rights framework to education, an HRBA is essential. The goal is to ensure quality education that respects and promotes every child's right to dignity and optimal development through childhood and beyond. Learning is a lifelong process and therefore should not stop at the age of 18. Young people should have access to learning and life skill programmes compatible with the Education for All goals and approach, which focus on the right to education and rights within education (UNICEF/UNESCO, 2007). There are three interlinked and interdependent dimensions of an HRBA to education: the right to access education, the right to quality education, and the right to respect within the learning environment (UNICEF/UNESCO, 2007).

Everyone should have the right to access education based on inclusiveness, equality of opportunity at all levels, and non-discrimination of all kinds. States shall provide accessible higher education based on capacity by every appropriate means to achieve lifelong learning towards responsible autonomy, self-directed learning, and preparation for full citizenship. More importantly, the school must be accessible through technology. The right to quality education aims for cognitive as well as creative and emotional development. It refers to education that is empowered by the development of life skills, other capacities, self-esteem, and self-confidence. The state shall offer a broad, relevant, and inclusive curriculum; rights-based learning and assessment; and friendly, safe, and healthy environments to everyone. Finally, the state should respect identity, participation rights, and students' integrity and dignity in education (UNICEF/UNESCO, 2007).

Inclusive Higher Education under the SDG 4

Reaffirming education as the most powerful tool for success and the realisation of other human rights, SDG 4 aims to achieve inclusive and equitable quality education and promote lifelong learning opportunities for all, including universal access to quality higher education. In a similar vein, Cambodia's Sustainable Development Goals were adopted to ensure equal access for all to affordable and quality technical and tertiary education by 2030 (RGC, 2018b). According to the SDG 4 framework, the MoEYS (2019a) and line ministries, with the support of civil society, adopted Cambodia's Education 2030 Roadmap in 2019, which recognises the power of education in promoting gender equality and human rights and alleviating poverty in Cambodia.

While acknowledging the setbacks of the higher education system—including the lack of coordination and funding from RGC and external donors, quality control, and administrative overlap—the Roadmap fails to systematically address the pressing issues of funding, inadequate physical and digital infrastructure for distance or blended learning, and the development of research capacities and opportunities for collaboration and partnerships in a gender-responsive and inclusive manner.

Inclusive Higher Education under Cambodian Laws and Policies

The right to education is a constitutional right. The Constitution of the Kingdom of Cambodia recognises that the State shall protect and promote the right of the citizen to quality education at all levels and shall take necessary steps for quality education to reach all citizens (Cambodia Constitution, Article 65).

The Law on Education was adopted in 2007 in line with the Cambodian Constitution. This law aims to ensure education quality and the principle of freedom of study at all levels (Cambodia Constitution, Article 66; Cambodia Education Law, Article 21 and 35). Higher or tertiary education is the level that follows secondary and primary education (Cambodia Education Law, Article 18) and comprises undergraduate (four years), master's (two years), and doctoral programmes (six years) (MoEYS, 2019a).

The national policy documents also reaffirm education rights enshrined in the Constitution. Through the Rectangular Strategy Phase IV, the RGC strives for human resource development through a quality, equitable, and inclusive education system with a focus on strengthening higher education reform (RGC, 2018a). The National Strategic Development Plan (NSDP) 2019–2023 likewise has several important goals in relation to education, including: 1) strengthening the quality of education; 2) increasing investment in higher education; 3) creating the national policy framework to develop scholarship and loan funds for higher education students; and 4) building the capacity of resources to support learning, teaching, and establishing research (RGC, 2019b).

Higher education is as important as primary and secondary education for socio-economic development and addressing cross-cutting and multidimensional issues in Cambodia. Equitable, inclusive, and quality higher education is an integral part of ensuring the realisation of the right to education and, to a greater extent, the Cambodia Sustainable Development Goals. In terms of sectoral policies, the MoEYS adopted several relevant policies, including the Education Strategic Plan 2019–2023, the Policy on Higher Education Vision 2030, and the Cambodia Higher Education Roadmap 2017–2030. The Education Strategic Plan (ESP) 2014–2018 established a clear relationship between national and educational strategies to provide high-quality education with equitable access for all (MoEYS, 2019b). The Higher Education Vision 2030 aims to develop a governance system and higher education mechanisms to ensure qualified students access higher education. This is coupled with the goal of responding to the needs of socio-economic development and the labour market in the country and the region (MoEYS, 2014). Furthermore, the Accreditation Committee of Cambodia (ACC) was established under the mandate of MoEYS.

In a similar vein, the Ministry of Women Affairs (MoWA) (2020) is making efforts to empower women and girls in the education sector, including the higher education sub-sector. Both Neary Rattanak V, the Ministry's 5-year plan from 2018-2023, and the Equitable Access to Higher Education (EAHE) propose to eliminate all forms of discrimination against women. This happens through increasing scholarships for female students to pursue higher education, sharing role model experiences from women who graduated from higher education, and raising awareness about the importance of higher education for women (MoWA, 2020).

Research Findings

This section examines the experiences of lecturers in the process of transitioning to online learning and teaching, as well as their perspectives on the

implications for their institutions as suppliers and students as recipients. According to the inclusive and quality higher education framework, four key areas are systematically studied. These are: lecturers' readiness, student engagement and attainment, student accessibility, and institutional challenges.

Lecturers' Readiness

The extended school closures affected education personnel at universities, mainly lecturers, in terms of their teaching capacity and professional support (MoEYS, 2020b). Those lecturers have been expected, if not tasked, to abruptly adapt to online teaching within a matter of days with little or no knowledge, skills, or resources (UN, 2020). All lecturers in our study highlighted persistent pedagogical and personal challenges in the implementation of online education as well as emerging opportunities in the process. In particular, pedagogical, technical, and moral or social barriers were presented in preparation for a successful transition to online learning and teaching.

The barriers relate to planning, implementing, and assessing the performance of students. A previous study conducted by the authors confirmed that lecturers at an earlier stage received inadequate pedagogical training and support in preparation for online learning and felt pressure to reorganise teaching materials and methods to fit a new learning environment (Tann & Tuy, 2021). Rather than merely transferring the curriculum and materials to an online platform, online teaching requires the organisation of content and changes in teaching methods to ensure that students do not feel isolated and alone in the learning process (Aristovnik et al., 2020). This need created more work for lecturers than physical classes, ranging from class preparation, study materials, adaptive teaching methods, and communication with students (Tann & Tuy, 2021). Such a transition becomes more challenging when faculty members and lecturers have limited academic training and support to innovatively teach and much less to carry out research (MoEYS, 2019a).

For the past year, planning and implementing online learning has become less challenging, while assessment is still a matter of concern for all lecturers interviewed. Lecturers welcomed the most obvious pedagogical improvement—familiarity with online teaching methods and tools. The transition in the higher education sub-sector has depended on low-technology solutions such as Google Classroom, Zoom, Facebook, Telegram, and Microsoft Teams (Heng and Sol, 2021). Online teaching has become "slightly better," "better," or "much better" for lecturers and their students, as a variety of teaching methods and contents were introduced by their respective universities (Interviewees #6, #8, and #1, personal communication, July 2, 13, and 9, 2021, respectively). These include, for example, e-resource materials, video screenings, and breakout rooms for group discussion. Workshops, orientation, and visually concrete instruction (e.g., a user guide) were prepared by their universities to assist them in getting familiar with features of the online learning platform, such as Microsoft Teams. Experience-sharing sessions among lecturers were also organised to further support them in the process. The limitation, if not absence, of interactive teaching methods for online education was indicated as a persistent challenge in terms of pedagogy. A few lecturers described the experience as "equally challenging" as when the online teaching was first introduced (Interviewees #7 and #9, personal communication, July 1 and 20, 2021, respectively). This indeed reflects the opportunity to utilise ICT-integrated learning approaches, which were underutilised in the pre-COVID-19 era in Cambodia's higher education system (Sol, 2021).

Second, the existence of digital infrastructure, namely ICT facilities, does not simply translate into readiness for online teaching. Adequate ICT training and support—another key element in upskilling teachers to integrate into the new teaching environment—should be considered. Technology is indeed a catalyst in lesson preparation and delivery (Ali, 2020). One lecturer pointed out the existence of ongoing technical support as follows:

> The university now provides clearer instructions on how to use the online learning platform. There is also administrative staff to facilitate the lecturers, such as following up with students to submit assignments and attendance, monitoring learning systems, and providing other technical support for lecturers and students. (Interviewee #7, personal communication, July 1, 2021)

Providing sufficient digital infrastructure is nonetheless a huge hurdle for most institutions to overcome (World Bank, 2021). Digital infrastructure was not well-equipped in Cambodia's universities, especially computers, laptops, printers, scanners, software programmes, data projectors, and digital teaching materials. Campus Wi-Fi was not widely or publicly available for lecturers and staff, and school closure further limited such access. Lecturers in our study relied on their ICT tools, e.g., laptops and personal or home-based internet access, to support the new mode of delivery.

Due to the striking increase in internet usage during the lockdown and school closures, poor internet access affected and interrupted teaching flow and motivation for teaching and thus limited the quality of teaching. Almost all lecturers in the city and provinces highlighted the lack of stable internet connection and access as a serious issue in addition to the incurring costs. While there was an increase in mobile and fixed internet subscriptions during the pandemic, insufficient internet was mentioned as one of the top three challenges in implementing distance learning programmes by supply-side actors (Chea, 2021; MoEYS and UNICEF, 2021). In this regard, a lecturer even appealed for the RGC's intervention to negotiate with private telecommunications companies in Cambodia (Interviewee #4, personal communication, June 23, 2021). The appeal specifically requests the facilitation of internet connectivity by increasing internet bandwidth and stability at a low cost to education consumers (Interviewee #4, 2021).

Third, moral support played a key role in retaining commitment and motivation and building confidence for teachers. It is undeniable that our interviewees experienced mental and emotional effects due to the switch to an online teaching and working environment. Similarly, research conducted by World Vision showed that 80% of adults in Cambodia experienced more hopeless, distressed, and stressful feelings than before the start of the pandemic (World Vision, 2021). The lecturers indicated certain sources of distress such as the apprehension of teaching capacity, worry about students' learning outcomes, loss of social interaction, anxiety about the pandemic, and physical and emotional exhaustion. The experience is shared by both teachers and students (Heng and Sol, 2021). When both did not or were not given a chance to express such feelings, they experienced emotional distress. This was exacerbated when lecturers were tasked with mastering new technology while some did not have sufficient English and ICT comprehension and support. One lecturer stated: "The frustration is simply unavoidable when students are also not paying attention during class" (Interviewee #11, personal communication, July 24, 2021). Two lecturers at the management level in universities in Phnom Penh and Battambang explicitly mentioned the necessity of psychosocial support for teachers in this difficult situation

(Interviewees #9 and #11, personal communication, July 20 and 24, 2021, respectively). Lecturers recognised the importance of peer support sessions in communicating, motivating, and encouraging. These also support teachers in confidence building, skill development, and commitment to interactive teaching methods despite the online learning environment. Such a lack of support was also confirmed by the MoEYS in the absence of teacher training, continuous professional support, and mentor support as a result of the school closures (MoEYS, 2020b).

Personal and family financial issues also arise in this context, affecting professional commitment. While lecturers' income has decreased, the amount of work has increased, leading to burnout, and affecting their work productivity and mentality. Incentives, bonuses, and insurance were completely lost. Extra expenses incurred from internet access and subscription fees, electricity costs, personal hygiene kits (face masks and hand gel or rubbing alcohol), and food and supplies stocking have instead spiked, according to most lecturers interviewed.

Although the data indicated no significant change in the ratio of female and male teachers, career change and the voluntary reduction of teaching hours by female lecturers were indicated as a result of school closures and unpaid care work (Tann & Tuy, 2021). Work-family conflict was highlighted, particularly the persistent balancing difficulty between childcare, household chores, and schoolwork, especially for those with young family members (Interviewee #4, personal communication, June 23, 2021). A rapid gender analysis by CARE also indicated that women in Southeast Asia bore a disproportionate burden of unpaid care and domestic work, and the school closure exacerbated such a burden (Dellen, 2020). This, hence, to a certain extent affected their teaching concentration and working capacity (Interviewees #4, #6, and #11, personal communication, July 23, July 2, and June 24, 2021, respectively). Such a situation brings to light the concern over the retention of female lecturers, which could degrade the participation of young women in higher education (UNESCO, 2020). Lack of female lecturers and role models may lead to poor attainment and dropout (UNICEF/UNESCO, 2007). It further illustrates the gap in efforts to promote passion for teaching, retain the most qualified and well-motivated teachers, and ensure the well-being and readiness of teachers for the transition amid the pandemic (MoEYS, 2019a).

The findings suggest that lecturers in our study were not pedagogically, mentally, and financially ready for the transition to online education and working modalities. The challenges presented do not merely entail personal shortcomings but institutional and systematic impediments that hinder the continuous professional development of education personnel at Cambodia's tertiary level. The situation, albeit temporary, questions the availability, accessibility, acceptability, and adaptability of higher education in Cambodia considering the school closures. Nonetheless, all lecturers interviewed highlighted, more or less, the opportunity to develop and strengthen work productivity, mentality, mental health, adaptability to the new lifestyle, and personal time during the crisis. In addition, the transition presents an opportunity to integrate ICT into higher education and to prepare education personnel for resilience (Heng and Sol, 2021).

Student Engagement and Attainment

Our interviewees in general indicated significant improvement in the examination, attendance, and class participation of students. This was also evident in a reciprocal relationship between lecturers and students, where the former improved

pedagogically and the latter was able to participate more and contribute meaningfully in class. Supporting lecturers contributed to their ability to support students in turn in the new learning environment (World Bank, 2021). Lower education outcomes are indeed expected in the short term in the transitional process to virtual online learning (World Bank, 2021). A lecturer in Phnom Penh indicated an increase in quantity from 20% to 60–80% in terms of class participation (Interviewee #4, personal communication, June 23, 2021). Further, fulfilment of the ongoing assessment indicated 40% of good results, 40% of fair results, and the remaining 20% of poor results (Interviewees #8 and #10, personal communication, July 13, and July 22, 2021, respectively). The number of students accessing the learning platforms and tools (laptops and smartphones) also increased, which fostered better online learning environment although not all were well equipped (Interviewee #7, personal communication, July 1, 2021).

Assessing the performance of students nonetheless remains an issue for lecturers due to the lack of qualitative assessment mechanisms (M&E), including how to assess how much students have learned (Interviewee #9, personal communication, July 20, 2021). The interactive learning environment continued to be limited or almost non-existent when "most students hesitated to show their faces and ask questions" (Interviewee #3, personal communication, June 30, 2021). This was also the case when "there [were] not many responses from students" (Interviewee #8, personal communication, July 13, 2021). This was due to some factors, for example, as "some [students] play games, use social media, or eat during class" (Interviewee #7, personal communication, July 1, 2021). The learning environment was reversed to a traditional model of education where students were on mute and were passive recipients by their efforts, or lack thereof, in this case. A lecturer in Phnom Penh indicated a fall in class interaction from 50–60% in a physical classroom to 20% in her online class (Interviewee #6, personal communication, July 2, 2021). To a more serious extent, academic dishonesty was also revealed in the new setting, e.g., cheating during exams (Interviewee #5, personal communication, July 4, 2021).

Such a shortfall affected students' opportunities for exploring in-depth knowledge and developing life skills essential for their future careers—leadership, public speaking, teamwork, and time management—skills best met outside of the scope of 'online' education (World Bank, 2021). A lecturer explained:

> Normally, I prepare 10 key points in my lesson plans. If students ask questions or give comments during class, I can expand this to 15 key points, for example. But if no one asks questions or comments, the class is simply concluded by just those 10 points, even though I have a prompt for discussion before the lecture and a wrap-up. (Interviewee #9, personal communication, July 20, 2021)

Another lecturer added:

> Before school closure, I could better understand students' learning behaviours and shape their conduct. During school closure, my main concern is that I do not know how much attention they have paid to my class, not to mention the opportunity to shape their behaviour. As teachers, we do not just teach the subject; we also need to teach our students to grow and improve their professional skills for the future. (Interviewee #6, personal communication, July 2, 2021)

In fact, all lecturers interviewed expressed concerns about such a situation for Cambodian youth. The impacts may last beyond the pandemic and on a larger scale beyond the academic sphere. A lecturer at a management level explained the effects at three levels:

> In the short term, students and teachers will lose their motivation for teaching and learning. In midterm, it will lead to the dropout of students, especially poor students who lack study devices and a stable internet connection. In the long term, it will greatly affect human resources development, education reform, and policy implementation, in particular the Rectangular Strategy Phase IV. It will also decrease Cambodian youth's career prospects and Cambodia's competitiveness in the regional labour market, especially in terms of scholarship qualifications. (Interviewee #9, personal communication, July 20, 2021).

