

## ARGENTINA

### DEFENSORÍA DEL PUEBLO DE LA NACIÓN A NATIONAL HUMAN RIGHTS INSTITUTION

#### “Human Rights and Climate Change”

#### Questionnaire in relation to Human Rights Council resolution 47/24 on Human Rights and Climate Change

***1. Please describe the impacts of the adverse effects of climate change on the full and effective enjoyment of the human rights of people in vulnerable situations. Where possible, please share specific examples and stories.***

According to our analysis, the adverse effects of climate change such as the alarming frequency of extreme events, floods and/or rises and falls in river levels, flash floods, desertification processes, droughts, wildfire acceleration, among others, have a negative impact on the full and effective enjoyment of the human rights of every person and all peoples, in urban and rural areas, being those in vulnerable situations particularly hard hit.

Indigenous and rural communities remain cut off and isolated as a result of heavy rainfall and/or strong river floods nearby their territories. This makes it difficult and even impossible for their members to attain health posts, to have access to ambulance services in remote areas and schools, and also to secure their homes and/or livelihoods. As a result, the rights to have access to healthcare services, education, adequate housing and life are directly impaired. Likewise, desertification and drought processes impact on their basic sources of income and employment and on the availability of water for humans and animals, thereby affecting the rights to water, food, development, and ultimately the right to life.

These same severe adverse effects cause, particularly in urban slums where a high percentage of population is living beneath the poverty line, water logging and floods, power cuts, heat waves, deficiencies in managing solid urban waste, sewer overflows or polluted waterways, water and air polluted growth, high density of disease-carrying animals and insects (rats, mosquitoes) and housing and infrastructure damages. Therefore, fundamental human rights such as the right to health, food, a healthy environment, work and education are certainly undermined because of considerable difficulties in moving, in achieving access to an adequate housing and a dignified life, and even in exercising the essential right to live.

To cite a recent example, we might mention here the falling of Paraná River levels, which produced, among others, the following visible effects: an increasing mortality of the fish population (a bread-and-butter issue directly affecting local residents), drinking water supply restrictions (in one of the country's most densely populated areas), air pollutant concentration, soil erosion and loss of native vegetation. Most of all, a shortage of potable water became especially relevant in the context of the current pandemic, when handwashing and surface cleaning are deemed essential to combat the SARS-CoV-2's spread.

**2. Please describe any specific policy, legislation, practice or strategy that your Government has undertaken, in compliance with applicable international human rights law, to promote an approach to climate change mitigation and adaptation, as well as loss and damage that ensures the full and effective enjoyment of the human rights of people in vulnerable situations. Please also note and identify any relevant mechanisms for ensuring accountability for these commitments including their means of implementation.**

In December 2019, Argentina passed Law No. 27,520 on *Minimum Budgets for Adaptation and Mitigation of Global Climate Change* (Climate Law) and one year later its regulatory Decree No. 1030/2020. This law confirms and regulates the international commitments undertaken by our State, and strengthens climate national policies and sub-national plans by setting the minimum environmental protection standards to ensure effective nationwide mitigation and adaptation actions, tools and strategies against climate change. Accordingly, these procedures must respect the principles of common but differentiated responsibilities at international level; the mainstreaming of climate change into national policies; prioritization of the needs of particularly vulnerable social groups to climate change; and complementarity between the two key actions already mentioned. In addition, the *National Climate Change Cabinet* (GNCC, in Spanish) has also been established. This national body shall be responsible for coordinating and approving decision-making policies concerning adaptation and mitigation solutions against climate change, and for drafting the *National Climate Change Adaptation and Mitigation Plan* (PNAyMCC, in Spanish). The *Jurisdictional Response Plans* are also included therein, i.e. plans to be developed by all provinces and the Autonomous City of Buenos Aires (CABA, in Spanish).

Enforcement mechanisms are not provided for in this law, such as incentive-based policies or possible sanctions for non-compliance. To mention just one example, the three-year period granted to all provinces and CABA by such regulatory Decree for carrying out and approving their response plans (cf. section 20); however, no sanctions shall be imposed in case of failure to comply with such obligations.

