

**NHRI**

**ARGENTINA**

**DEFENSOR DEL PUEBLO DE LA NACIÓN**

**NATIONAL HUMAN RIGHTS INSTITUTION**

**Questionnaire in relation to Human Rights Council resolution 53/6**

**on human rights and climate change**

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 of human 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 drought of the past three years has been the most extreme of its kind this century. It has severely affected crop and livestock production and other food-related economic activities, whose fluctuations have the capacity to drive up prices and reduce exports, leading to exorbitant price increases and significant poverty.

Our work reveals that economic and non-economic losses and damage are likely to be caused by phenomena such as high floods and/or low river flows, desertification, rapid acceleration of forest fires, and other extreme events.

To illustrate, heavy rains have left many indigenous and rural communities, particularly in the north, cut off and isolated, with no access to jobs, schools or health centres. Floods have the potential to destroy their homes and much of what they need to survive. Similarly, droughts also affect their livelihoods, sources of employment, and the availability of water for both human consumption and for livestock or crops.

In summer, when torrential rains and heat waves occur, difficult access to health facilities exacerbates the existing conditions of dehydration and acute illness, sometimes killing *Wich*i children. In rural areas, women are often responsible for collecting and transporting water for human use, a task that is made more complex by desertification and drought.

Urban slums with a high proportion of people living below the poverty line experience the same negative effects: waterlogged and flooded streets, power cuts, heat waves, difficulties in managing solid urban waste, overflowing sewers or polluted watercourses, increased air and water pollution, spread of disease-carrying animals and insects (mosquitoes, rats), deterioration of household infrastructure. As a result, there are significant economic losses and other damages that have a direct impact on the rights to health, food, a clean environment, work and education, due to difficulties in movement, access to a decent home and a good life, and even access to life itself.

These adverse rights impacts are exacerbated when poverty (itself a source of vulnerability and discrimination) intersect with other discriminatory factors such as race or country of origin (migrants), gender (women or dissidents), age (children and older adults) and/or disability. Moreover, environmental degradation itself can at times lead to illness, which in turn can lead to disability, seriously disrupting life plans and increasing the risk of poverty and indigence.

The floods in the city of La Plata (capital of the province of Buenos Aires), which caused severe damage to roads, homes and workplaces in some areas, are just one recent example.

In addition, it must be mentioned the fires in Corrientes province. These fires, fuelled by a prolonged drought, caused a significant loss of biodiversity and the ecosystem services they provide, devastating farmland, native forests, wetlands and forest plantations. This resulted in considerable material and economic costs, estimated at P80 billion by different government agencies.

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.**

Given the current state of climate change, governments should be equipped with tools to measure, monitor and assess the impact of climate change-related loss and damage on communities in order to be prepared to design and adopt mitigation, adaptation and response strategies.

As children have developing needs, they are certainly more directly exposed to climate-related environmental impacts.

In this regard, some of the possible measures could include: promoting community capacity building to adapt to climate change; making existing information on climate change, its impacts and GHG emissions available to all members of society; establishing early warning and disaster response structures to protect rights, lives and property; ensuring access to active participation and effective consultation of those groups likely to be affected, either by climate change or by the adaptation or mitigation efforts to reduce its impacts. And also removing barriers that prevent vulnerable communities from fully enjoying their rights.

These actions should be targeted at the communities most vulnerable to such effects by examining the causal factors involved. Intersectionality is a valuable analytical tool for identifying the disadvantages or forms of discrimination that result from the combination of all these factors, as well as the social relations in which these people or groups interact, their personal and community histories, and how power structures affect their lives.

In this context, the following responsibilities should be highlighted: to protect and guarantee the rights to prior consultation and FPIC of indigenous communities, whose knowledge and practices slow down the effects of climate change; to eliminate all forms of discrimination and violence against women, who are usually at the forefront of both climate action and territorial defence; to promote the best interests of the children, whose lives and futures are still more threatened than those of the rest of the population; and to protect the specific rights of persons with disabilities, older people, migrants and other vulnerable groups.