Despite the expected (temporary) shortcomings and regression in education quality, school closures and online learning may have greater impacts on students' attainment of quality and inclusive education. As one lecturer put it: "Cambodia might lose a cycle or generation of capable graduate students" (Interviewee #11, personal communication, July 24, 2021). Prior to the pandemic, the MoEYS identified skill gaps and mismatches in the labour market supply of graduate students (MoEYS, 2019b), deviating from its aim of ensuring students' access to lifelong learning and professional development (Strategy 5.3) (MoEYS, 2014). The pandemic thus heightens regression in basic skills acquisition (UNESCO, 2021; Sol, 2021), a deterioration in the quality of education and the uncertain future of the students (Naciri et al., 2016; Chhy, 2021), and questions on the acceptability and adaptability of the online education programmes provided (UN, 1966). These setbacks also hinder the economic opportunities of Cambodian young people in the increasingly competitive labour market domestically and regionally, despite the increase in mere virtual participation in the online classes.

Student Accessibility

Another prominent challenge faced by lecturers in our study is the access barriers encountered by their students. Despite their efforts to make online learning more conducive, several technical and social barriers negate their resolution. First, internet access is an important factor in accessing online learning. Most students returned to their homes in provinces or rural areas and often missed classes because of internet connection issues. Some even played games and used social media during class, which made the internet bandwidth unstable. This significantly decreased or eliminated their class participation. Weather conditions further affected internet connectivity and personal safety, whereby the internet connection is poor when there is heavy rain, lightning, or strong wind. Electricity supply is another factor that affects access to online learning, and its interruption was worrisome for a lecturer in Battambang, where there was sometimes a power cut during class. Peer learning was also impractical due to the internet connectivity issue (Interviewees #2, #3, #4, and #6, personal communication, July 1, June 30 and 23, and July 2, 2021, respectively).

Some students were reported to have doubled the internet fee through phone credit, which is not an affordable standard for most low-income families in the provinces and remote areas. In a recent study, the MoEYS highlighted internet connectivity and financial constraints to pay for the internet as two of the top four barriers to accessing continuous learning programmes (MoEYS & UNICEF, 2021; MoEYS, 2020b). The setback triggered limitations on class participation, attendance, and access to resources and thus allowed them to benefit less from the new learning environment.

Moreover, students with no access to learning tools such as a smartphone or laptop (about 20%) cannot or are less likely to benefit from online learning in addition to their geographical condition—living in remote areas—as stated by a lecturer (Interviewee #11, personal communication, July 24, 2021). While previously

dependent on printed materials, students have reportedly faced difficulty accessing learning materials, namely e-learning materials, and digital resource platforms (Tann & Tuy, 2021; Heng and Sol, 2021). Only 48% of Cambodians owned a smartphone, according to a 2016 survey (Phong et al., 2016), not to mention having a laptop, which is necessary for the functionality of online learning.

Specifically, basic ICT knowledge and skills are required for online learning and a successful transition to 21st Century employment. In most cases, students had trouble adapting to the new learning environment and platforms due to limited ICT knowledge and skills, despite the effort to promote digital education and 21st Century skills (MoEYS, 2019b). This results in temporarily low learning outcomes. Students at universities, i.e., millennials or the digital generation, are found to have a strong bond with ICT because they are familiar with and exposed to the platform and tools from a young age. There is, however, a misconception that they know everything about ICT. In fact, there is a huge disparity between impressions and real knowledge of ICT skills among millennials in general (Ali, 2020). Using ICT for online learning indeed requires a different set of knowledge and skills from everyday life use, i.e., social media, games, video, etc.

A digital gender gap also exists between male and female students in Cambodia, where men are more likely to have access to and acquire basic ICT knowledge than women (UNESCO, 2021). Some Cambodian women even believed that technology skills were more useful for men than women, which is predetermined by Cambodia's social norms (Khorn, 2020). Such gender stereotypes limit opportunities for female students and access to improve their skills and benefit from the new method of learning. This further raises the concern that those disadvantaged female students might not be able to return to school without a proper support system, which subsequently subjects them to more vulnerable circumstances (UN, 2020).

It is indeed not merely a digital literacy issue in Cambodia but rather complex geographical, cultural, and socio-economic issues that need to be addressed to remove barriers to access to higher education, and even more so for online education. A conducive learning environment at home is also essential for an effective transition (World Bank, 2021). One lecturer is still concerned about the lack of this for her students, i.e., quiet, and separate rooms and a proper study hour. Some of her students had to turn to alternative places, for example, cafés, which are not conducive to concentration (Interviewee #7, personal communication, July 1, 2021). Socio-economic issues also have an impact on students' learning. For example, some students must work harder or longer hours to support themselves and their families because of a decrease or loss of income due to the pandemic, in addition to accumulating debt. As a result, their study time has been reduced or eliminated entirely (Interviewee #11, personal communication, July 24, 2021).

Gender inequality in higher education in Cambodia is another concern pre-existing to COVID-19, where access to higher education is restricted by social norms, financial problems, and security concerns (Tuy, 2020). Similar to female lecturers, female students are expected to contribute to unpaid care work at home and even more so during school closure, which subsequently affects their study time and concentration during class (Tann and Tuy, 2021). Such a situation exacerbates the burden on women and girls who absorb additional work and later poses risks to the retention of female students, notwithstanding gender mainstreaming policy in education (MoEYS, 2019b; UNESCO, 2020).

The anxiety surrounding the pandemic is undeniable. What is more at stake are health concerns or the risk of infection. Some students missed class for several weeks

and could not perform in their class due to the COVID-19 infection, according to a lecturer in Phnom Penh (Interviewee #5, personal communication, July 4, 2021). The situation thus affirms the interviewees' support for school closures to prevent the spread of the pandemic. Such concern is also a factor in the piecemeal reopening of universities, even though schools have been proven not to be centres of contagion and infection. Those factors thus trigger more vulnerabilities for socially disadvantaged students in online learning environments and more anxiety about the pandemic among educators and students despite nationwide vaccination.

Online learning presents various barriers to student accessibility in terms of digital infrastructure and knowledge, financial burdens, and other socio-economic factors. School closures, together with pre-existing socio-economic conditions, exacerbate the vulnerabilities of some students, especially those in remote areas, those from low-income families, and those in COVID-19 high-risk areas. The concern is well noted by all lecturers in our study, yet it is beyond their scope of control and intervention. Efforts to promote and ensure inclusive and equitable lifelong learning opportunities for all and universal access to quality higher education are therefore greatly diminished where those intangible factors are deliberately disregarded or inadequately addressed in the process.

Institutional Challenges

Public and private universities are limited in terms of resources, ICT infrastructure, and organisational agility. Transitioning to online education is a complex and resource-intensive task for universities without much guidance and technical and financial support from the MoEYS. It is a necessity to ensure continuity and financial sustainability, considering the extended school closures. Private HEIs were warned they would face bankruptcy due to their inability to cover incurring costs for an extended period (Heng and Sol, 2021). The transition is, however, not merely about moving to an online classroom or environment but also about developing online pedagogy with functioning ICT infrastructure, a task for which the universities in Cambodia are not necessarily ready.

Our interviewees identified several institutional challenges in this context, namely consistency in standards of teaching, disparity in the qualification of lecturers, and a lack of M&E mechanisms. Those are separate yet interlinked issues that need to be addressed in a systematic manner. First, although immediate measures were adopted by each university for the transition to online teaching, consistency in standards of teaching cannot be effectively ensured. The inadequacy of the support provided can compromise effectiveness and efficiency in delivering online learning if lecturers do not follow the instructions well (Freiberg, 2006). A programme coordinator explained:

> A small number of teachers did not follow the instructions of the Department. For example, it is required for lecturers to use Microsoft Teams in teaching, but they use other tools, e.g., Zoom or Google Meet. It does not make sense for students if two lecturers use Microsoft Teams, the other two use Zoom, and another uses Google Meet. It affects the mentality of students. Another problem is that both lecturers and students did not report such issues to the Department. It was not until the end of the semester before it came to our attention. (Interviewee #9, personal communication, July 20, 2021).

Another lecturer expressed concerns about adapting his newly acquired teaching methods to fit the new format and settings adopted by the university: "The university combined several classes into one (about 100 students). It is not convenient

for me to teach and for students to learn in such a big setting" (Interviewee #10, personal communication, July 22, 2021). Such an approach to ensuring financial and operational stability has negated the quality of teaching and learning in the new uncertain environment within and among the universities. Considering the unfamiliarity of the new learning modalities, consistency is key to ensuring a successful and swift transition. The lack thereof prejudices the education standard and causes unnecessary technical difficulties for teaching and learning, not to mention the pre-existing limited quality of Cambodia's higher education (Heng and Sol, 2021). This is also connected with the pre-existing governance and management issues of HEIs in Cambodia (MoEYS, 2019a).

Another key institutional challenge is the disparity in qualifications among lecturers, i.e., digital literacy. Despite the ICT training and support provided by the institutions, senior lecturers in particular faced challenges in adapting to the online delivery. Young lecturers were identified with higher knowledge and adaptability to this transition compared with senior lecturers. The struggle of senior lecturers eventually led some to abandon their teaching hours or quit their job (Interviewee #9, personal communication, July 20, 2021). The issue is, however, not unique to senior lecturers when online education was first introduced; it is a challenge for all lecturers to carry out additional self-research and exploration to better understand the features and functions of ICT tools that were not available prior to the school closure. This nonetheless brings to light the qualification and readiness of lecturers at the tertiary level to provide 21st Century skills for graduate students to meet market demands and social needs in Cambodia and the region. It also questions the capacity development programmes and opportunities for education staff at the tertiary level in response to the globally changing needs and demands (MoEYS, 2019a).

Such issues further link to the lack of an internal and comprehensive M&E mechanism for the new learning environment, including accessibility and the quality of teaching and learning as a whole. A regular and interim assessment of learning and teaching is necessary in this uncertain situation. Moral and professional standards of teaching need to be monitored for consistency and efficiency. The existing teacher or course evaluation methods were ineffective due to a low response rate among students. For example, only 5 out of 30 students or sometimes none completed the survey (Interviewee #9, personal communication, July 20, 2021). Another main missing aspect reported is the rate of dropout during and/or due to COVID-19 and school closures at the institutional level and for the higher education sub-sector at large. The number is unknown or undocumented (Interviewee #9, 2021). Our lecturers also mentioned a major challenge in assessing the performance of students in online classes because of the lack of specific guidelines from the universities. One teacher described her experience:

> The biggest challenge is during exams. The university did not set any rules for the exam. As teachers, we need to do our own research. For example, I need to use Google Forms for multiple-choice questions and a Microsoft Word file for open-ended questions. It is hard for me to mark the exam sheet. I used to mark, give feedback on the sheet, and return it to students. I cannot do so now, and I need to rethink how to provide them feedback. The University only told us which platforms to teach on, but they did not inform us how to conduct examinations. I require my students to sit in front of the computer during exams, but some use their phones to complete their answers. Some of them were doing examinations in the same coffee shop, so it is hard for me to know whether they were cheating. (Interviewee #7, personal communication, July 1, 2021)

In addition to internal M&E within universities, monitoring programmes for quality assurance among universities are also essential to strengthening governance and management of the higher education sector (MoEYS, 2019a). M&E also plays a key role in the recovery measures for remedial programmes to address the needs of teachers and students and to minimise the effects of lost opportunities, especially for vulnerable and marginalised people (UNESCO, 2021). There is indeed a reciprocal relationship between the effects at the personal level of lecturers and the institutional challenges of universities amidst the school closure. This has given rise to weak organisational agility in responding to such crises, especially in terms of governance, management, and administration. It also reflects sub-sectoral issues in meeting the developmental and social needs of Cambodia.

Conclusion

Higher education in Cambodia is far from ready to transition from face-to-face learning to an online learning environment. Weak ICT infrastructure, limited resources and funds, and management challenges were the main challenges facing universities across the country before and even more so during the COVID-19 pandemic. The key stakeholders, lecturers, were challenged to abruptly switch to online teaching without the necessary support, which confirmed their pedagogical and mental unreadiness for the swift change. Although their online pedagogy has improved significantly compared to the early outbreak, concerns remain about pedagogical and ICT knowledge and skills for advanced teaching and learning, as well as psychosocial support by peers, universities, and MoEYS. Meanwhile, mental distress and anxiety make it significantly challenging to cope with the uncertain circumstances while balancing work and domestic responsibilities. Moving to a new normal is thus more than defeating COVID-19; it potentially has a lasting impact on the learning, socio-economic situation, and mental health of all relevant stakeholders.

While being a major challenge, the COVID-19 pandemic, which led to school closures, brought to light systematic challenges in advancing the higher education sector in Cambodia. It serves as an opportunity to strengthen, invest, and concert more efforts to reform higher education in Cambodia to better prepare students for competitive labour markets nationally and regionally. Such efforts are required at the individual, institutional, sub-sectoral, sectoral, and national level. In addition to more budgeting, concrete action plans and strategies should be comprehensively designed for specific target groups, i.e., universities, faculty members, lecturers, and students. The momentum should be continued for digital transformation and the prospects of blended learning in the sector. It is also an opportunity to promote internationalisation of higher education by seeking and enhancing collaboration and partnerships for students' learning experiences, capacity development programmes for faculty members, and research and innovation.

While the right to education is an enabling right, this issue shall not be addressed independently but interdependently with other cross-cutting and interrelated issues, including gender and poverty. A more gender-responsive approach to sub-sector reform is thus necessary to address the issue in an inclusive manner where female lecturers and students and vulnerable groups are not left behind or marginalised. Such an approach will also offer insights for inclusive and sustainable development as well as recovery measures for future crises for this and future generations of Cambodia.

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Human Rights, Environment and Climate Change:
Developing human rights based solutions for sustainable, inclusive and climate-resilient cities

Peri-urbanisation in Zimbabwe: A Human Rights Perspective

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Abstract

Peri-urbanisation has become a common feature in Zimbabwe. The nature of peri-urbanisation in communal lands is characterised by an increasing population without supporting infrastructure and services as well as ecological degradation. Thus, peri-urbanisation presents challenges for protecting and fulfilling human rights, particularly the social, economic, and cultural rights in the peri-urban zone. This study examines the effects of peri-urbanisation on human rights in Domboshava and Seke peri-urban communal lands. The study is premised on data collected in previous studies that were separately conducted by the researchers in the study areas complemented by desktop review.

This study used the mixed methods approach where questionnaires and in-depth key informant interviews were used to collect data from the peri-urban inhabitants, officials from the central government, Goromonzi and Manyame Rural District Councils, as well as the traditional leaders and the councillors. Observations were also used to collect data, complementing the other tools. The study revealed that peri-urbanisation in Zimbabwe is occurring in the absence of guiding spatial plans resulting in the development of settlements that are devoid of requisite infrastructure and social services. This phenomenon violates human rights in peri-urban areas. This study recommends that spatial planning should play a significant role in guiding peri-urbanisation to ensure that the transformations in peri-urban areas are accompanied by requisite infrastructure and services. This will subsequently enhance the protection and realisation of human rights in peri-urban areas.

Keywords: peri-urban, transformation, infrastructure, land claims, distribution, environmental

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Introduction

Peri-urbanisation is a global phenomenon being experienced across different geographies of the world. In the global north, where financial resources are adequate, and administrative institutional capacity are strong, peri-urbanisation has occurred in a well-coordinated and properly planned manner creating sustainable human settlements with adequate provision of requisite infrastructure (Abdulai et al., 2020). Peri-urban zones of the global north are also well integrated into broader urban regions through regionalisation processes (Kwangwama, 2016). However, in Sub-Saharan Africa, peri-urbanisation has occurred in circumstances of severe poverty characterised by rapid urban expansion into the city's hinterland under customary tenure (Kombe, 2005).

In Zimbabwe, peri-urbanisation has mainly been driven by urban-rural migration resulting in rampant illegal subdivision of customary land in the peri-urban zone and its subsequent sale (Ingwani, 2015; Kwangwama, 2016). This creates unsustainable, haphazard and unplanned settlements that often lack adequate safe and clean water and proper sanitation facilities with ecologically degraded environments (Abdulai et al., 2020; Ingwani, 2015; Kwangwama, 2016; Seifollahi-Aghmiuni et al., 2022). This has consequences for the protection and fulfilment of human rights in the peri-urban areas particularly social, economic, and cultural rights.

Domboshava and Seke peri-urban areas located in close proximity to Harare and Chitungwiza respectively, are some of the peri-urban areas that are experiencing rapid transformations through peri-urbanisation. They fall under Goromonzi and Manyame Rural District Councils respectively. According to Ingwani (2019), the areas are under the communal land tenure system. Such a system of land tenure makes land transactions easy and cheap (Ingwani, 2019; Kwangwama et al., 2020) making the areas easy and lucrative for land to be converted to urban land uses, particularly residential (Chirisa et al., 2016).