Moreover, Argentina has adopted other laws inherent to key economic sectors which impact on the climate agenda. Such State legislation, although pursuing additional socio-environmental goals, contributes to climate change mitigation and/or adaptation. The Law No. 26,331 on *Minimum Standards for the Environmental Protection of Native Forests* (Forest Law) is a clear example. Argentina is a forest-rich country that includes seven major forest types spread across the country, being the great majority of them highly fragmented or deteriorated. Besides, the loss of native forests reached a critical level in recent decades. As all know, many human activities exacerbate the conditions that cause climate change, and deforestation is one of them. The Ombudsman's Office carries out a regular monitoring to ensure compliance with the Law provisions in all provinces. This includes implementing native forest protection policies; evaluating the environmental land use planning which determines protection categories for native forests and must be updated every five years; and implementing the *National Fund for the Enrichment and Conservation of Native Forests* which has no means since its inception to compensate native forest owners. At the same time, specific complaints are being investigated which show, from year to year, the remaining challenges in order to

achieve for the conservation and sustainable use of the country's native forests. At this point, "land clearance" for agricultural production and forest fire are the two primary

causes that have been identified. In 2020, the complaints dealt mainly with the clearing of protected forest areas for real estate developments.

What happens with the Native Forest Law just like it happens with other regulations that exert an impact on mitigation and/or adaptation solutions against the effects of climate change. When looking this issue more closely, the lack of adequate financial funds or the absence of incentives is noticed.

**3. Please share a summary of any relevant data that captures how the adverse effects of climate change have affected people in vulnerable situations, taking into account multiple and intersecting forms of discrimination (i.e. discrimination based on a combination of multiple grounds, including disability, gender, race, colour, sex, language, religion, nationality and migration status).**

The conditioning factors based on gender, social dimension, ethnicity, age and religion, among others, exert their influence upon the social construction and identification of vulnerabilities and capacities. They created differences and inequalities at the time of facing and recovering from the effects of climate change. Similarly, higher job insecurity rates and unemployment, income disparities, as well as low-productivity employments, place women in extremely vulnerable situations to deal best with the disasters caused by climate change.

The femininity index in poor households has recently experienced an increase in Argentina, which implies that such households concentrate a higher proportion of women. Accordingly, the *Economic Commission for Latin America and the Caribbean* (ECLAC) estimates that women devoted an average of 15.2 hours per week to paid work around 2013, compared to 33.2 hours per week for men, and an average of 42.4 hours of unpaid work compared to 17.3 hours for men<sup>1</sup>. In this context, our in-depth analysis from a gender perspective leads us to affirm that precarious settlements constitute the urban locations where women find themselves in particularly vulnerable situations. Lack of provision of public services, inadequate housing and deficient habitat quality, together with a serious risk of experiencing violent situations - further exacerbated in crisis scenarios - constitute the key factors that determine such state of affairs. As regards rural women, and taking into account their dual-role of being responsible for reproductive and productive work, they still have barriers to trade their own products and exhibit a limited experience for the use and management of credit. In addition, they may face land tenure restrictions and lack of safe water<sup>2</sup>.

Considering the cases related to rural and indigenous people referred to in point 1 above, it can be added that sometimes members of indigenous communities are discriminated against in the access to healthcare services on the grounds of ethnicity, being this situation far worse when gender and age are taken into account. Many women do not reach health facilities to deliver, and some diseases such as diarrhoea or parasitic infections more severely affect children. These circumstances lead to community Wichi's

<sup>1</sup> ECLAC. Gender Equality Observatory for Latin America and the Caribbean. Retrieved Nov. 16th, 2021, from <https://oig.cepal.org/es/indicadores/tiempo-total-trabajo>.

