22 June 2022

**RE: Call for input -Promotion and protection of human rights in the context of mitigation, adaptation, and financial actions to address climate change, with particular emphasis on loss and damage**

**Question 1:**

*What experiences and examples are you aware of that are being faced by particular individuals and communities in vulnerable situations that have suffered loss and damage due to the adverse impacts of climate change?*

**Introduction**

Climate change induced loss and damage, including biodiversity loss, poses significant threats to indigenous peoples, local communities and environmental defenders in Africa and the global South more broadly. These individuals and communities, least responsible for the climate crisis, yet most vulnerable to its impacts, face multiple and intersecting consequences, ultimately violating their human rights, including civil and political rights; economic, social, and cultural rights; and their right to life and self-determination. In the sections below, we highlight loss and damage to biodiversity, and the resulting negative impacts upon the rights and lived experiences of indigenous peoples, local communities, and environmental defenders in Africa.

**Biodiversity loss in Africa**

Africa is currently experiencing a loss of biodiversity due to both the impacts and drivers of climate change. Biodiversity is the existence of different ecosystems, different species of organisms with a wide range of variants and genes, and different environments. In 2014, 6,419 animal species and 3,148 plant species in Africa were classified as threatened with extinction by the IUCN Red List.[[1]](#footnote-1) Food production, deforestation, and resource extraction result in massive losses of biodiversity while worsening the climate crisis, but 2018 research estimated that climate change will surpass such human land use to become the greatest factor towards biodiversity loss by 2070.[[2]](#footnote-2) By 2100 in Africa, it is estimated that climate change alone may cause a 20 – 30% decline in plant and animal life in lakes, a massive loss of plant species, and the loss of over half of African mammal and bird species.[[3]](#footnote-3) Climate change is also driving species to move from their natural habitat ranges as their desired climate and surrounding resources shift, resulting in further loss.

**Resulting damage to Indigenous and community rights**

Loss of biodiversity leads to the increasing disappearance of invaluable resources such as medicinal plants, traditional foods, climate-resilient crops, and carbon-rich ecosystems. This can in turn cause social and political conflict driven by resource scarcity, the erosion of traditional knowledge, rising food prices, and unemployment. Although Indigenous people represent only about 5% of the world’s population, they are caretakers to over 40% of ecosystems and make up about 15% of the impoverished people in the world.[[4]](#footnote-4) Amongst around 370 million Indigenous peoples in the global South, biodiversity has a key role in their livelihoods, cultural practices, and overall well-being.[[5]](#footnote-5) Because Indigenous communities rely so heavily on the health of their surrounding ecosystems, they are extremely vulnerable to biodiversity loss and damage caused by climate change and its drivers.

**Damage to economic well-being**

Biodiversity loss has severe impacts on the economic well-being of communities and can threaten their rights of economic independence, livelihoods, and their rights to decent work. Coastal areas are one of the many places in Africa with rich biodiversity. However, they are increasingly exposed to loss and damage due to rising temperatures, rising sea-levels, droughts, and extreme weather events. In some regions of Africa, the resources provided by healthy marine and coastal areas contribute more than 35% of the gross domestic product.[[6]](#footnote-6) In the coastal south of Senegal, 40% of the population depends on fishing for their livelihoods.[[7]](#footnote-7) A decrease in fish caused by climate change-driven biodiversity loss would therefore be economically devastating to these communities, which are already facing high rates of inequality and poverty.

**Damage to land rights and resource access**

Additionally, biodiversity loss directly impacts the right to access land and natural resources. Many Indigenous communities struggle with acknowledgement of their land and cultural rights, and this issue is exacerbated with the loss of traditional ecosystems, flora, and fauna. In many ways, biodiversity loss affects rights through direct loss of access to traditional lands and resources. In the first section, we discussed how climate change is driving loss of biodiversity through species migration. Indigenous peoples who find themselves facing substandard climate conditions and unmanageable biodiversity loss are unfortunately less able to move and migrate. Moving may be economically and legally unfeasible and may result in a loss of their traditional economic, social, and cultural livelihoods, rendering them more vulnerable to exploitation, discrimination, and marginalization.