Conceptual Framework and Literature Review

This section critically examines the concepts of Human Rights and peri-urbanisation. Such a synopsis provides the basis for understanding the connection between human rights and peri-urbanisation and shows how peri-urbanisation influences the safeguarding and fulfilment of human rights. The study acknowledges that the concept of human rights is broad (Clapham, 2016), hence, focuses on social, economic and cultural rights.

Peri-urbanisation is a process in which rural areas that are located on the fringes of existing cities, transform into more urban in character physically, economically and socially, often in a disjointed and uncoordinated manner (Webster et al., 2014). It encompasses the conversion of previously rural land to urban land uses, primarily residential (Adam, 2020; Kombe, 2005). Peri-urbanisation is characterised by transformation which manifests in various physical/environmental, economic and social ways (Chirisa 2016 in Gweshengwe & Matai, 2022).

The areas are also characterised by the mushrooming of informal settlements (Kwangwama, 2016). Whilst Abdulai et al. (2020) claim that peri-urbanisation is characterised by positive transformations, several scholars concur that in most developing countries, peri-urbanisation is associated with multiple problems (Adam, 2016; Adam, 2014; Aguilar, 2008; Chirisa et al., 2016; Gweshengwe & Matai, 2022; Kwangwama, 2016). The resulting problems affect the protection and fulfillment of

human rights in peri-urban areas. It is imperative to highlight that the peri-urban zone is categorised into five zones (see Iaquinta & Drescher, 2000) and these zones are based on the nature and characteristics of the physical, economic and social transformations taking place as well as the distance from the city.

The concept of human rights has gained enormous attention in academia and practice as shown by the volume of literature on human rights. However, the literature is of the expository kind, with an emphasis on exposing violations of human rights (Clapham, 2016; Shivji, 1989). By definition, human rights are individual claims or entitlements against the state (Clapham, 2016; Marx et al., 2015; Shivji, 1989). They represent the demands or claims that are made by individuals or groups in a society. Some of these demands or claims are protected by law while others remain as aspirations to be accomplished in the future (Shivji, 1989). Several countries across the globe have thus put in place laws to protect human rights (Clapham, 2016; Shivji, 1989; Tifalo, 2013).

Human rights can be categorised into civil and political rights as well as social, economic, and cultural rights. The categorisation is based on the thinking that human rights have a distinctive set of objects to which each lays claim. Political and civil rights, sometimes referred to as first-generation rights (Shivji, 1989; Tifalo, 2013), claim various freedoms and legal protections, that is, freedom to vote, freedom to personal conscience and expression, movement and freedom to vote and also run for public office. Economic, social and cultural rights, also called second-generation rights, on the other hand, focus on concrete material goods and various social benefits including, subsistence level of income, basic levels of education and health care, clean water and air as well as equal opportunities at work (Langford et al., 2013; Tifalo, 2013). The second-generation rights that are of critical importance to this study because of the close relationship between these rights and peri-urbanisation. Therefore, the study shall pay greater attention to the second generation of human rights.

The occurrence of peri-urbanisation without requisite infrastructure in the peri-urban zone violates basic human rights particularly social, economic, and cultural rights. Land rights are rights to use, transfer and control a land parcel. Land rights give people the right to inhabit, use and enjoy land, resources as well as to restrict or exclude others from land (Gilbert, 2017). From a legal point of view, land rights are in the groups of land tenure agreements, land laws and planning regulations. Gilbert (2017) further argues that land rights are key to human rights since they form the basis for people to access food and housing. Among the transformations resulting from peri-urbanisation are changes in the way land is distributed, that is, the way the government and land developers expropriate land from the peri-urban dwellers as they rationalise development. (Adam, 2016; Adam, 2014) This dispossesses the peri-urban dwellers of their rights to land which gives immigrants more rights (Adam, 2014).

Environmental rights give individuals rights to environments that are not injurious to health or welfare, and to an environment that is protected for the present and future generations' sake. In this regard, the Constitution of Zimbabwe states that the State is obliged to take legislative and non-legislative actions to ensure the protection and preservation of the environment and prevent ecological degradation (Clapham, 2016; Tifalo, 2013). Connected to environmental rights is the right to food and water. The rights to food and water entitle people to safe and clean water as well as sufficient food supply. Therefore, the State is obliged to take reasonable measures, both legal and non-legal, to progressively realise this right within the limits of its available resources.

In the peri-urban zone context, peri-urbanisation has resulted in ecological degradation arising from increased population and the tragedy of the commons, over-exploitation and pollution of water sources and shortage of land for farming activities compromise food security and access to food (Adam, 2020; Aguilar, 2008; Gweshengwe & Matai, 2022; Ingwani, 2019; Seifollahi-Aghmiuni et al., 2022). Thus, from this perspective, peri-urbanisation has the effect of depriving people of their environmental rights, as well as the rights to water and food.

Equally important to the doctrine of human rights are the rights to education and healthcare. Nowak (2001) argues that the right to education is critical since many social, economic, and cultural rights can be fulfilled meaningfully when one has attained a minimum level of education. For example, the right to choose work and receive proportional pay for work can be meaningfully exercised when a minimum level of education is achieved. Availability, accessibility, acceptability and adaptability are some of the key issues to be addressed in enhancing the right to education (Veriava & Paterson, 2020). This right can be effectively realised when schools are provided within the reach of many and at shorter distances. The right to health is among the foundations for enhancing and improving human well-being development (Nampewo et al., 2022). Good health is among the several issues that are necessary for the enjoyment of other human rights, sanctioning people to undertake some of the activities that improve their well-being (ibid). Bayefsky (2000) shows that there is a relationship between the right to health and other human rights. For example, health is connected to the quality of food such as the safety of water, clean water, and sanitation as well as the management of water resources and systems. Further to the rights discussed herein, are the rights of women, children, the elderly and of people living with disabilities.

In light of the discussion on peri-urbanisation and human rights, it can be argued that peri-urbanisation can have a number of negative impacts on human rights. The increasing poverty and inequalities, the right to satisfactory living , the right to education as well as the right to work are violated. In addition to this, peri-urbanisation reduces access to services like water and sanitation as well as healthcare and education which significantly impact on the enjoyment of human rights as people will be unable to access essential services that are necessary for their well-being. Increased environmental degradation due to peri-urbanisation also impacts on the enjoyment of human rights as this can lead to pollution, water contamination and other health problems. However, peri-urbanisation can result in the construction and provision of services and therefore, increase people's enjoyment of their rights.

Methodology

The study is informed by the pragmatist philosophical worldview and adopted the mixed methods approach with a bias towards qualitative and less quantitative. The qualitative methods allow for obtaining in-depth information about the experiences of the participants in the study areas (Creswell, 2014). The need to understand the life experiences of inhabitants of peri-urban areas of property and land made it essential to adopt mixed methods research. Two surveys were conducted in two communal peri-urban areas, Seke and Domboshava. Key informant interviews were also conducted during the same period with officials from the central government, Goromonzi and Manyame Rural District Councils, elected councillors, and traditional leaders. Observations complemented the surveys and key informant interviews. Analysis of data was done using both quantitative and qualitative methods.

Findings and Discussion

Peri-urbanisation in Domboshava and Seke in Zimbabwe has occurred through rapid spatial expansion into the two peri-urban areas under customary/communal tenure close to Harare and Chitungwiza respectively. Harare is the capital city, while Chitungwiza is the third largest city in Zimbabwe. The rapid spatial expansion has largely been driven by illegal rampant subdivisions by communal landholders who fear losing their land after repossession by central government and rural district councils for urban development. The rampant illegal subdivision of land and its subsequent sale to urbanites migrating into the two communal peri-urban areas has been code named '*Operation Garawadya, panotorwa mahara*' (Benefit before the land is repossessed for free). This encourages communal landholders to dispose of their ancestral land before its repossession for urban development.

The current state ownership of communal peri-urban land has contributed to the disgruntlement of communal landholders who regard their rights to communal land as freehold. Freehold ownership would have enabled them to benefit from the value appreciation when land is repossessed for urban development through compensation for both land and improvements. The vesting of communal land in the State President implies that compensation for repossession for urban development is paid for improvements only and not for the land, thereby compromising their full enjoyment of property rights provided in the Constitution.

On the other hand, urban immigrants who acquired the illegally subdivided residential stands do not have secure tenure. Tenure insecurity compromises the property rights of desperate immigrants in search of cheaper and more affordable land for housing development and other ancillary uses. Manyame Rural District Council fined USD$1000.00 to all immigrants in Seke peri-urban area who acquired the illegally subdivided residential subdivisions for regularisation of their illegal status. The immigrants paid the fines due to desperation as they had failed to acquire expensive residential stands in Harare and Chitungwiza.

Key informant interviews with officials of Goromonzi and Manyame Rural District Councils revealed that there are no formal town planning subdivision layouts in peri-urban areas illegally subdivided by communal landholders. Consequently, haphazard organic unplanned settlements are emerging without town planning layouts clearly demarcated by road hierarchies. In Domboshava, village heads instructed communal landholders to leave space for scotch cart roads to facilitate the movement of both wheeled and pedestrian traffic. Such scotch cart roads are very narrow, negatively affecting both human and vehicular traffic circulation in peri-urban areas. Thus, illegal subdivisions of communal land have failed to provide access roads and stormwater roads restricting efficient traffic movement.

Although the Constitution of Zimbabwe provides for socio-economic rights regarding access to water, health facilities, shelter, education and a clean environment, residents in peri-urban areas do not easily access such infrastructure and social services. Furthermore, in spite of the ever-increasing population in the emerging densified residential settlements, the central government and the rural district councils have not expanded the existing facilities or built new ones. Survey results in both Domboshava and Seke revealed that limited water and sewage reticulation is compromising the right to clean water and good health of peri-urban residents. Residents in both peri-urban areas experience water challenges that include drying of shallow wells during the dry season, poor safety of water and few perennial sources of water to sustain the residents throughout the year. This results in long queues and

overcrowding at the few sustainable safe sources. In the Seke peri-urban, pollution of underground water is another serious challenge emanating from access to water from shallow wells within a 10-metre radius of blair toilets - a health time bomb that could explode anytime resulting in the outbreak of communicable diseases such as cholera and typhoid.

Existing schools in both Domboshava and Seke cannot cope with the ever-increasing demand for pre-schools and schools. Residents in both areas use existing social facilities, thereby exerting excessive pressure on existing schools. As a result, several schools in both Domboshava and Seke peri-urban areas are conducting double sessions (hot sitting), as their existing buildings cannot accommodate all learners during morning sessions. Some residents are being forced to enrol their children at emerging private schools which are of inferior quality as they lack adequate financial resources to upgrade their infrastructure and facilities. The existing health clinics in both peri-urban areas are also failing to cope with the increased demand and population. Thus, the rights of residents to access education and health facilities as provided in the Constitution are compromised.

Both Domboshava and Seke peri-urban areas are experiencing environmental degradation attributed to deforestation, due to the cutting down of trees for firewood. The two peri-urban areas are experiencing excessive pit and river sand abstraction for construction. Huge scattered open pits left after the sand abstraction in which rainwater collects during the rainy season have become death traps for children and breeding grounds for mosquitoes. The subdivision of commons such as grazing land and wetlands has resulted in the construction of houses in environmentally sensitive areas further compromising environmental rights in peri-urban areas. No Environmental Impact Assessments (EIAs) have been undertaken for most of the emerging settlements in the environmentally sensitive areas.

Conclusion and Recommendations

This paper has revealed that peri-urbanisation in Zimbabwe is occurring in the absence of proper spatial planning principles. This has led to the development of human settlements without requisite infrastructure and social services, which in turn violates the human rights of residents in the peri-urban areas provided in the Constitution of Zimbabwe. The study recommends that spatial planning should play a significant role in guiding peri-urbanisation to ensure that the dynamic transformations in peri-urban areas are accompanied by requisite infrastructure and services. This will subsequently ensure the sustainable development of emerging human settlements and enhance the protection and the fulfilment of human rights in peri-urban areas.

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Cities Driving the Shift to Rights-Based and Circular Construction Practices

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Abstract

The authors draw on academic research to map the ways in which current economic decision-making relating to the built environment is unsustainable. They then demonstrate the practical approaches cities can take to align built environment decision-making with human rights and environmental outcomes. Risks to human rights and the environment occur throughout the building lifecycle: in materials production, in planning and financing decisions, in construction processes, and in an over-reliance on demolition and new build.

This paper addresses current issues with the building life cycle, delving into the impact at different stages, from procurement practices to the final building. It then ends with suggested practical solutions, including using tools such as the Framework for Dignity in the Built Environment and the Circular Cities Action Framework. These tools can support cities in advancing rights-based and circular construction, harnessing points of leverage that include policy and regulation, territorial planning, ownership of municipal buildings, social infrastructure and social housing, and public procurement.

Key words: built environment, carbon emissions, adaptation, climate measures, building practices

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Introduction

The dominant economic model in the built environment is fundamentally unsustainable (Santamouris, 2001; Hurlimann et al., 2020). This paper examines the characteristics of the current model, then highlights ways in which cities can be instrumental in a shift towards human rights-based and sustainable construction practices. It concludes by providing cities with a rights-based framework for action.

What gets built, where, and how, has a determining influence on the realisation of human and workers' rights, as well as on cities' ability to mitigate and strengthen resilience to climate change. However, the current predominant "take, make and waste" economic model in the built environment poses interconnected climate change and human rights risks throughout the building lifecycle: from the extraction of materials to land-use planning and siting decisions, to building practices themselves, and to a current emphasis on demolition and rebuild over the reuse and adaptation of existing buildings.

The built environment already contributes 37% of global energy-related global carbon emissions, through a combination of "embodied carbon" in materials, and energy consumed while a building is in use. Compounding increases in material use to date – for example developing countries and the Asia Pacific region have seen the demand for construction materials increase by ten times between 1970 and 2010 (IPBES, 2019) – the built environment will be responsible for a third of the projected doubling of global material use by 2060 (Global ABC, 2022). The Club of Rome and others have highlighted that "it is glaringly obvious that changes to production and consumption structures within all countries are urgent and essential for the global climate transition", while also calling for an allocation of climate responsibility according to contribution to the crisis (Earth4All, 2022).

Risks to the climate and human rights through the built environment lifecycle

Starting with the materials supply chain, sand for cement is one of the key materials. As UNEP has highlighted, sand is the World's most used solid material. And yet weak governance structures for its mining, transportation and use lead to a range of human rights and ecological issues – from corruption and violence to health and safety risks, to the erosion of river ecosystems and harm to the local economies that depend on them (UNEP, 2022). Another material, copper, will be increasingly in demand in the green transition in buildings as it is an essential component in the electrification of buildings. And yet of the top 300 underdeveloped copper ore bodies globally, 47% are located on, or in close proximity to indigenous people's lands; 65% are in high water risk areas; and 50% are in politically fragile jurisdictions (Valenta et al., 2021). In addition, the working conditions in producing materials for building can be exploitative. For example, in Phnom Penh, Cambodia, rural-urban migrants (many displaced due to the impacts of climate change) work in conditions of forced and child labour to produce bricks for that cities' new apartment buildings (Brickell et al., 2018).

The economics of real estate development have contributed in many cities to over-building, and to the paradoxical proliferation of vacant apartments at a time when many city residents are challenged to find an affordable place to live (The Shift, 2022). Cities and countries that need to generate much-needed revenue for climate adaptation measures also turn to real estate development as a measure to generate that revenue. This includes initiatives to reclaim land from the sea, in countries as

varied as the Maldives, Germany and Nigeria, a strategy that can bring the risk of distributional and displacement effects whereby existing inequalities are deepened (Bisaro, 2019). Changes in land-use, including appropriation for construction, are also a major driver of biodiversity loss and ecosystem change (IPBES, 2019).

Turning to building practices themselves, construction is characterised by a low-price mentality, fierce competition and thin margins (IHRB, 2019; Abdul-Rahman et al., 2011). This can exacerbate the risks of the exploitation of construction workers on site (for example through inadequate or unpaid wages, excessive hours, unsafe working conditions and restrictions on freedom of association); cost-cutting in the materials used; and unsafe structures (Portes Virginio et al., 2022; Walsh et al., 2022; Manjunath et al., 2021; Onarheim et al., 2021). Examples of the latter are the Grenfell fire in London, and the Rana Plaza factory collapse in Bangladesh, prior to which workers had warned that dangerous cracks were appearing in the walls of the building, before it collapsed and killed over 1,100 garment workers (Nadj, 2021).

At the final stage of the built environment lifecycle, there is currently an over-emphasis on the demolition of buildings and on new build, rather than the adaptation and re-use of existing buildings. The demolition process clearly has deleterious climate impacts in terms of wasted carbon intensive materials, particularly given that currently the majority of demolition waste goes to landfill. In Europe, for example, the construction sector is responsible for 30% of the total waste generated (European Commission, 2013). The demolition process can also undermine human rights. Homes are destroyed without due process or adequate compensation, or as important social infrastructure is lost. Eli Friedman has described the harmful impacts on the health, wellbeing and right to education for the children of migrant workers in China's cities as a result of the frequent demolition of their school buildings to make way for new real estate development (Friedman, 2022).