<sup>2</sup> Ministry of Environment and Sustainable Development (2020), Second Nationally Determined Contribution of Argentina, Retrieved Nov. 16th, 2021 from <https://www.argentina.gob.ar/ambiente/cambio-climatico/contribucion-nacional>

infant deaths in summer, a period threatened by torrential rains and extreme heat. In rural areas, women are usually responsible for collecting and carrying potable water, activities that become increasingly complex in locations experiencing serious draught and desertification.

In urban settings, the impairment of the rights referred to in point 1 above is exacerbated when poverty (a condition which can in itself lead to vulnerability and discrimination) is overlapped with other factors that bring about discrimination, such as race or country of origin (immigrants), gender (women or sexual dissidents), age (children and the elderly) and/or the disabled. Furthermore, sometimes environmental degradation causes disease, which in turn may cause disability, thereby producing an enormous impact on life projects driving the risk-of-poverty and extreme poverty rates upwards.

***5. Please identify and share examples of good practices and challenges in the promotion, protection, and fulfilment of the human rights of people in vulnerable situations in the context of the adverse effects of climate change.***

The challenge is clear: at first, the need to go beyond the required action towards the climate change mitigation, by implementing adaptation strategies to cope with the new environmental situation. This will certainly imply land-use changes, a transitioning phase to new and sustainable forms of production, consumption and development, as well as ecosystem conservation and restoration works, among others. Aimed at protecting the interlinked rights to a worthy life and development, the process must necessarily be a gradual one. The *National Environmental Education Law* (Environmental Education Law) recently approved by Law No 27,621 could be served as an example of good practice since the right to a comprehensive environmental education has been enshrined therein as a public policy.

***6. Please include examples and good practices that highlight international and multilateral cooperation and approaches that are implemented through close consultation with and active involvement of people in vulnerable situations.***

The *Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean* (The Escazú Agreement) has been approved by Law No. 27,566 and duly ratified by our State, entering into force in April 2021. This agreement aims to guarantee the full and effective implementation in Latin America and the Caribbean of the right to access environmental information and participate in environmental decision-making, thereby promoting access to information and access to justice related to environmental matters. Further, the law provides for the creation and strengthening of capacities and cooperation, contributing to the protection of the rights to live in a healthy environment and to sustainable development which are inherent to all persons of current and future generations. Certain provisions for persons or groups in vulnerable situations have been included therein, that is, persons or groups who encounter particular difficulties in exercising fully the access rights recognised under the terms of this Agreement.

Therefore, the Agreement provides that:

1. Each Party shall ensure that guidance and assistance is provided to the public – particularly those persons or groups in vulnerable situations – in order to facilitate the exercise of their access rights.
2. Each Party shall facilitate access to environmental information for persons or groups in vulnerable situations, establishing procedures for the provision of assistance, from the formulation of requests through to the delivery of the information, taking into account their conditions and specificities, for the purpose of promoting equal access and participation under equal conditions.
3. Each Party shall ensure that such persons or groups in vulnerable situations, including indigenous peoples and ethnic groups, receive assistance in preparing their requests and obtain a response.
4. In order to facilitate access by persons or groups in vulnerable situations to information that particularly affects them, each Party shall endeavour, where applicable, to ensure that the competent authorities disseminate environmental information in the various languages used in the country, and prepare alternative formats that are comprehensible to those groups, using suitable channels of communication.
5. The public authorities shall make efforts to identify and support persons or groups in vulnerable situations in order to engage them in an active, timely and effective manner in participation mechanisms. For these purposes, appropriate means and formats shall be considered in order to eliminate barriers to participation.
6. In order to give effect to the right of access to justice, each Party shall meet the needs of persons or groups in vulnerable situations by establishing support mechanisms, including, as appropriate, free legal and technical assistance.

***7. Please provide any additional information you believe would be useful to support climate action that promotes the full and effective enjoyment of the human rights of people in vulnerable situations.***

The imperative need for strength the use of environmental impact assessment tools for measuring the human and social dimension have been requested in a significant number of complaints submitted to our institution. Therefore, the Ombudsman's Office passed the Resolution DPN 11/2020 heading in the same direction.