

**SUBMISSION OF THE ENVIRONMENTAL RIGHTS ORGANIZATION NETWORK (EROG).**

This is a joint submission by the EROG NETWORK on Human Rights Council resolution 53/6 on human rights and climate change.

**Comments/Interventions.**

1. Please describe through concrete examples and stories the impacts of loss and damage from the adverse effects of climate change on the full enjoyment inhuman rights in your country. Please indicate whether the impact was exceptional or whether an example of many similarly situated cases. Please estimate the number of cases that may be similar in your country.

The adverse effects of climate change have had detrimental impacts on the environment and the livelihoods of communities and nations that have done very little to contribute to carbon emissions negatively impacting the environment. Majority of those affected by the impacts of climate change are found in the Global South mainly from the developing countries. These countries do not have the capacity to effectively address some of the impacts of climate change to the environment and this in turn affects the enjoyment of human rights by people in these nations. As we recognize, human rights and the environment are inextricably linked, as human rights cannot be enjoyed without a safe, clean and healthy environment, and the exercise of human rights is crucial to the protection of the environment. The Global North and the developed nations have done very little to reduce on their carbon emissions as per the 2015 Paris Agreement and have instead placed the planet at the brink of collapse.

In Kenya communities have continued to lose their entire livelihoods as a result of the negative consequences that arise from the unavoidable risks of climate change. Prolonged droughts, heavy rainfalls, bushfires etc. have decimated communities that are already in vulnerable state with no proper access to fundamental basic needs. Notable examples of how climate change has affected the enjoyment of human rights in Kenya are as illustrated by the two examples below.

**The right to life**

The adverse effects of climate change on human societies and the natural environment are unprecedented. In the year 2023 Kenya experienced one of the worst longest droughts. In Kajiado County, pastoralists lost thousands of livestock to drought due to lack of water and pasture.[[1]](#footnote-1) For example Mr. Metuy from Kajiado County lost more than 20 of his dairy cows that collapsed and died from unrelenting heat during the drought season. This disrupted his livelihood as he depended on the livestock for sustenance. In the pastoral areas, herders suffered widespread losses, with a recorded 2.6 million livestock deaths attributed to the drought.[[2]](#footnote-2) In November 2023, at least 120 people died, and the members of almost 90,000 households displaced by flooding in Kenya. The country was hit with flash floods that were made worse by the natural weather phenomenon of El Nino rains.[[3]](#footnote-3) The drought and floods were catalyzed by climate change which in turn denied the citizens who had very little to contribute to the situation the right to live. Nothing has been forthcoming in terms of compensating the impacted communities for the losses and damages they have suffered as a result of climate change.

**The right to adequate food and the right to housing.**

The prolonged severe drought in Kenya led to approximately 5.4 million people without adequate access to food and water between March and June 2023. Up to 1.2 million people faced food insecurity at the emergency level, the second-most severe of the five-tier international classification.[[4]](#footnote-4) On the other hand, the horrific floods left communities in the lower Tana Delta in Kilifi and Tana River counties without homes as the floods completely submerged their homes leaving them with no shelter over their heads denying them the right to adequate housing and at the same blocking access to basic needs such as food. Most of the crop fields and food were destroyed by the heavy rains and access roads to supply humanitarian relief completely rendered unusable by the floods. The residents hence faced hunger and the right to adequate food was curtailed. No compensation has been done to these communities who continue to largely suffer the devastating effects of climate change.

1. Please describe any relevant quantitative and qualitative data as well as mechanisms and tools to measure, monitor, report on, and evaluate the impacts of loss and damage, including from extreme weather and slow-onset events, on the full enjoyment of human rights. Please take into account, inter alia, the disproportionate effects on women and girls, children, youth, older persons, persons with disabilities, Indigenous Peoples, migrants, persons living in poverty and others in vulnerable situations.

The unpredictable weather patterns ranging from excessive rainfalls to prolonged droughts that lead to massive destruction of life and property especially in the Global South are all indicators of climate change. The number of lives lost, livelihoods destroyed, and forests burnt as a result of wild fires, failed crop planting seasons, increase in food insecurity due to droughts that lead to poor crop yields etc. can be used to measure and evaluate the impact of loss and damage. Other mechanisms such as research, studies and media coverage can be used to monitor the impacts of loss and damage to communities. Women, children and the older persons are always the most affected by climate change and they bear the greatest brunt of loss and damage. Fundamental rights such as the right to food and the right to live in a clean and healthy environment are thus affected by the loss and damage caused by climate change.

1. Please describe any specific measures, including public policies, legislation, practices, strategies, or institutional arrangements that your Government has undertaken or plans to undertake at a national, sectoral or sub-national level, incompliance with applicable international human rights law, to avert, minimize and address loss and damage, including equity-based approaches and solutions. Please also identify any relevant mechanisms for ensuring accountability, including means of implementation.

The current Kenya Kwanza Government has come out strong as a champion of combating climate change. The head of state of Kenya has committed to planting 15billion trees in the next 10 years to help combat climate change which will in turn address loss and damage. The government has continued to participate in the UNFCCC conference of parties which discusses issues around climate change. The push by the Kenyan government to have the creation of a loss and damage fund during the COP 27 is a move by the state to ensure that those who are adversely affected by climate change get to be compensated. The government also through the relevant ministry sets aside budget to address disasters resulting from climate change such as prolonged droughts and floods. Please identify and share examples of promising practices and critical challenges in the promotion, protection, and fulfilment of the full enjoyment of human rights in the context of loss and damage, including examples that highlight multilateral cooperation and approaches, at global and regional levels, including equity-based approaches and solutions.

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The commitment by the developed nations who are the main contributors of climate change due to the amount of carbon emissions they give to put sufficient funds in addressing the loss and damage is not satisfactory. Very few countries have committed to putting funds to compensate those adversely affected by climate change. They have committed very little funds to the loss and damage fund that was established at COP27. This continues to advance the violations of human rights as those who least contribute to climate change suffer the greatest impacts and consequences.

1. Please provide specific recommendations, if possible, on how to address the critical challenges that have been identified, including actions to be taken at country, regional, and global levels, as well as by different groups of stakeholders, Governments, development agencies, financing institutions, and others.
* There is need for strengthening of the loss and damage fund to ensure fair compensation for those who are adversely impacted by the effects of climate change.
* There is need to develop a binding international treaty to hold accountable the leading polluters of the environment and put in place mechanisms that will ensure they pay for the damages and costs of restoring the depleted environment.
* Financing institutions should stop funding projects that exacerbate climate change.
* Governments especially from the developed nations should commit to the 2015 Paris Agreement that aims to keep the rise in mean global temperature at 1.5°C.
1. Please provide any additional information you believe would be useful to support climate action and justice that promotes the full enjoyment of human rights in the context of loss and damage.

There needs to be increased capacity building for communities on the effects of climate change and how that translated to loss and damage that curtails the enjoyment of their human rights. Enhancing capacities of communities and those greatly affected by the climate change can be a perfect tool to hold accountable those responsible for loss and damage.

1. https://www.un.org/africarenewal/magazine/january-2023/climate-change-destroys-livelihoods-kenyan-pastoralists [↑](#footnote-ref-1)
2. https://reliefweb.int/report/kenya/kenya-drought-response-plan-january-december-2023-issued-january-2023 [↑](#footnote-ref-2)
3. https://www.voanews.com/a/death-toll-rises-to-120-in-kenya-floods/7374018.html [↑](#footnote-ref-3)
4. https://www.aa.com.tr/en/africa/severe-drought-to-leave-over-5m-kenyans-hungry-in-march-june/2828002 [↑](#footnote-ref-4)