Opportunities: actions that cities can take

In the context of the above challenges, there are many actions that municipal governments can take to shift construction in a more sustainable and rights-respecting direction. To highlight these steps is not to over-emphasise the powers that cities have. Indeed, resource constraints, limitations to cities' regulatory powers and oversight, industry lobbying, and competing local-level priorities mean that municipal governments are just one part of the ecosystem that needs to transform the way that building happens. Yet through their own building stock and the visioning, planning, regulatory and procurement powers that they do have, there are multiple ways in which cities can guide construction practices in line with human rights and bold climate ambitions.

Policy and Regulation

As the impacts of climate change intensify and as processes to mitigate and adapt to climate change are underway within cities, local governments as a starting point have a duty to ensure that fundamental human rights are respected and that the related social protections are in place, including legislative and enforcement measures to secure the right to adequate housing, workers' rights, and non-discrimination (IHRB, 2021). Growing human rights due diligence and modern slavery legislation in various national jurisdictions applies to the built environment industries just as to others. In addition, specific regulations can be harnessed to move construction practices in a

more sustainable direction. New York City's local law 97, for example, requires most of the city's largest buildings (over 25,000 square feet) to meet new energy efficiency and greenhouse gas emissions limits by 2024, with stricter limits coming into effect in 2030 (NYC Sustainable Buildings n.d.). On the side of materials, cities are beginning to show leadership in diverting demolition and construction waste from landfill. The city of San Antonio, United States has passed a "deconstruction ordinance" which through three phases aims to cover up to 40% of the city's demolition permits, requiring a process of deconstruction that preserves the building's component materials for re-use.

Planning

Cities and other local governments have an important role to play "advocating up" to national governments, and for example can call for national governments' "Nationally Determined Contributions" on climate change (which set out a country's planned steps to meet agreed climate targets), to include measures that relate to the buildings and construction sector. While in 2015, 90 countries included actions for addressing buildings-related emissions or improving energy efficiency in their NDCs, by 2020 136 countries did so, albeit with varying ambition. Eighty countries now have building energy codes, in addition to similar actions by local governments and cities themselves (Global ABC, 2021).

Cities' own territorial planning can also be harnessed in powerful ways to advance human rights – such as the right to participation, to housing, and to water and sanitation – to reduce spatial inequality, and to ensure that climate action in the built environment (both mitigation and adaptation/resilience efforts) is just. In Cartagena, Colombia, for example, the city is applying a human rights approach to guide the update of its 12-year territorial plan, and is hosting "right to the city" workshops in neighbourhoods throughout the city (IHRB, 2022a). An ICLEI-convened network of industrial legacy cities, the Urban Transitions Alliance has shared lessons for ensuring social equity in the planning process for cities that are undergoing the transition away from heavy industry: with the first important step being the "acknowledgement of existing inequalities that define reality for marginalised groups, and of their historic causes". The alliance proposes an approach grounded in the three principles of access, participation, and opportunity (ICLEI, 2022b). While meaningful participation is a human right, realising opportunities for people to actively shape decision-making processes in the built environment – including those that relate to climate action – is complex and the necessary mechanisms vary according to context, as a series of 10 interviews by IHRB has found (IHRB, 2022b).

Ownership: City building stock

Cities themselves are owners of large numbers of buildings, including government offices, schools, hospitals, social housing and cultural institutions. Through measures taken on their own building stock they can lead the way for wider industry change. In New Delhi, India, the municipal authority invested USD$10 billion between 2015 and 2021 on improvements to the 1000 schools that it runs, contracting with private industry to do so. The schools had faced problems such as a lack of drinking water, pervasive smell of latrines, or snake infestations. The improvements have led to greater attendance rates, motivation and grades (Singh, DK 2022). Auckland, New Zealand has piloted deconstruction practices in several public building

projects, and developed a methodology to minimise waste on construction projects for use by the wider construction industry (ICLEI, 2022). In Melbourne, Australia, a campaign for a "New Normal" has the goal of "Transforming Greater Melbourne from a Consumer to a Producer by 2030" (Finding Infinity 2020). Its goals include electrifying architecture (switching from gas to electricity), retrofitting the city's buildings, and installing solar power on every second rooftop in Melbourne: with combined climate and job-creation benefits. Protecting and evolving labour agreements can also be a means to expand opportunities in construction for women and for workers who have traditionally faced barriers to work in the construction industries (Galea et al., 2018; Galea et al., 2020).

Public procurement and policies

Cities have the opportunity to influence markets through their own purchasing power. In Europe the Procura+ European Sustainable Procurement Network brings together local authorities and regions that connect, exchange and act on sustainable and innovative procurement. Through the CIRCuIT initiative, 31 partners throughout the built environment chain in Copenhagen, Hamburg, the Helsinki Region and Greater London are working to implement circular construction practices (CIRCuIT). In Australia, NSW and Victoria in conjunction with industry have established a construction culture standard that promotes a cap on working hours and working days for construction workers that is looking to be embedded into state procurement practices (ACA, 2021; Lingard et al., 2021). With construction and infrastructure taking centre stage in many countries' economic recovery efforts following the COVID-19 pandemic, local and national government procurement measures that have strong climate, human rights and labour rights provisions will be important. Sustainable and rights-respecting procurement for construction and infrastructure can mitigate economic, social and environmental risks, and can also unlock economic and social value across the full lifecycle of a project (IHRB, 2022c).

As highlighted above, cities face head-winds in implementing all of these measures, which take the form of resource constraints, political short term-ism, corruption, and more. Clear and unifying Frameworks for action can guide cities in taking a longer-term, inclusive and ambitious perspective, advancing climate action in the built environment in line with human rights.

One such Framework is the Framework for Dignity in the Built Environment, a joint initiative of the Institute for Human Rights and Business (IHRB), Raoul Wallenberg Institute of Human Rights and Humanitarian Law; Rafto Foundation for Human Rights; and Melbourne University's School of Design (IHRB, 2020). Rather than a new set of standards, the Framework translates internationally agreed human rights standards and the Sustainable Development Goals into practice in the context of the built environment lifecycle: through Land; Planning and Finance; Design; Construction; Management & Use; to Demolition and Redevelopment. The Framework is designed with two core principles in mind: that action and the investment of time at the very earliest stage of a building or urban planning project to mitigate risks and maximise opportunities through the whole lifecycle brings economic and social benefits over the medium and long term; and that while no single actor can shift the direction of the built environment alone, all have roles to play and specific leverage points that they can harness. These actors include national and local governments; investors; building owners and developers; architects; construction and engineering companies, and technology companies. In addition to recommendations by actors, the

Framework provides an aspirational vision for each stage of the life cycle, guiding questions for action, cross-references to international standards and examples of innovation.

The Circular City Actions Framework has been developed by ICLEI, Circle Economy, Metabolic and the Ellen MacArthur Foundation to introduce cities to the range of strategies and actions available to them as they work towards circular development at the local level (ICLEI, 2021). A circular city is one that promotes a just transition from a linear to a circular economy across the urban space, through multiple city functions and departments and in collaboration with residents, businesses and the research community. In practice, this means shifting away from the linear economy's "take, make, waste" model and moving to an economic system where the value and utility of infrastructure, products, components, materials and nutrients is maintained for as long as possible. In a circular city, material loops are closed, meaning that existing materials are repeatedly cycled instead of becoming waste; resource extraction is also minimised. Through this transition, cities seek to improve resource access, lower emissions, protect and enhance biodiversity, and reduce social inequities in line with the Sustainable Development Goals.

Conclusion

While the tools exist and momentum is growing, significant progress towards rights-based and sustainable construction practices will depend on many factors. These include practical methods of measuring, monitoring and communicating the benefits of action; expanding diverse and bankable sustainable business models - linking local innovation up to reliable sources of finance; and deep collaboration between cities on the challenges and opportunities they face. Yet cities that apply a rights-based framework to their built environment lifecycle can forge a path towards a more sustainable, inclusive and resilient future.

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A Quixotic Quest to Sustainable Cities: A Criminal Law Perspective

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Abstract

This paper delves into the intricate realm of corporate criminal liability and its effects on sustainability and environmental protection. It contends with the issue of assigning moral blame and punishment to corporations, which lack the human qualities that are traditionally associated with culpability. Given the significant influence that environmental crimes have on the sustainability of the entire planet, the discussion emphasises the urgent need to hold multinational corporations accountable for their environmental infractions.

The moral attribution conundrum that appears when attempting to make companies responsible for their deeds is the main theme explored in this study. Corporations do not possess consciousness, emotions, or personal motivations like people do. They are organisations that are legally recognised and created to promote economic growth. It is extremely difficult to ascribe moral guilt and punishment because of this lack of human-like characteristics. Consequently, traditional ways of assigning moral guilt and punishment are inapplicable to the corporations and need to be redesigned. The paper proposes that the concept of ecocide might act as a paradigm change in how we see corporate accountability.

Keywords: ecocide, corporate criminal liability, sustainability, environmental protection, moral guilt.

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Introduction

Before global capitalism, productivism, anthropocentrism and human greed for profit, there existed '*The Rights of Mother Earth'* – a vision that everything on Earth and in the cosmos has life (systemicalternatives.org, 2014). This concept is introduced by the indigenous people in things – a human is 'not more important than a plant, animal, or mountain' (2014).

Human perceptions of nature have changed as a result of the rise of global capitalism and the modern industrial period (Mrozowski, 1999). Anthropocentrism, the idea that people are the primary and most significant beings in the cosmos, has risen to prominence. The exploitation of natural resources, unbridled industrialization, and the quest of unending economic progress were all influenced by this mindset, frequently at the expense of the environment and other living things (Luke, 1998).

Since ecocide may have occurred for more than five centuries as a result of global capitalism, we might infer that the evolution of humans has had a detrimental effect on the health of nature (White, 2018, p. 37). Having said that, Falk (1973), MacManus (2016), and Brisman (2019) argue that the current legal system, whether it be national or international, is unable to solve the environmental harm brought on by humans' capitalist aspirations. The concept of corporate criminal responsibility and its relationship to sustainability are discussed in this paper as a contribution to the discussion of the causes of this gap.

This essay evaluates the concept of corporate criminal responsibility in the context of sustainability and environmental protection. At first, the conundrum of corporate criminal liability theories is explored. Subsequently, the focus shifts to the interconnectedness of corporations with ecocide and sustainability, drawing insights from court rulings on environmental crimes. The essay considers legal options for building resilient cities that protect against environmental crimes and advance individuals' fundamental rights, such as access to clean water, sustainable livelihoods, and clean air, throughout this examination. The essay concludes that in order to reimagine justice as a representation of 21st-century social construct, it is necessary to look beyond individual responsibility and to adopt a larger perspective that prioritises the welfare of all living things and the earth.

The conundrum of corporate criminal liability – time for a shift?

In criminology, corporate crime or organisational crime is defined as 'illegal harmful acts, committed by legitimate organisations or their members, primarily for the benefit of these organisations' (Erp, 2018, p. 836). Its criminal liability is foreseen in all Anglo-American jurisdictions and many civilian jurisdictions – thus, as a principle, Rich argues that corporate criminal punishment should follow the logic of how states impose criminal punishments on individuals (2018, p. 97). Nonetheless, if someone commits a murder, there are not many backdoors for him to escape the law. In the case of corporations, reality is different.

A corporation has legal and ethical obligations to its shareholders, employees, customers, and the communities in which they do business. Corporate criminal liability concerns have become particularly high profile and contentious in situations where corporate operations result in the death of people or harm to the environment. Nonetheless, the issue of criminalising corporations for environmental harm has been debated for decades (Friedman, 2017, p. 31). The concept, firstly derived from the environmental harm and destruction caused by 'Agent Orange' (Falk, 1973), sparked

international discourse to incorporate ecocide as a violation of international law. In 2016, the Guatemalan Environmental Crimes Court - the first in the world to rule against crimes on the environment, upheld an ecocide claim against the African palm oil corporation REPSA, as they 'poisoned the river and killed all the fish' (Greene, 2019, p. 21). In Kyrgyztan, a company was faced with criminal ecocide charges after they had imported 900 tons of radioactive coal, which were sent to schools, orphanages, and nursing homes (2019). Yet, practices like trawling the deep-sea bottom, dredging the ocean floor and destroying entire ecosystems, and overfishing, which results in the extinction of several species, continue to happen.

The efforts to hold companies liable have been challenged with the argument that 'corporations have neither a body to be punished, nor souls to be condemned; they can therefore do as they like' (Thurlow, 1844). Crook, Short and Nigel (2018, p. 298) go against this theory and note that the evolution of the society requires the existence of corporate liability - either civil or criminal.

Unlike suing and fining corporations (*who simply budget for this possibility*), enforcing criminal corporate responsibility would be a cautionary mark for corporations to act eco-responsibly. Once the precedents and the practice are set, scholars argue that the corporations might tend to change their behaviours. As investors, banks and insurers will do their checks and balances to prevent investing in possible criminal corporations; the corporation's success will depend on the level of public and investor confidence (Higgins, 2013). As the Stop Ecocide campaign advocates, *'No CEO or financier wants to be seen in the same way as a war criminal'.*

The reality is that most countries hesitate to regulate corporate criminal liability in terms of environmental harm. Following the 'putting corporation in jail' solution will bring disruption in the market, unemployment, and financial losses (Simpson, 2009, p. 1). All the same, there is significant evidence to suggest that the environmental destruction does require regulated criminal liability, based on the work of Bernat and Whyte (2017, p 71). If the projected harms can change the ecosystem to a point of no-return, perhaps it is only appropriate to project corporate criminal liability in the international criminal law.

Corporate punishment – who, what and why?

The debate on corporate criminal liability lies on the dilemma if there is a punishment for corporations that can be as effective as the sanction of imprisonment for the individual (Gauger et al, 2012, p. 1), and as Rich puts it, 'There is a question of whether it is fair to blame the corporation for acts taken by anything other than its entire membership' (2009, p. 98).

In theory, corporate criminal liability is the liability imposed upon a corporation for any criminal act done by any natural person (Calvin, 1995, p. 2). It is based on the doctrine that corporate crime can be committed either by an entity or corporation, or by individuals who may identify with the corporation (*Vicarious responsibility*, Von Erp. 2018, p. 21). Corporates are treated before law like natural persons, where both have legal personality and rights and duties imposed by law. They can be held criminally liable for deliberately disregarding criminal activity – the 'wilful blindness' doctrine, where a corporate agent subjectively believes that there is a high probability that a criminal activity exists and takes deliberate actions to avoid the learning of the fact (Dunlap, 2021, p. 212). Or, based on the 'collective knowledge' doctrine (Dunlap, 2021), a corporation may be held liable even in the case where 'no employee is at fault'. This theory recognises that the acts of a corporation are 'simply the acts of all

of its employees operating within the scope of their employment' (White, 2018, p. 95). Both these theories attribute the criminal element to the corporation as an entity, for failing to act according to the law in establishing an ethical corporate culture and/or the lack of due diligence.

In most cases, a legal entity who has committed a criminal offence may be sanctioned by *(i)* a fine or termination of the status of a legal entity, *(ii)* a suspended sentence/temporary receivership, when the legal entity will be in a probation period, and/or *(iii)* security measures, like prohibitions on participating in public procurement procedures, confiscation of property or publication of court decision that could impact its reputation among the consumers or business partners (Criminal Code of the Republic Albania). Although Albania is a civil law system that supports the idea of corporate criminal punishment, in reality, it has been difficult to punish criminal offences committed by legal entities, let alone, in the environmental realm. Furthermore, there are countries like Germany and Japan, who support the principle *societas delinquere non potest* ('companies cannot be criminals'), and completely reject the notion of corporate criminal liability in their legal systems. This proves to be a challenge when we encounter multinational corporations that could have their main area of activity or the headquarters in one of these countries.

The philosophical side of the liability centres on the idea of 'suffering through punishment'– which makes it a problem by Rich as the corporations cannot suffer (2009, p. 22). Rich explains that since 'suffering is a constituent part of punishment and corporations cannot suffer in the relevant way, corporate punishment will always fail' (2009, p. 100). Nevertheless, the impetus behind denying corporate criminal liability might be flawed.