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, in compliance 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.**

This section presents the most relevant investigations carried out by the Office on compliance with a series of legal instruments (laws, plans, etc.) adopted by the Argentine government. Such legislation has a direct impact on policies to mitigate and adapt to climate change, and thus to prevent, minimise and respond to damage. Our studies, conducted over several years, provide a historical and future perspective that can be very useful in a decision-making process.

Argentina is a country with abundant forest resources, including seven main native forest types, but a good part of them are degraded. There are many human activities that accelerate climate change, and deforestation is one of these activities. Since its approval in 2007, the Office has been monitoring the implementation of *Law 26,331 on Minimum Budgets for the Environmental Protection of Native Forests*. This work includes monitoring the implementation of the policy for the protection of native forests in each province; evaluating the environmental land-use planning of the territory in order to define categories for the protection of native forests, which are reviewed every five years; and following up on the application of the *National Fund for the Enrichment and Conservation of Native Forests*. At the same time, specific complaints are being examined which continue to show that the challenges to the conservation and sustainable use of the country’s native forests persist. Land-use permits for agricultural production and forest fires were the main topics of investigation. In 2020, the Office received some complaints about real estate development projects involving deforestation of protected forests.

Wetlands cover 25% of Argentina’s territory. Despite their importance for life and regional economies, these ecosystems are highly threatened by inappropriate use. Since 2012, this Office has been supporting and promoting the adoption of a law on minimum budgets for the conservation and sustainable use of wetlands, based on our experience in handling complaints related to a variety of issues affecting this type of ecosystem in different locations. The Paraná River Delta (in Spanish: Delta del Paraná) is a strategic wetland for Argentina where fires are a recurrent threat. It has been intensively studied since 2008, as reflected in our Resolutions DPN 149/08, 145/09, 146/09, 147/09 and 1/15.

During 2017, the monitoring of the regulations issued under *Law 25,688* *on the* *Regime of Environmental Water Management* has been addressed. In Resolutions DPN 39/07, 22/07 and 23/07, as well as in the documents submitted to the *Matanza-Riachuelo* lawsuitand in other publications, this Office has repeatedly warned of the risks of non-compliance with this law and has called for appropriate regulations to be issued.

In addition, since 2019, our institution has been overseeing the implementation of *Law 27,520 on Minimum Budgets for Adaptation and Mitigation to Global Climate Change*. This law establishes the objectives of the national policy on climate change, which are essentially aimed at developing tools and measures to study impacts, vulnerability and adaptation, as well as reducing the vulnerability of human beings and natural systems to climate change, protecting them from its adverse effects and taking advantage of its benefits.

Finally, it should be noted that Argentina has ratified the *Escazú Agreement,* whose *National Plan for the Implementation of the Escazú Agreement* has recently been launched. The Office has participated and continues to participate in various meetings and forums for the dissemination and application of this instrument, and has begun to follow up on it. In the cases investigated as a result of the irregularities that are generally reported by citizens in relation to EIAs*,* the right of access is central. However, the effective exercise of rights, in particular the access to information and social participation, is of paramount importance in designing measures to prevent, minimise and manage loss and damage.

1. **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.**

Moving from climate change mitigation to adaptation to the new environmental context is, of course, the major challenge. This transition will require, *inter alia*, changes in land use, a shift to new forms of production, sustainable consumption and development, and the conservation and restoration of ecosystems. In order to protect the interlinked rights to development and a life in dignity, these changes will necessarily have to be introduced gradually. The recently enacted *National Environmental Education Law* should be considered as an example of good practice and our Office is following its implementation.

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.**

A significant number of the reviewed complaints demonstrate the need to strengthen the implementation of EIA tools that include a human and social dimension, thereby safeguarding the right to a healthy environment and other related rights.

As a rule, the State’s environmental responsibilities are based on the principles of due diligence, precaution and preventive action in order to avoid serious or irreversible damage.

Therefore, in exercising their duty to regulate activities that may cause harm, States must take into account the direct and cumulative impacts that may occur on human rights and ecosystems; establish monitoring and accountability mechanisms; impose sanctions and reparation and remedial obligations; identify and determine the responsibilities of proponents and the jurisdiction of the authorities over the matters involved; and ensure that the procedure and requirements of the *Environmental Impact Study* are complied with prior to the commencement or authorisation of the proposed activities (whether public or private).

**6. 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.**