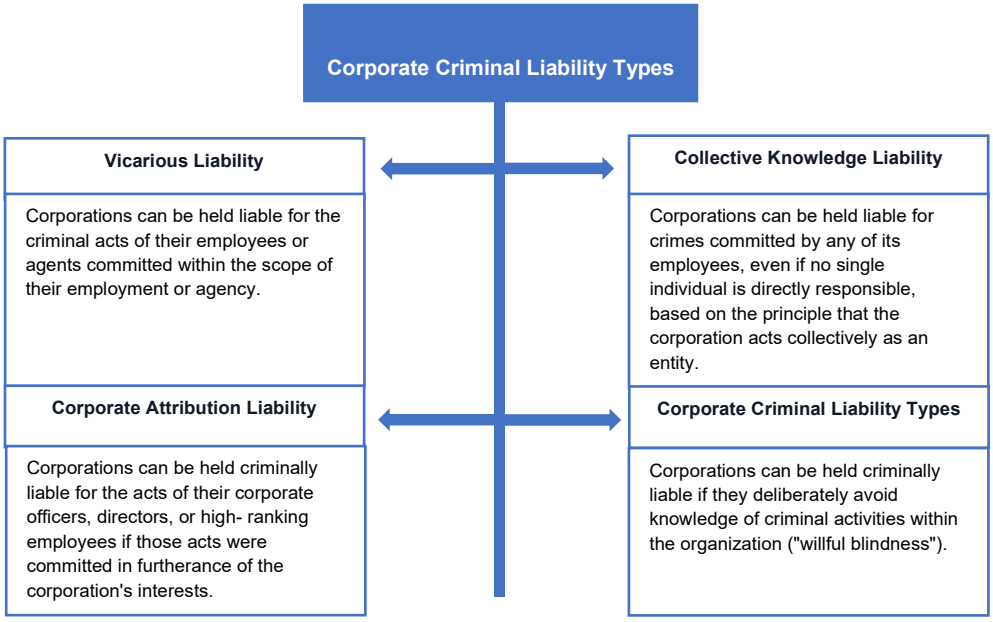

Figure 1: Types of Corporate Criminal Liability

Calvin explains there is a new viewpoint that 'corporations function as real entities' and they are not comprised only by individuals, but also as 'institutionalised relationships amongst the individuals' (Calvin, 1995). Attributed as the realist theory of corporate legal personality, it draws the conclusion that the entity involves 'more than the sum of the individual parts' (Jimenez, 2019, p. 353). This organization moulds

the attitudes and directs the behaviour of its members in ways that the individuals may not have chosen or understood (Lamb et al, 2020, p.1). Consequently, the entity has decision-making processes that may function without any of the individual members input – thus as Calvin (1995) and Jimenez (2019) note, raises a case that legal entities have a real personality. Consequently, they should be held criminally liable for their wrongdoings transcending the fictional and symbolic punishment; and they can be tried separately from the individual wrongdoers.

To better illustrate this, I will explore the legal issues surrounding Shell – a multinational oil and gas company and allegedly, one of the worst polluters on the planet.

The case of Shell

In a gist, for more than five decades, Shell Petroleum Development Company of Nigeria Ltd (SPDC), has extracted oil and gas in the Niger Delta (Amnesty International, 2020), which sits directly on the Gulf of Guinea on the Atlantic Ocean in Nigeria. The continued and systematic harm done to the environment, and the mismanagement of Royal Dutch Shell (parent company), contributed to undrinkable water and toxic fumes. The modus operandi of the modern corporations (Bernaz, 2015) is influenced by the separation of ownership and control. For instance, shareholders who own the corporation or chief-executive-officers (CEO) who direct it, may not have direct control or knowledge on the corporate employees who commit crimes (Brisman, 2019). The challenge is identifying when the corporate has a direct causal link with the environment.

Traditionally, the court needs to attribute the guilty state of mind and the guilty act of the individuals who acted in the benefit of the corporate, to the corporation. Corporations like Shell are compounded by subsidiaries and other entities. In these structures, the person responsible for the decision-making and operational control might be separated by the corporation (Coffee, 1981, p. 400). As Coffee (1981) notes, this makes it difficult to trace the corporate misconduct to senior levels, and individuals who will insulate that they did everything to ‘meet the competition’ or ‘to cope with the regulators’. In this case, even the ‘deterrence trap’ fails to hold the corporations liable for their criminal misconduct (Coffee, 1981, p. 387).

Coffee (1981) defines the ‘deterrence trap’ as the situation where an actor will contemplate committing a crime only if ‘expected punishment cost of a proscribed action exceeds the expected gain’. If the opportunity to profit a sum through criminal act or omission is certain and the corporate misbehaviour involves high stakes, Coffee (1981) explains that the corporate needs to do some calculations to assert if the risk is worth taking.

Royal Dutch Shell denied its responsibility for the oil spills in all the lawsuits brought against them and used the subsidiary as a shield against liability. Shell argued that it could not be held responsible for the acts of its subsidiary and as a result, was not legally responsible for the pollution caused by them (Okpabi & Ors v. Royal Dutch Shell Plc & Anor). The strategy for the subsidiary to shield the parent proved successful for Shell in several cases (Ogale and Bille communities against Royal Dutch Shell). This was challenged by a Dutch court in 2021 in the case *Four Nigerian Farmers and Milieudefensie v. Shell*, which ordered Shell to compensate the Nigerian villages for oil contamination that brought death, illness and destruction. This established a precedent that a parent company (Royal Dutch Shell) can be held responsible for acts of its subsidiary (Shell Petroleum Development Company of

Nigeria Limited). Going beyond the legal understanding, this development is a cautionary tale for all corporations to do their checks and balances on their subsidiaries.

Going beyond human responsibility

In the aftermath of the Côte D'Ivoire catastrophe, Bhopal disaster (New York Times, 1985), the Gulf War oil Spill (Linden & Egerup, 2004), and Chernobyl (United States Nuclear Regulatory Commission, 2022), Bernat and White (2017) argue that it would be more than reasonable to go beyond the concept of state-corporate crime[1]. As Lindgren (2018) noted, climate change, changes in biosphere integrity, biogeochemical flows, and ocean acidification, are just a few acknowledged environmental rights breaches that have occurred because of state-corporate crime.

On the theoretical front, the tendency among scholars has been to dismiss corporate criminal liability as *quasi-criminal*. As often seen, the sanctions on corporations have been fines, compensation orders, debarment from public procurement, processes and/or confiscation orders (Tombs & Whyte, 2020) – all of which are sanctions with a civil nature. In the cases examined herein, holding on to civil justice would mean continuing the war against the environment.

The legitimacy of environmental protection, under the European Court of Human Rights (ECHR)—though there is no explicit right to a healthy environment in the ECHR—is valued by the existence of environmental risk that may risk certain Convention rights. In the pool of case law administered by ECHR, the willingness of the Court can be distinguished to seriously consider the impact of the destruction of the environment, albeit inextricably linked to humankind.

The cases of *Carême v. France*, *Duarte Agostinho and Others v. Portugal and Others*, and the *Urgenda* case highlight the increasing efforts to hold countries accountable for their actions, or lack thereof, in addressing climate change. In *Carême v. France*, the applicant submitted that France has taken insufficient steps to prevent climate change and that this failure entailed a violation of the right to life (Article 2 of the Convention) and the right to respect private and family life (Article 8 of the Convention). The attempt to hold countries (which in themselves are a form of legal entity) accountable is found in the case of *Duarte Agostinho and Others v. Portugal and Others*, where the applicant made a claim on the failure of the Signatory States to the 2015 Paris Agreement to comply with their commitments in order to limit climate change; in particular, to keep the increase in global average temperature increase well below 2° C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5° C above those same levels. The duty of care and the obligation to act pursuant the Paris Agreement, is also raised in the *Urgenda* case. These cases reflect a shift in legal thinking, recognising that climate change is a human rights concern as well as an environmental one. They argue that governments owe it to their populations to protect them from the negative effects of climate change, and that failure to act could breach fundamental human rights guaranteed by the ECHR. Furthermore, the above mentioned cases set important precedents that can pave the way for greater accountability. When states are held accountable for their acts or omissions in

[1] State-corporate crime is defined as criminal acts that occur when one or more institutions of political governance pursue a goal in direct cooperation with one or more institutions of economic production and distribution.

connection with corporate operations that affect the environment, it sends a strong message about the need for greater regulatory measures and corporate monitoring. As a result, more stricter rules and enforcement procedures may be implemented to ensure that corporations are held accountable for their environmental impact.

Higgins, Short, and South (2013) underscore the reality of corporate impunity under international criminal law in their proposal for a Law of Ecocide. This observation implies that companies frequently escape criminal accountability for their acts, even when those actions cause severe environmental and societal harm, because international criminal law focuses primarily on individual responsibility. Under the current legal system, international criminal law traditionally holds individuals accountable for their criminal actions. However, when it comes to corporate conduct that causes extensive environmental degradation and injury to communities, this individual-centric approach to international criminal law has limitations. Because corporations are legal entities, they may evade direct personal responsibility, creating a sense of impunity for their detrimental conduct.

The debate over the inclusion of corporate criminal liability in international law underscores the difficulties in effectively addressing environmental harms that affect both the planet and humanity. According to Whyte (2020) in his book ‘Ecocide: Kill the Corporation Before It Kills Us,’ the lack of clear legislation and accountability systems for the link between states and companies in inflicting environmental harm is a significant concern. It would be nonsensical to give corporations the responsibility of having rights under international law while allowing them to avoid responsibility for the most egregious violations of the same body of law (Slye, 2008).

The corporate criminal liability, ecocide, and sustainability nexus

The debate continues about how a corporation can be held criminally liable when it has ‘no soul to damn and no body to kick?’. The maxim "no soul to damn and no body to kick" captures a central challenge in the discussion of corporate criminal liability. It reflects how challenging it is to assign moral blame and punishment to an impersonal legal body like a company that lacks the human traits usually attributed to specific wrongdoers.

Building upon the Kyoto Declaration, the UN has put in its 2030 Agenda for Sustainable Development the goal to "adopt effective measures to prevent and combat crimes that affect the environment, such as illicit trafficking in wildlife, including, inter alia, flora and fauna". This reflects the international transgression of crimes against the environment, and, putting in spotlight the link between environmental crime and sustainability. This seems to be a common theme in UN entities' reports on sustainability development, where it is reflected that “environmental crimes are presenting a challenge to the international community in achieving the United Nations’ (UN) Sustainable Development Goals (SDGs) by 2030” (Refinitiv, 2020). UNEP (2016) recognises that the additional cost and impact on the ecosystem, and cost to future generations of environmental crimes make them more serious. Ecosystem services including clean air and water, averting extreme weather, ensuring food security, and even promoting health and happiness are lost as a result of deforestation, chemical spills, and illicit fishing. A question is thus presented: *Can we talk about sustainable cities without recognising the need to establish corporate liability for crimes against nature?*

It appears that ecocide needs international criminal law to come close to complying with the continuous ecological, social, and cultural destruction (Lindgren,

2018). An international crime of ecocide under the jurisdiction of the ICC[2] will have the impetus to prosecute perpetrators of ecocide. Nonetheless, since states can be held accountable for abusing human rights, it is only time to wield this accountability over to corporations. There is a need to hold transnational corporations criminally liable for their gross environmental harms.

Conclusion

In conclusion, the concept of corporate criminal liability in the context of environmental harm and the rights of nature is a long-standing and contentious subject. Corporate personhood has given businesses considerable power and influence in society, but it has also made it difficult to hold them accountable for their acts.

As corporations continue to shape our world, the need to address their environmental impact becomes increasingly pressing. The increased public knowledge of environmental issues, along with the disastrous repercussions of business negligence, necessitates strong legislative structures to enforce corporate responsibility and accountability. It is critical to develop collaboration among governments, corporations, environmental organisations, and civil society in order to make meaningful progress in protecting nature's rights and ensuring a sustainable future. Transparency, accountability, and robust regulatory measures can assist in striking a balance between business interests and environmental protection. Finally, nature's rights must be recognised and protected as part of our common obligation to conserve the earth and its ecosystems. As we move forward, it is critical that we learn from indigenous cultures' knowledge and adopt a holistic approach that prioritises the well-being of all living species, including the environment itself.

In the quest for sustainable cities and a more just world, we must go beyond corporate interests and consider the broader repercussions of their activities on the environment. By rethinking justice and embracing a new paradigm of corporate responsibility, there could be a future where corporations act as stewards of the environment - safeguarding a thriving planet for future generations.

[2] Higgins proposes to include ecocide into the Rome Statute as the fifth international crime against

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Climate Change and Ensuring the Right to Food in Developing Countries: The Case of Vietnam

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Abstract

The right to food is a fundamental human right recognized in core international legal instruments on human rights. It is acknowledged as a constituent of the right to an adequate standard of living and enshrined in the 1966 International Covenant on Economic, Social and Cultural Rights. Ensuring the right to food for citizens is an issue receiving significant attention from the governments in all states, especially developing states. According to recent reports on climate change of the Intergovernmental Panel on Climate Change (IPCC), and in particular, the report released in August 2021, climate change has severely impacted all spheres of life, hindering progress in the shift toward sustainability and seriously threatening achievements by all States in ensuring human rights. Rising sea levels can lead to floods and the disappearance of lowland coastal areas vital for agricultural production. This consequently increases the likelihood of other potential threats such as hunger, food insecurity and migration. As a developing agricultural country, Vietnam has strived to make progress in improving agricultural production and becoming a leading supplier of agricultural products to the world, however, the country has suffered adverse impacts caused by climate change.

In order to tackle climate change, Vietnam needs to anticipate negative factors, including both natural and social factors, that will destabilize its supply – particularly waves of migrants from rural areas to urban areas or industrial zones seeking higher-income employment opportunities. As a result, this will undermine the State's ability to ensure people's fundamental rights, especially the right to food. According to a report published by the International Monetary Fund (IMF), by 2100, climate change will affect more than 12% of Vietnam's population and reduce the economic growth rate by 10%. Considering this context, in this paper, the authors will focus on critically analysing the main issues as follows: (i) impacts of climate change on the right to food in the world and Vietnam; (ii) Vietnam's statutory policies and regulations on ensuring the right to food; (iii) challenges that the Vietnamese Government has been confronted with in ensuring the right to food under the influence of climate change; and (iv) specific solutions and recommendations to alleviate and address the austerity of climate change threats to secure the right to food to its citizens.

Keywords: The right to food, human rights, climate change, sustainable development.

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Introduction

Gabriela Bucher, in his address for Oxfam International to the press media, determined that “Climate change is no longer a ticking time bomb, it is exploding before our eyes. It is making extreme weather such as droughts, cyclones, and floods – which have increased five-fold over the past 50 years – more frequent and more deadly”. Research has shown that the climate crisis has paved the way for extreme hunger and severe food shortages in numerous parts of the world under the worst impacts of extreme weather (Harvey, 2022).

Climate change and extremes compounded by the COVID-19 pandemic are major contributors to the increase of world hunger during the 2019-2021 period (FAO, 2021; FAO et al., 2022, p. 10). Available statistics have evidenced that climate change has become more apparent within the recent decades, with weather-related disasters occurring more frequently than ever before (IPCC, 2021). In particular, the average disaster occurrence in the 2000s was 440 distinct events/year and 360 events/year in the 2010s, compared to much smaller figures recorded in the 1970s and 1980s, which were roughly 90 and 100 events/year, respectively. Despite a drop in the average number of disaster events, the 2010s underwent the seven hottest years on record (FAO, 2021, pp. 4–6). The average numbers of heatwaves and extreme temperatures, droughts, and storms occurring yearly rose almost four times to over 150 events/year, compared to the 1970s’ which recorded 40 events/year. Floods also followed a similar trend, with the average number of recorded events increasing from 30 events/year in the 1970s to over 200 events/year in the next three decades, (FAO, 2021, pp. 4–6) becoming the most frequently recorded catastrophic event during the 2001-2021 period (CRED, 2022). When disasters increase in frequency and severity, they concurrently cause economic slowdowns, damages, and other adverse effects. In 2021, the world suffered around 432 weather-related disasters, surpassing the period 2001-2020, which recorded an average of 357 annual disastrous events. Consequently, this caused nearly 10,500 fatalities, affecting roughly 101.8 million people, and breeding economic losses of about USD252.1 billion (CRED, 2022).

In the World Food Summit 1996, the international community emphasized the protection of the right to food by international law, prioritizing it over every macro-economic and trade liberalization policy. The international community additionally pledged to reduce the numbers of people facing hunger and undernourishment in the world by half by 2015 (FAO, 1996). Climate change, with rises in temperatures, shifts in precipitation, and the increase in intense and extreme weather events, has hindered progress in eliminating hunger. Despite the international community’s significant effort in addressing hunger, food insecurity and undernutrition, the report on global hunger published in 2015 revealed a humbling reality that the number of people suffering hunger and undernourishment still remained high, with a total figure of around 795 million people (FAO et al., 2015, p. 8). The following years since 2015 showed no change, however, undernourishment exhibited a worsening trend between 2019 and 2021, with a steep rise recorded from 8.0% in 2019 to 9.3% in 2020, followed by a slight increase to 9.8% in 2021. By 2021, it was recorded that as many as 828 million people in the world still suffered from hunger. Asia and Africa are the two continents contributing the majority of people impacted by hunger with 425 million and 278 million, respectively. While Asia recorded the largest number of people affected by hunger, Africa documented the highest prevalence of undernourishment (FAO et al., 2022, p. 10).

Moreover, available data showed that based on the Global Hunger Index (GHI) scores, global hunger declined considerably since the 1998-2002 period, falling by 7.6 points from 28.0 to 20.4 in the 2010-2014 period. The hunger level continued to decline by 2.5 points to 17.9 in the next four years, although at a slower pace compared to the four-year periods before (von Grebmer et al., 2021, pp. 8–9). The severity of hunger remained higher in some areas of the world that are more vulnerable to climate variability, especially those heavily reliant on weather and climate for producing food. Nearly 50 countries located in Africa South of the Sahara, South Asia, West Asia, North Africa, East and Southeast Asia, as well as Latin America and the Caribbean still suffer from severe levels of hunger (von Grebmer et al., 2021, pp. 5, 10–15).

The global hunger outlook for 2030 is unlikely to be optimistic. Hunger is expected to affect 670 million people, accounting for 8% of the global population, which is similar to the 2015 figure at the time of launching the 2030 Agenda. (FAO et al., 2022, p. 10). Evidence indicates that achieving Zero Hunger by 2030 is unattainable, as current GHI estimations suggest that 47 countries will be unable to lower hunger levels (von Grebmer et al., 2021, pp. 7–8). Climate change in combination with the COVID-19 pandemic have obstructed the progress against hunger and is anticipated to add a number of 78 million people confronted with chronic hunger by 2050 regardless of the existence of climate change (Sulser et al., 2021, p. 14; von Grebmer et al., 2021, p. 9). The repercussions of climate change, accompanied by weather extremes, have become more evident and extensive. Despite some progress towards improving food insecurity since 2015 (FAO et al., 2015), the prevalence of severe food insecurity considerably rose from 9.3% to 11.7% between 2019 and 2021. 2.3 billion people had no access to adequate food in 2021, accounting for nearly 30% of the world population, increasing by 350 million people compared to 2019 prior to the occurrence of the COVID-19 pandemic (FAO et al., 2022, p. 10).

Located in the Asia-Pacific region as one of the most-affected parts in the world by climate change, Vietnam is also vulnerable to climate change. Available data has shown that effects of climate variations and weather extremes have become more apparent in Vietnam during the period 1958 – 2018, in particular (MONRE, 2020a, pp. 47–51; Woillez et al., 2021, pp. 22–23; Tran et al., 2016; T. H. Y. Nguyen & Nguyen, 2021, pp. 224–225):

- Increasing annual temperatures with an average rise of 0.89^{o}C, approximately 0.146^{o}C/decade. Particularly, in the periods 1981-2018 and 1986-2018, the country experienced higher annual temperatures with the average rates of 0.205^{o}C and 0.231 ^{o}C/decade, respectively. This consequently led to an increase of extremely hot days, especially in the North.
- A slight rise in the annual nationwide precipitation from 2.1% to 5.5% but with various and uneven degrees by region. Extreme rainfall was documented as occurring more frequently in the North East, North West, North Delta, South Central and Central Highlands, while rainfall decreased in the coastal areas of North Central.
- Upward trends in the occurrence and intensity of droughts, flash floods, landslides, typhoons, and other weather-related extremes such as El Nino and La Nina.

- Sea-level rise in the coastal areas of Vietnam with a rising rate of roughly 3.6 mm/year on average during the period 1993 – 2018 that the South Central Coast and the Mekong River Delta were more severely impacted recording the higher rates of 4.2 – 5.8mm/year and 2.2 – 2.5mm/year, respectively.

Recent reports for the period from 1999 to 2018 identified Vietnam as one of the most-impacted countries by climate change and extreme weather events (Eckstein et al., 2019, p. 9; Y. T. H. Nguyen & Nguyen, 2022, pp. 166–167; T. H. Y. Nguyen & Nguyen, 2023, p. 43). Vietnam was ranked in 8th place in the list of top ten countries experiencing the most disaster events in 2021 (CRED, 2022). The data collated for the 2000-2019 period featured Vietnam's high exposure and vulnerability to climate variations and extremes, with the overall climate risk index (CRI) score of 35.67, ranking it in the 13th place (Eckstein et al., 2019, p. 49; Y. T. H. Nguyen & Nguyen, 2022, p. 167). Furthermore, the INFORM Reports between 2020 and 2022 presented Vietnam as one of the countries likely to be exposed to extreme weather events, in particular: (Inter-Agency Standing Committee & the European Commission, 2020, p. 38, 2021, p. 34; Thow et al., 2022, p. 9; Y. T. H. Nguyen & Nguyen, 2022, p. 167).

Flood (0-10)	Tropical Cyclone (0-10)	Tsunami (0-10)	Epidemic (0-10)	Drought (0-10)	Earthquake (0-10)	Overall Natural Risk Level (0-10)
10.0	7.9	7.4	6.8	4.3	4.1	7.4

Vietnam is a country significantly dependent on weather conditions for agriculture. Agriculture, comprising livestock husbandry, crop cultivation, forestry and fishery, is one of the key economic sectors contributing to 15.7% of the Nation's economic growth in 2021 (GSO, 2021, p. 186). However, the effects of climate change such as sea level rise, droughts, extreme rainfalls, floods and others cause changes in agrometeorology and growing seasons. Consequently, these changes result in menacing threats like pests which reduce the productivity of crop yields and animal husbandry (T. H. Y. Nguyen & Nguyen, 2021, p. 226).

Within the first 6 years from 2000 to 2006, Vietnam experienced serious hunger with the GHI scores of 26.3 and 21.8 points, respectively. However, the country successfully reduced the hunger level to moderate, decreasing by 5.8 points from 21.8 to 16.0 in the following six-year period. Although Vietnam's hunger level has been on the decline since 2000 and successfully shifted toward the moderate level, it underwent a much slower pace of decline in the following years between 2012 - 2021, falling by only 2.4 points from 16.0 in 2012 to 13.6 in 2021 (von Grebmer et al., 2021, p. 13). The IMF determined that by 2100, climate change will affect more than 12% of Vietnam's population and reduce the economic growth rate by 10% (IMF, 2018). It is therefore necessary for the Vietnamese Government to take actions to address and adapt to climate change to ensure the right to adequate food for all citizens.

Given the aforementioned context, this paper will analyse climate change impacts on the right to food in the world and Vietnam. The authors will then explore Vietnam's regulatory framework on ensuring the right to food. The authors will also investigate challenges that the Vietnamese Government has been confronted with in

ensuring the right to food under the influence of climate change. After analysing and critiquing some shortcomings, the authors put forward specific solutions and recommendations to alleviate and address the austerity of climate change threats to secure the right to food for citizens. The authors employ qualitative methods throughout, collecting available data and statistics and conducting research based on material literature to delineate climate change and its impacts. The authors additionally use exploratory research to present relevant Vietnamese legislative policies and regulations on ensuring the right to food, and then evaluate the achievements and challenges of the Vietnamese Government. In light of this, the authors then summarize pathways to better guarantee the right to food.

The Concept of the Right to Food and the Linkage to Climate Change

How the Right to Food is Conceptualized

The right to food is a component of the right to a standard of living (T. H. Y. Nguyen & Nguyen, 2023, p. 44). The 1948 Universal Declaration of Human Rights (UDHR) is the first instrument acknowledging and delineating the right to food as one of the fundamental human rights to be universally protected (UDHR, 1948, art. 25). Despite being a nonbinding instrument, the 1948 UDHR has laid the groundwork for the official endorsement of the right to food in numerous human rights treaties comprehending the core instrument – the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11 of the ICESCR further affirms the right to food and "the right of everyone to be free from hunger".

The Committee on Economic, Social and Cultural Rights (CESCR) defined the realization of the right to food as "when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement" (CESCR, 1999, para. 6; OHCHR, 2010, p. 2). Thus, the right to food is a right to nutritious food, that which is necessary for a person's health and well-being, as well as the means to access that food (OHCHR, 2010, p. 2). Availability, accessibility and adequacy are the three main pillars constituting the right to food, which can be detailed as follows:

- Availability is to ensure the production of food by cultivating and farming or other ways of obtaining food such as fishing, hunting or gathering, and the distribution of food in markets and shops (CESCR, 1999, para. 12; OHCHR, 2010, p. 2).
- Accessibility is to ensure food is affordable and physically accessible to all people. Every person should be able to purchase food without incurring financial difficulties by having the sufficiency of the minimum wage or social security benefit guaranteed to sustain their need of necessary nutrients. People should be guaranteed with the right to access food, especially vulnerable groups such as children, people with disabilities, the elderly, those experiencing armed conflicts or natural disasters, those living in remote areas, and those serving prison sentences (CESCR, 1999, para. 13; OHCHR, 2010, paras. 2–3).
- Adequacy requires people's dietary needs to be satisfied for the maintenance and development of their physical and mental health, accounting for primary factors such as age, health, gender, living conditions, occupation, and others. Adequacy of food also means food safety, in that food must be guaranteed to not

contain harmful or toxic substances to human health. Adequacy of food also encompasses the accordance of food with culture and religion (CESCR, 1999, para. 11; OHCHR, 2010, p. 3).

Through the lens of human rights and climate change, states bear responsibility for guaranteeing the right to food "not only as a basic need but as a primary obligation" and must be fulfilled through actions by states as the main actors and other non-State actors (Caesens et al., 2009, p. 43). In other words, for the implementation of the right to food, States have responsibilities to respect, protect, and fulfil (Caesens et al., 2009, pp. 43–44). States should avert causing harm to the environment and inducing climate change that exacerbates access to adequate food. States bear the duty to prevent and restrain contraventions of the right to food. For instance, states should constrain polluting industries that escalate climate change. States have the obligation to facilitate an environment empowering people to produce, procure and access food for themselves and their families (OHCHR, 2010, pp. 3–4; Caesens et al., 2009, pp. 43–44).

Furthermore, the right to food is commonly interpreted as a right to be fed and that states are obligated to supply free food to people who need it. However, this is a misconceived idea; the right to food is more meaningful than a right to be fed and is by nature "the right to feed oneself in dignity", in that the satisfaction of people's basic needs is achieved with their own efforts and by using their own resources. CESCR, additionally, pointed out that the right to food is inherently tied with sustainability in consideration of adequate food and food security, intimating that access to food for future generation must be secured (CESCR, 1999, para. 7; Caesens et al., 2009, pp. 43–44).

The Right to Food and Climate Change Are Strongly Interconnected

Climate change has received growing recognition as an issue of global concern, one representing "a code red for humanity" (United Nations - Secretary-General, 2021). According to the United Nations Framework Convention on Climate Change (UNFCCC), climate change is attributable to human activities that cause abrupt and long-term shifts in usual weather patterns including the global surface temperature and precipitation patterns within a specific period. These variations from normal weather patterns consequently increase the frequency and severity of extreme environmental events such as wildfires, droughts, floods, hurricanes, storms, and other natural disasters (UNFCCC, 1992, art. 1.2). Adjusted weather conditions from climate change create domino effects on different aspects of human lives. Climate change threatens economic growth and the lives and livelihoods of millions of people, obstructing the enjoyment of basic human rights such as the right to food.

Numerous studies prove that climate change is the main driver of food insecurity as it directly breeds devastating effects on food security encompassing four elements – availability, accessibility, utilization and stability (IPCC, 2019a, Chapter 5, 2022a, Chapter 5; T. H. Y. Nguyen & Nguyen, 2023, p. 44). As food production heavily relies on climate and environmental conditions, the right to food is inextricably linked to climate change. If climatic conditions do not facilitate the production of sufficient food for the whole population, a state may fail to implement its obligations to ensure the right to food. In essence, if climate change is not constrained to limit weather extremes,

there will be a breach of safeguarding the right to food (Dumas, 2010, pp. 109 and 112–115).

Research has evidenced anthropogenic inputs to climate change. IPCC's latest report documented a higher amount of anthropogenic greenhouse gas (GHG) emissions from 2010 to 2019; this more than any previous decade, increasing by 54% since 1990 (IPCC, 2022b, p. 10). The rise of GHG emissions is attributable to the exploitation and usage of fossil fuels, deforestation, the unsustainable farming of livestock, and other agricultural practices. These practices trap and reflect Earth's infrared radiation back to the surface in excess of the natural GHG effect, leading to global warming and climate change (Caesens et al., 2009, p. 28; IPCC, 2019b, Chapter 1). Food security is under the influence of climate change in various ways. For instance, climate change has direct and immediate impacts caused by variations in temperature, rises in atmospheric CO_2, shifts in rainfall patterns, sea rise levels, and ocean acidification. Water supply and the hydrological cycle are impacted by changes in precipitation patterns. Ocean heat content destabilizes coastal ice sheets and raises sea levels, consequently shrinking land areas. Furthermore, such shifts in weather patterns will generate extreme weather events such as floods, droughts, storms, heatwaves, and others. Climate change also indirectly affects food security with the rise of pests and diseases, as well as biomass and nutritional quality through atmospheric CO_2 changes. Climate change consequently generates long-term and far-reaching impacts on ecosystems and long-standing biodiversity in regions (IPCC, 2019a, Chapter 5, 2019b, Chapters 1 and 3; Caesens et al., 2009, pp. 28–29; Dumas, 2010, pp. 113–115).

Climate change adversely impacts food security by aggravating agricultural production systems encompassing crops, livestock and pastoral systems, forests, fisheries and aquaculture systems, and genetic resources (IPCC, 2019a, Chapter 5; FAO, 2015, pp. 8–19). Crop productivity relies on climate factors including temperature, rainfall patterns and atmospheric CO_2 for plant growth, especially staple crops of the human diet such as wheat, rice, maize, and soybean (FAO, 2015, p. 9). Alterations in temperatures and precipitation patterns cause weather extremes such as droughts and floods which are visible and incrementally frequent in inland areas. Weather-related disasters such as storms, tornadoes, and tsunamis deteriorate land areas, forcing people to migrate great distances to seek alternative food sources and adjust their agricultural practices (Caesens et al., 2009, pp. 29–30; Dumas, 2010, pp. 113–115). Recent research also showed that up to 2021, 85% of the global population suffered weather events which were exacerbated by climate change, and 80% of the global land area was affected (Callaghan et al., 2021, p. 968; Timsit & Kaplan, 2021). Climate change additionally creates conditions for the spread of pests and diseases, allowing them to establish in places where they have not been previously or appear earlier in the season (FAO, 2015, pp. 10–11; IPCC, 2019a, Chapter 5). According to FAO's estimates, pests have damaged up to 40% of global crop production up until 2021 (Bhalla, 2021). Multiple research studies have robustly evidenced the causal relationship between crop productivity and changes in climate including higher temperatures and shifts in rainfall. Downturns and reductions in crop yields, changes in sowing and harvest dates, increased infestations of pests and diseases, and decreasing crop varieties have been documented in several regions around the world including Australia, Europe, Asia, Africa, North America, and South America (IPCC, 2019a, Chapter 5).

Climate change jeopardizes livestock production through animal productivity, yields of forage crops, animal health and biodiversity (FAO, 2015, pp. 11–15). Forests have been devastated and degraded, with a declining number of trees under the effect of droughts, wildfires, and pest outbreaks caused by human-induced climate change and activities such as deforestation and desertification, imperilling the livelihoods of 1.6 billion people and habitats of over 80% of terrestrial species of animals, plants and insects (FAO, 2015; FAO & UNEP, 2020). Climate change detrimentally damages fisheries and aquaculture systems via extreme events such as sea level rise, deep sea ocean swells, increasing temperatures, shifts in salinity and water content, alterations in oxygen concentrations and ocean acidification, and disastrous events such as cyclones or hurricanes (FAO, 2015, pp. 16–17). Marine ecosystems are at higher risk due to rises in ocean temperatures and acidification (UNICEF Vietnam & MPI, 2021, p. 24). Once natural habitats and ecosystems are degraded and devastated, this will result in the reduction of genetic resources of animals, plants and micro-organisms being utilized for food provision and sustenance of the ecosystem structures (FAO, 2015, pp. 17–18). The depletion of fishing yields has impeded both food availability and improvement of rural households' ability to access food (UNICEF Vietnam & MPI, 2021, p. 24).

Vietnam has high exposure to climatic events and changes owing to the country's geographical location in eco-climatic regions, with each part of the country vulnerable to climate change's various effects (Woillez et al., 2021, p. 199; World Bank, 2016, pp. 52–54; T. H. Y. Nguyen & Nguyen, 2023, pp. 44–45). The key crop in Vietnam and the main staple of the diet is rice; accounting for 94% of its arable land. Rice paddies are cultivated in all regions, with rice being the main crop in five out of which. The Mekong River Delta and the Red River Delta are agricultural areas producing the majority of the country's crops, (FAO & UNDP, 2020, p. 6) and are leading regions planting rice, representing 54.47% and 24.08% of the nationwide areas for rice cultivation (Woillez et al., 2021, p. 194; T. H. Y. Nguyen & Nguyen, 2023, pp. 44–45).

The country's agriculture additionally experienced weather extremes with lasting effects such as Typhoon Nok Ten in 2011, Typhoon Haiyan in 2013, and Typhoon Damrey in 2015. The appearance of El Nino was also linked to acute droughts between 2015 – 2016, causing 1.1 million people to be food insecure. Super Typhoon Noru, the strongest storm within the past two decades which recently made landfall in central Vietnam at the end of September 2022, massively affecting the livelihoods of millions of people and causing detrimental losses and damages (Woillez et al., 2021, p. 200; MONRE, 2020a, p. 53; Y. T. H. Nguyen & Nguyen, 2022, p. 169; FAO & UNDP, 2020, p. 7; VNA, 2022; UNICEF Vietnam & MPI, 2021, p. 21). According to FAO's report, from February 2019, as a consequence of African swine fever stretching to all 63 administrative provinces of the country, 20% of the national herd was lost. Under the shadow of African swine fever, Vietnam underwent a reduction in pig meat production, leading to a lack of high-protein provisions and inducing more food insecurity (FAO, 2021, pp. 104–106).

In addition, climate change is one of the main contributors to significant societal issues such as internal migration into big cities imposing more burdens on the welfare systems including ensuring the adequacy of food given the rapid population growth. On average, around 1.2 million Vietnamese people relocate to cities annually (Thanh Nien News, 2016).

Tremendous natural resources such as land, water and others are required for crop cultivation and animal husbandry, especially cattle raising, depending on immense feed-crop production (Vincentnathan, 2012, p. 83).

The agricultural sector is one of the largest emitters of greenhouse gases, generating an enormous amount of CO_2 and non-CO_2 emissions such as methane and nitrous oxide, further contributing to global warming. It was recorded that agriculture was accountable for 9.3 billion tons of CO_2 released into the environment (equivalent to Gt CO_2eq), making up 17% of global GHG emissions. Cultivation and livestock husbandry directly accounted for more than half of that total figure, whilst land use and land change activities related to agriculture contributed to nearly 4 billion tonsCO_2eq by 2018 (FAO, 2020). Other food related contributions to the discharge of GHG emissions are the transportation of food, food processing, food packaging, and food preservation. Overconsumption of food is another major problem increasing the carbon footprint, and therefore contributing to global warming (Vincentnathan, 2012, pp. 83–84).

As a heavily agricultural country, Vietnam's agricultural sector is the second-largest contributor to the total amount of GHGs after its energy sector. During the period 1994-2016, the total amount of emissions that Vietnam created represented a threefold increase from 103.8 to 316.7 million tons. From 1994 to 2014, agriculture was responsible for an increasingly huge amount of emissions, adding 37.3 million tons of CO_2 from 52.4 to 89.7 million tons to the total nationwide proportion of GHG emissions (MONRE, 2020b, p. 49, 2021, pp. 30–31). By 2016, Vietnam initially succeeded in reducing the amount of emissions from agriculture by half, to 44.1 million tons, thanks to effective land use and land change activities, as well as the implementation of drastic forest protection and development efforts. (MONRE, 2021, p. 30).

It is evident that climate change has adverse effects on food security, the right to nutritious food and overall food production. The rise of extreme weather events changes ecosystems and devastates entire food stocks. People are more vulnerable to food shortages (Caesens et al., 2009, p. 47). Catastrophic events as consequences of climate change have jeopardized Vietnam's agricultural production and food security, therefore it is necessary to reduce the impacts of climate change and take adaptive measures.

Adopting a human rights-based approach to climate change is not a simple task as states bear responsibility to navigate efficacious and feasible solutions to climate change, while balancing the rights of citizens and communities impacted by climate change. Hence, if a state fails to take actions in response to climate change, that state is likely to breach human rights imperatives (Lewis, 2015, pp. 39–44; T. H. Y. Nguyen & Nguyen, 2023, p. 44).

Right to Food in Vietnamese Legal System – Situation and Challenges

Empowering Socio-Economic Development: Prioritizing the Right to Food

During previous periods, in the cognizance of climate change undermining the right to food, the Vietnamese Government has made efforts in mitigating and adapting to climate change impacts. Alongside the international community, Vietnam ratified

core multilateral treaties tackling global warming, starting with the United Nations Framework Convention on Climate Change (UNFCCC) on 16 November 1994, followed by Kyoto Protocol on 25 September 2002, and the Paris Agreement on 03 November 2016 (MONRE, 2003, pp. 7 and 9; United Nations Climate Change, n.d.). Through the ratification of these treaties, Vietnam has proactively engaged in international activities aimed at dealing with climate change while ensuring the right to food.

Vietnam is a leading country in the region formulating and adopting legislative frameworks on climate change adaptation and ensuring the right to food. It has made significant strides towards realizing the right to food, supported by its policies on climate change adaptation and national food security. Resolution No. 63/NQ-CP on national food security represents the Government's initial effort in improving national food security. Particularly, under this policy, the Government pledged to guarantee the availability of food sources, eradicate hunger by 2012, and increase productivity of food production (T. H. Y. Nguyen & Nguyen, 2023, pp. 45–46). The Government highlighted the foremost solution of ensuring arable land areas are available and sufficient for staple crops such as rice, by safeguarding 3.8 million hectares for rice cultivation. To support achieving the objectives, the Government further emphasized the importance of scientific and technological applications in food production and committed to increasing the budget for scientific research by 10-15%. The Government also stressed the need for reinforcing and enhancing farmers' capacity by providing training and encouraging the sharing and exchange of scientific knowledge. Additionally, it focused on establishing planning strategies and developing infrastructure serving agriculture and power generation (Resolution 63/NQ-CP, 2009; Dao & Pham, 2020; Petersen, 2017, p. 45; T. H. Y. Nguyen & Nguyen, 2023, pp. 45–47).

Furthermore, the Vietnamese Government has pledged to end hunger by 2025 by inaugurating the National Action Plan for "Zero Hunger" approved in Decision No. 712/QD-TTg dated 12 June 2018 which has been held up by international organizations and primary movements towards the implementation of the Sustainable Development Goal No. 2. This presents a milestone in the progress of realizing the right to food in Vietnam in the context of climate change. Under this Plan, the Government has strived for sufficient food supplies for Vietnamese citizens with specific goals including sufficiency of nutritious food, reduction of under 2-year-old child undernourishment, development of sustainable food systems, augmentation of small-scale farming households' incomes, and elimination of food loss and waste. In the set of resolutions set to achieve these targets, the Government has necessitated the establishment of sustainable food systems with a focus on the adoption of adaptation measures to climate change via the construction and improvement of agriculture infrastructures such as irrigation systems, water reservoirs, and systems of dams and dikes in regions vulnerable to catastrophic events, conducting research on prevention and remedy of weather extremes, and application of technologies in food production (Decision 712/QD-TTg, 2018; FAO in Vietnam, 2018; Dao & Pham, 2020; T. H. Y. Nguyen & Nguyen, 2023, pp. 45–47).

Recognizing that food security plays a crucial part of the country's long-term development and under the shadow of the COVID-19 pandemic, the Vietnamese Government recently issued Resolution No.34/NQ-CP dated 25 March 2021 on ensuring national food security by 2030. The overall targets are to guarantee adequate food for domestic consumption and export and augment people's incomes so that they

can access quality, nutritious and hygienic food to generally enhance stature, physical health and well-being of Vietnamese citizens (T. H. Y. Nguyen & Nguyen, 2023, p. 46). According to this Resolution, the Government focuses on guaranteeing key pillars constituting food security including food supply sources, accessibility, and nutrition needs and food safety. For the maintenance of food provision, the Government aims to flexibly and effectively use agricultural land areas for rice production and sustain 3.5 million ha for planting rice to annually produce a minimum amount of 35 million tonnes of rice. From the Government's standpoint, rice production remains the backbone of national food security. The Government also plans to increase the productivity of vegetables, fruits, animal proteins, dairy food, sea food, and other nourishing food. In terms of accessibility, the Government pledges to ensure farmers cultivating rice in centralized and large-scale areas earn 35% more compared to the original producing price. People's incomes in rural areas are targeted at being increased twice as much as the 2020's. Development and synchronization of infrastructures, transport systems, and food distribution to make food more accessible to people are additional objectives to which the Government moves towards. Moreover, in consideration of ensuring people's balanced and nourishing diets, the Government undertakes to reduce the consumption of rice and diversify people's diets by adding animal proteins, dairy food, vegetation and fruits to ensure the daily calorie intake of over 2,500 Kcal/person and achieve a reduction in children undernourishment, particularly, curtailing the rate of stunted growth to under 19% and the rate of underweight persons to under 10.5%, limiting the prevalence of obesity in children in rural and urban areas lower than 5% and 10%, respectively (Resolution 34/NQ-CP, 2021, sec. II).

For the attainment of targets enshrined in Resolution 34/NQ-CP, the Government sets forth primary measures. Restructuring food production aligned with the market is one of the core initiatives that the Government plans to use to restructure food production following a centralized, large-scale and sustainable approach. Further, the Government will adopt a variety of approaches to sustain food security comprising investment in infrastructure construction for agriculture, scientific application, strengthening human resources in food production, development of alternative food production models, policy reform, development of dissemination of food security, empowerment of communities' involvement and commitment in environment protection and climate change adaptation, and promotion of international cooperation (Resolution 34/NQ-CP, 2021, sec. III). Restructuring the agricultural sector is closely linked to the development of rural areas. The Government has additionally issued a set of criteria on new rural development for the 2011-2025 period. In particular, the Government has set out principal standards by region in which local governmental authorities are urged to take adaptation measures to climate change, formulate policies on preventing and responding to natural disasters, guarantee enough agricultural land areas and irrigation infrastructure, and establish sustainable agricultural production areas in accordance with characteristics of the regions (Decision 318/QD-TTg, 2022).

With the aims of sustaining food security, improving food quality, upholding the competitiveness of the value chain, improving farmers' incomes, promoting sustainable agriculture in the context of climate change adaptation, and safeguarding the environment, the Vietnamese Government has determined that restructuring the agricultural sector is essential. Through the issuance of Decision No. 255/QD-TTg dated 25 February 2021, the Government has launched the plan for restructuring agriculture in all sub-sectors encompassing crop cultivation, livestock, fisheries,

forestry, and salt production. The Government has designed the restructuring by national key products, by sub-sectors, and by region. According to this restructuring plan, the Government has committed to develop the agricultural sector by an annual average rate of 2.5-3.0%/year, augment values of agricultural products and promote the use of eco-friendly fertilizers and plant protection products for food safety, environmental protection, and sustainable development. Unlike policies issued in previous decades, the Government has concentrated more attention on improving the quality of agricultural products, instead of increasing quantity, strengthening the effective use of arable land areas and reducing farming areas with low productivity. The Government has taken the special climatic and geographical characteristics of each region to appropriately strategize crop planting, livestock husbandry, forestation, fishing, and salt manufacturing that are suitable with the region's natural conditions and likely to achieve high productivity (Decision 255/QD-TTg, 2021).

Aligned with the directions and for the implementation of the aforementioned policies, the Vietnamese Government has introduced the Law on Crop Production providing detailed regulations on plant varieties, crop cultivation, and other agricultural activities (T. H. Y. Nguyen & Nguyen, 2023, p. 46). The Law on Crop Production acknowledges prevention and control of climatic disasters and pests, and climate change adaptation as principles in crop cultivation (Law on Crop Production, 2018, art. 3.5). Under this Law, the Government stimulates scientific research and application of technologies in all components of crop production by inventing high-quality and productive plant varieties that are resistant to pests and adaptive to climate change. The Law facilitates the utilization of beneficial creatures, the development of eco-friendly organic fertilizers and biological products, and the implementation of agricultural practices and techniques that minimize harm to the environment. Conducting research on rebuilding soils, crop nutrition and post-harvest technologies, and collecting, conserving and leveraging genetic resources of precious and rare plant varieties, indigenous species to build crop gene banks are also supported and encouraged under this Law (Law on Crop Production, 2018, art. 6). This Law additionally highlights the need for cultivation solutions for climate change adaptation and reduction of GHG emissions (Law on Crop Production, 2018, art. 70).

Ensuring the Right to Food – Integrating Climate Change Responses in National Policies

Viewing climate change through the lens of food security, the Vietnamese Government has realized that the success of food systems in the context of climate change depends on the establishment of an effective management model entailing collaboration between governmental authorities and communities (IPCC, 2019a, Chapter 5). Employment of climate adaptation and mitigation measures to guarantee food security form the backbone of regulatory policies and State management.

Given climate change scenarios, the Vietnamese Government has taken the significant step to prepare a strategic plan for climate change adaptation approved in Decision No. 896/QD-TTg dated 26 July 2022. This National Strategy on Climate Change presents a strong desire for proactive and effective climate change adaptation, reduction of GHG emissions to net zero, and response to adverse impacts caused by climate change (Decision 896/QD-TTg, 2020). Ensuring food security and balanced nutrition is one of the core specific objectives with attention to the restructuring of crop production and livestock farming, and seafood exploitation in

accordance with natural advantages and market demands of each region, and employment of technological methods to develop sustainable agriculture (Decision 896/QD-TTg, 2020). This National Strategy on Climate Change also prioritizes the necessity of proactive responses to catastrophic events, the improvement of climate monitoring, the enhancement of social security, and countermeasures for addressing sea level rise and urban inundation (McElwee, 2020). Recognising that climate change is inevitable and irreversible, the Vietnamese Government has planned initiatives to adapt to and mitigate climate change impacts. In the spirit of commitments to curtail GHG emissions upon the ratification of international treaties addressing global warming and climate change, the Vietnamese Government has recently issued the National Plan for Climate Change Adaptation for the period 2021 – 2030 with a vision by 2050 under Decision No. 1055/QD-TTg dated 20 July 2020. (Decision 1055/QD-TTg, 2020).

The Government reinforced the need for a transition to a green economy which is indicated by the issuance of Decision No. 1658/QD-TTg dated 01 October 2021 approving the National Green Growth Strategy for the 2021-2030 period, with a vision by 2050 (Decision 1658/QD-TTg, 2021). In the recent 26th Conference of Parties (COP26), the incumbent Vietnamese Prime Minister - Pham Minh Chinh asserted Vietnam's continuous commitment to a net zero carbon emissions target by 2050 in the implementation of international treaties tackling climate change (Luong, 2022). Taking prompt action to decarbonize the economy in all spheres following the COP26, Vietnam has planned a set of tasks and solutions for the implementation of the outcomes of the COP26 under Decision No. 888/QD-TTg dated 25 July 2022. These initiatives could be construed as attempts to close a linear economy and shift toward a circular economy to alleviate environmental load. Following the approach of green growth, the Vietnamese Government has strategized the objective of reducing GHG emissions to sustain national food security. More specifically, the Government has determined to promote widespread application of greener production, improve the efficiency of natural resource use, while concurrently reducing emissions and limiting pollution to move towards sustainable development in all economic sectors, including agriculture. One of the key solutions is to develop sustainable agriculture that is more tolerant towards climate change impacts by modernizing agricultural practices, utilizing organic products and green technologies in cultivation and farming, restructuring crop and livestock production, and promoting forest development as a long-term strategic task to prevent future weather extremes due to climate change (Decision 1658/QD-TTg, 2021; Decision 888/QD-TTg, 2022). The Government has taken further steps to actualize its commitment to decarbonization and policies aimed at combating climate change by incorporating them as obligations and responsibilities under the law on environmental protection (2020 Law on Environmental Protection, 2020, Chapter VIII).

In support of the development of a green economy, the Political Bureau has issued Resolution No. 55-NQ/TW to orientate the country's energy development. Resolution 55 indicates new policies for the national energy development with the concentration on the development of sustainable energy. For the efficiency in energy generation and use, Resolution 55 encourages and creates favourable conditions for the private sector to participate in energy development, especially renewable energy and calls for the efficient use of energy and energy saving which are also regarded as collective responsibilities of communities (Resolution 55-NQ/TW, 2020).

Additionally, the Government issued the Law on Natural Disaster Prevention and Control and has recently introduced the National Strategy for Natural Disaster Prevention, Response and Mitigation 2007 – 2025 to implement the strategy on natural disaster prevention and control by 2030, with a vision to 2050 under Decision No. 342/QD-TTg dated 15 March 2022. The general objectives of these statutory policies are to enhance the country's tolerance and resistance to natural disasters and to proactively prevent, respond to and mitigate damages caused by catastrophic events (Law on Natural Disaster Prevention and Control, 2013; Decision 342/QD-TTg, 2022).

Some Difficulties with Vietnam in Ensuring the Right to Food and Responding to Climate Change

Climate Change Scenarios

Vietnam will continue to experience climate variabilities in the coming decades. According to MONRE's report on climate change scenarios, all weather patterns will indicate significant changes. In particular, by the end of the 21st century, the average annual temperature will increase in both the North and South of Vietnam. Following the less severe scenario (RCP4.5), temperatures are anticipated to increase within a range of 1.9-2.4^{o}C in the North and 1.5-1.9^{o}C in the South, while following the more severe scenario (RCP8.5), these figures could be 3.5-4.2^{o}C in the North and 3.0-3.5^{o}C in the South, respectively. Precipitation patterns are expected to rise from 20% to 40%. Tropical storms are projected to occur more frequently. Shifts in monsoon patterns and increased temperatures will affect the length of seasons in that summers will be longer with an increased frequency of extreme hot days, whilst winters will be shortened. Longer summers could mean increased drought risk in the Central North, Central South and South of Vietnam (MONRE, 2020a, pp. 59–81).

Sea level rise is anticipated to be the most concerning climate change impact challenging Vietnam in the future. Sea levels are expected to increase 17 cm by 2030 compared to 1980-1999 levels, and continuously rise 30 cm above baseline by 2050 and 75 to 100 cm by 2100 (World Bank, 2016, pp. 53–54; Y. T. H. Nguyen & Nguyen, 2022, p. 168). The likelihood of land loss is so substantial that the Mekong River Delta dubbed the rice basket of the country will lose 40% of agricultural land in the instance of one-meter sea level rise (McElwee, 2020). Vietnam will face the reality of losing around 40,000 km^2 equivalent to 12.1% of the total area, affecting 17.1 million people accounting for 23.1% of the total population (IPCC, 2001, p. 49; Y. T. H. Nguyen & Nguyen, 2022, p. 168; T. H. Y. Nguyen & Nguyen, 2023, p. 48). Rising sea levels will pave the way for coastal erosion and salinity intrusion, especially in the Red River Delta and the Mekong River Delta as the two most critical parts of agricultural production in Vietnam. At least 1.3 to more than 1.7 million ha of arable land in the Mekong River Delta are prone to be salinized. Staple rice crops will be considerably affected by sea level rise and salinity intrusion (World Bank, 2016, pp. 53–54).

Promoting the effective measures in responding climate change to protect the right to food better

Climate change mitigation and adaptation measures are integral parts of the State's obligations to respect, protect and fulfil human rights. The State shall abstain from conducting any measures adversely affecting human rights and prevent non-State actors from contributing to climate change. The State's decision making-process must consider the respect of human rights to plan policies with proper and suitable directions and goals since the implementation of policies on economic development and mitigation and adaptation measures may trigger detrimental impacts on human rights (Lewis, 2015, pp. 39–44).

Adaptation measures have been planned to be conducted on a wide scope but they lack consideration of the least favourable areas and farmers in such areas, or limit their access to the benefits of development (McElwee, 2020). Under Decision No. 524/QD-TTg dated 01 April 2021, the Government plans to grow 1 billion trees in Vietnam during the 2021-2025 period (Decision 524/QD-TTg, 2021). Whilst this project is aimed at increasing tree coverage as a countermeasure to climate change and mitigate its severe impacts such as landslides or flooding that in turn, safeguard ecosystems, improve scenery, and support agricultural economic progress, nonetheless, the project falls short of details such as what type of trees to be planted, targeted regions, and climatic and geographical conditions of regions and lacks attention to mountainous areas, especially in central Vietnam, under the severe influence of natural disasters. In particular, it seems that the tree-growing project concentrates more on increasing greenery in urban areas and industrial zones with 85% of trees, while upland areas are planned to be greenly covered with only 15%. Large-scale reforestation programs have been funded and implemented in Vietnam, but have received criticism for prioritizing wood production over food security and placing more emphasis on exotic tree species, which were, as a result, inappropriate and did not grow well in the local environment, rather than indigenous species. Plantation forests are not as environmentally beneficial as native forests, offering less wildlife and less protection from storms, and absorbing less carbon emissions (Tatarski, 2021).

Land use and land use change activities can make people reliant on lands for their sustenance exposed to more vulnerabilities. For instance, reforestation and forest management, the cultivation of biofuels, shifts towards new agricultural paradigms, or crop varieties or intensification are mitigation activities that may have considerable significance on the utilization of land and for people depending on farming practices to sustain their livelihoods. Those measures can have extensive influence on the food security of communities, particularly, owing to the replacement of main crops with biofuels (Lewis, 2015, p. 44; Roht-Arriaza, 2010, p. 213).

According to the MONRE's report, Vietnam has 33.13 million ha as natural land in total. Land is mostly used for agricultural purposes with 27.98 million ha equivalent 84.46% of the total nationwide land by 2020. Although the total agricultural land showed an increase from 26.8 to 27.29 million ha from 2013 to 2018, land areas allocated to rice planting have been on the decline, on average decreasing by 6,457 ha/year due to the reduction of unproductive rice crops, salinity intrusion, crop varieties such as cultivation of vegetation, perennial industrial trees, fruit trees, fish farming, and changes in land purposes for urbanization and industrialization for socio-economic development (MONRE, 2021, p. 96). With the aim of socioeconomic development,

changes to land use for urbanization and industrialization are inevitable. Lands have been converted to residential areas and allocated to the construction of industrial zones or application of new agricultural practices or crop varieties. The 2014-2017 period documented a diminution of natural forest lands, particularly protection forest areas, falling from 14.93 to 14.91 million ha, even though reforestation has contributed to a slight rise of the total nationwide forestry to 15.4 million ha by 2020 thanks to the country's strive for forest cover. However, the considerable reduction of protection forests led to the frequent occurrence and intensive level of flood and landslides caused by heavy rain and tropical storms. The trend of changing land use to meet socioeconomic development has threatened land areas for food production, particularly rice cultivation, contributed to land loss, and degraded land throughout acidification, desertification, salinization, and erosion (MONRE, 2021, pp. 97–111).

A wider population requires more food to be produced, which consequently escalates the amount of GHG emissions and precipitate negative environmental effects. In the wake of mitigating climate change impacts while maintaining sufficient food for the increasing population, sustainable intensification is an alternative approach as extensification generates more damage to the environment than the advantage of producing extra food on new lands. Sustainable intensification emphasizes the restoration of degraded land areas to improve and increase the productivity and carbon sequestration (IPCC, 2019a, Chapter 5 p.501). Nonetheless, the application of sustainable intensification was incomprehensive in Vietnam and therefore did not bring great success in ensuring food security and climate change adaptation/mitigation. The paradigm of intensification of rice crops and pig farming by employing land sparing helped to decrease GHG emissions in the short period. However, extra food produced created more emissions which override the savings from land sparing. This necessitates the comprehensive application of sustainable intensification to all constituents of the food system via the reduction of agricultural sprawl, restoration of soils and degraded lands, mitigation of agricultural pollution, efficient water use, and restraint on using external inputs (IPCC, 2019a, Chapter 5 p.501).

Regulatory Formulation and Enforcement

Although the Vietnamese Government has formed a relatively complete statutory framework in support of agriculture for the objective of food security, the enforcement thereof is problematic. In essence, the regulatory text in policies and documents is ambiguous and too general, posing multiple ways of interpretation and difficulties in implementation. The goals are highly ambitious and not all of them are attainable and comprehensively performed. As the policies have only been running recently, thereby, it is too premature to critique the implementation of those policies. Some shortcomings in the policy-making and implementing process have become noticeable. Prior to the issuance of the recent policies and the socioeconomic development plans, there have existed specific strategies and plans for each industry, particularly, rice cultivation. Consequently, this resulted in inconsistencies and contradictions between the master plans and specialized plans and fomented impediments in collaboration between governmental agencies (Petersen, 2017, p. 48).

In 2008, it was detected that Vedan – a Taiwanese invested company discharged untreated sewage into the Thi Vai River, severely contaminating around 77% of the Thi Vai River, detrimentally ruining farmers' crops, arable lands and fishing farms and

engendering digestive and respiratory diseases and malignant tumours to people and affecting people's lives (TN News, 2010a; T. H. Y. Nguyen & Nguyen, 2021, pp. 229–230). At a later time, in 2016, the pollution violation by Formosa Ha Tinh steel plant invested by Formosa – a Taiwanese corporation, was revealed when the massive fish deaths became visible. The poisoning spill caused widespread consequences, wreaking havoc on not only the aquatic ecosystems but also 200 km of the coastline stretching in five provisions in the central region of Vietnam including Nghe An, Ha Tinh, Quang Binh, Quang Tri and Thua Thien Hue (ASEAN Today, 2019; Associated Press, 2016; T. H. Y. Nguyen & Nguyen, 2021, p. 231). This environmental disaster damaged 450 ha of coral reefs and destructed about half thereof, consequently killing around 70 tons of fish which were washed ashore (Associated Press, 2016; Cantera, 2017), 140 tons of farmed fish and 67 tons of farmed clams (AP News, 2016). The toxic spill was a menace to the livelihoods of over 200,000 local residents (AP News, 2016) and putting 400,000 fishermen at risk of losing their jobs and incomes (AP News, 2016; Cantera, 2017; T. H. Y. Nguyen & Nguyen, 2021, p. 231). The consequences of the environmental disasters still remain until present and have continuously damaged sea food production such as shrimp paste in the affected localities as the food products are labelled unsafe for human health and consumption (T. Hoang, 2021).

These aforementioned non-compliance cases happened owing to an absence of monitoring mechanisms to supervise enterprises' activities to ensure their compliance with environmental standards, meaning the State failed to take drastic measures to sanction the polluters and remedy the consequences (V. N. Hoang, 2016, p. 38; T. H. Y. Nguyen & Nguyen, 2021, p. 230). Stagnation in the State's approaches and responses to those environmental disasters caused by private enterprises also represented the State's failures to ensure the rights for the people. As there was no access to justice available for local people and communities who were victims of the pollution, they attempted to assert their rights and sought compensation via informal mechanisms outside the court forum such as through a massive boycott against the violating enterprise's products in the Thi Vai-Vedan case committed by Vedan (TN News, 2010b), conducting protests against the committer in the Formosa case, or via press media to widely disseminate the information of the case to the public to raise the public awareness and place pressure on the violators to make compensation. Although in the Formosa case, the violator pledged to compensate USD500 million to all victims to alleviate the repercussions caused to their living conditions (V. N. Hoang, 2016, pp. 38–39; T. H. Y. Nguyen & Nguyen, 2021, pp. 229–231), it is uncertain that the compensation has been fully paid (ASEAN Today, 2019).

The Thi Vai-Vedan case highlighted the lack of traditional legal mechanisms such as guidance, human resources and capacity enabling class action suits in the Vietnamese legal proceedings, which obstructs the State to safeguard people's rights when being seriously infringed. The Thi Vai-Vedan case prompted the Vietnamese Government to develop and improve formal legal mechanisms such as class actions allowing the State to provide better legal protection to people where their rights are infringed and deter wrongdoings by private actors (Larkin & Vy, 2010). However, upon the occurrence of the Formosa case in the following years, it seems that little preparation in the aftermath of the Thi Vai-Vedan experience was made and the progress of legal protection was minimal in that thousands of victims of the Formosa case then initiated class actions against Formosa Plastics Group under Taiwanese jurisdiction (ASEAN Today, 2019).

In the Aftermath of the Covid-19 Pandemic

Together with climate change impacts, the Covid-19 outbreak has jeopardized food security and aggravated undernutrition. Covid-19 has detrimentally impacted the global economy and national economy, bringing about inflation and recession, disrupted food production, and adversely affected people's lives with increased joblessness and poverty as a result of applying drastic measures to prevent the spread of the virus (FAO, 2022; T. H. Y. Nguyen & Nguyen, 2023, p. 49). The pandemic has caused food prices to increase due to uncertainties around food supplies, which has consequently restricted people's access to food in several countries, including Vietnam, which have been at more risk from climate change (FAO, 2022, p. 2; The World Bank, 2020, p. 7). According to UNICEF's recent report, children are already vulnerable to climate change, which worsened under the influence of the Covid-19 pandemic. The repercussions of the Covid-19 pandemic worsened by climate change trigger more complications and uncertainties. Unemployment resulting in income reduction and loss in addition to increased food prices have made food less affordable to families and children face a higher risk of hunger and undernourishment (UNICEF Vietnam & MPI, 2021, p. 38). The Covid-19 pandemic has immediately obstructed Vietnam's progress in achieving sustainable development goals. In particular, these include fulfilling its undertakings to increase incomes for farmers due to disruptions caused to supply chains and agricultural exports, and ensuring a sufficient food supply, promoting a healthy diet for citizens as well as ensuring food is safe and nutritious. (The Socialist Republic of Vietnam, 2021b, p. 12)

Recommendations – Outlook for Achievement of Sustainable Development Goals

In the country's report on the implementation progress of SDGs, the Government has committed to complete four objectives by the 2025-2030 period, encompassing (i) eradication of nationwide hunger, (ii) reduction in all forms of undernourishment and satisfaction of nutrition demands of vulnerable people including children, female minors, pregnant women, and elder people; (iii) increase in productivity and incomes in the agricultural sector; (iv) ensuring food production and adoption of climate change-tolerant agricultural practices, maintenance of ecosystems, and improvement of land quality; and (v) maintenance of crop and livestock varieties and promotion, approach, and equal and reasonable sharing of benefits from the use of gene sources and knowledge on localities (The Socialist Republic of Vietnam, 2021a, pp. 24–30).

Given the present situation of climate change and its potential scenarios coupled with challenges, the Vietnamese Government may consider existing weaknesses and challenges to offer some solutions to meet the targets the Government has already set for achieving sustainable development.

Since the Government has committed to goals for decarbonisation, in addition to other sectors, the Government should reduce carbon emissions generated by the agricultural sector by adopting the sustainable production model to mitigate pollution caused to the environment. Promotion of international cooperation for financial support and transfer of green technologies. With international support, Vietnam can maximize the total reduced GHG emissions to 27% amounting to 250.8 $MtCO_2e$ compared to the national target of reducing GHG emissions to 9% equivalent to 83.9 $MtCO_2e$ in case of no international support. In the agricultural sector, the country has pledged to

reduce GHG emissions by 0.7% equivalent to 6.8 $MtCO_2e$, however, coupled with international support, the GHG emissions will be mitigated five times by 3.5% amounting to 32.6 $MtCO_2e$ (MONRE, 2020b, pp. 64–65). Therefore, for the attainment of net zero GHG emission reduction, the Government is required to put forward international cooperation to seek more finance facilitating the plan of decarbonisation and exchange high technologies aiding such a plan.

The Government should regularly review and assess the implementation of policies on climate change adaptation and mitigation and food security. It is insufficient to adopt measures targeted at addressing climate change only without considering the advantages and disadvantages of such policies which could handicap food production (T. H. Y. Nguyen & Nguyen, 2023, p. 49). The State should envisage and consider advantages and disadvantages caused to people's living conditions when adopting mitigation and adaptation measures involving the reallocation of land (Lewis, 2015, p. 44). As land is a valuable natural resource but is limited, the Government should make hard decisions about strategic priorities on land allocation. Economic growth is important and industrialisation contributes thereto, however, a healthy environment benefiting humankind with adequate and healthy food is more vital. First and foremost, citizens should be food secure. Climatic and geographical features of each region should be considered before taking any actions and for determining suitable and appropriate crops and livestock farming.

Moreover, from the legal perspective, the Government should additionally revise and reform the legal procedures to provide more legal protections to victims of human-induced pollution disasters. The formation and improvement of effective State management in safeguarding the environment and tackling climate change is also necessary. The applicable regulations are simple and lack protective mechanisms in support of grieved parties in seeking remedies, and are not robust enough to deter private actors from polluting the environment. If the law is still underdeveloped and not stringent enough to meet people's demand for legal protection in case their fundamental rights such as the right to adequate food have been infringed, private entities' contraventions may rise as the imposition of sanctions and the possibility of serious legal actions against them are very low. Thus, in principle, the State should utilize and reform laws as an effective means to prevent wrongdoings committed by private actors (T. H. Y. Nguyen & Nguyen, 2023, p. 49).

Conclusion

There is no doubt that climate change will continue in coming decades and is a menace to the ability of the international community and each nation in ensuring food security, eradicating poverty and achieving sustainable development. If no drastic actions are taken to address climate change, Vietnam will be confronted with societal issues as a result of its failure to ensure the right to food for all citizens. IPCC Chair Hoesung Lee, in the IPCC's recent press release, said that "We are at a crossroads. The decisions we make now can secure a liveable future. We have the tools and know-how required to limit warming" (IPCC, 2022c). The Vietnamese Government has taken numerous actions to tackle climate change, promote international cooperation, and bound themselves to curtail the amount of GHG emissions contributing to global warming and instigating climate change with the optimal aim of ensuring the right to food to all citizens. Despite remaining challenges, the Vietnamese Government will strenuously make great efforts in both responding to climate change and ensuring the full enjoyment of the right to food for all people.

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