Furthermore, biodiversity loss can lead to loss of rights through the efforts that governments take to mitigate environmental damage. This occurs largely because environmental conservation policies, and now, nature based false solutions, ostensibly to mitigate climate change, often fail to consider the practices and rights of Indigenous communities in regards to their lands. Therefore, communities end up losing their rights to advocate for themselves, to participate in policies affecting their traditional lands, and to maintain their land sovereignty and cultural heritage. In 2017, a landmark ruling by the African Court on Human and Peoples Rights declared the eviction of the Ogiek peoples from their ancestral Mau forest to be wrong. Because the Mau forest is a vital watershed and the largest closed canopy forest in Kenya, the Kenyan government believed that protecting the forest biodiversity was more important than acknowledging Ogiek land rights. However, as the African Court stated, the Ogiek have a legal right to their Mau forest and to protecting and enjoying the natural resources found there. Similarly, the Khwe community in Namibia lost their historical lands and resources inside Bwabwata National Park in Namibia.[[8]](#footnote-8) The Park was created without the consultation of the Khwe to protect the lands that they live on, and it resulted in the Khwe having limited to no access to the natural resources inside. This in turn damaged their rights to their cultural knowledge and practices.

However, biodiversity goals and Indigenous or community rights should not be seen as mutually exclusive. Strengthening community rights of self-determination actually supports biodiversity efforts. Indigenous peoples’ and local communities’ conserved territories and areas (ICCAs) are areas that are traditionally governed and protected by local communities and/or Indigenous peoples. ICCAs have deep historical and cultural links with the local communities, and the resources and ecosystems found in these areas are seen as having sacred value. Due to the sacred nature of ICCAs, access to their resources is often restricted through ritual or cultural practices, thus preventing immense resource loss. In some sites, such as the sacred forests or *Ala fady* of Madagascar, harvesting is not allowed. Therefore, the recognition of ICCAs and acknowledgment of traditional Indigenous land management would benefit environmental protections. In the previous case of the Khwe in Namibia, their creation of a Biocultural Community Protocol (BCP) with the support of Natural Justice helped them articulate their need for increased rights to natural resources within their lands in the Park.

The BCP helped unite the community to recognize the value of protecting their traditional knowledge and resources. The Khoikhoi and the San in South Africa also created a BCP with the help of Natural Justice.[[9]](#footnote-9) The need for this BCP arose because the Khoikhoi and the San should have been seen as the traditional knowledge holders to the Rooibos plant, yet white, commercial farmers were largely the only ones financially benefitting from the plant. This BCP stated that the communities should be entitled to benefit-sharing of any intellectual property rights using their traditional knowledge, which helped the Khoikhoi and the San regain their rights to self-determination and to their cultural heritage, while protecting their resources from exploitation. Furthermore, studies have demonstrated that deforestation rates are lower where land rights are secure, compared to government-managed areas.[[10]](#footnote-10) The ability of locally affected individuals to participate in conservation efforts also can lead to more successful biodiversity protections. Therefore, a promising pathway to climate change adaptation, mitigating loss and damage, and protecting biodiversity would be to focus on conservation efforts led and managed by Indigenous peoples and local communities, informed by their traditional knowledge.

**Resulting damage to environmental defenders**

In the face of such damaging biodiversity loss, many individuals take on the role of an environmental defender to protect their land and prevent further loss. The right of Indigenous peoples and community members to advocate for environmental justice for themselves and others is critical. However, the safety of environmental defenders is increasingly under threat.[[11]](#footnote-11) 2020 was once again the most dangerous year on record for environmental defenders. Throughout the year, there was a total of 227 lethal attacks. A disproportionate 5 out of 7 mass killings recorded in 2020 were of Indigenous peoples, despite Indigenous peoples making up only about 5% of the world’s population. Indigenous women acting as environmental defenders face additional obstacles to their well-being, such as sexual violence, sexual discrimination, harassment of their children and families, and increased vulnerability to mistreatment from state forces and armed groups.[[12]](#footnote-12)

[Natural Justice](http://www.naturaljustice.org) is a founding partner of the [African Environmental Defenders Fund](https://envirodefenders.africa/) (AED Fund), created to support African environmental defenders who are facing threats, harassment or other emergency situations due to their activism. AED Fund can provide urgent assistance with short-term legal representation, relocation, medical and psychological care, and security measures. From March 2020 to October 2021, the Fund was able to support 27 out of the 45 applications received, with 38% of applications coming from Uganda, followed by Kenya (18%), DRC (185), Somalia (7%), and Nigeria (7%).[[13]](#footnote-13) The Fund is one way to mitigate the harm to environmental defenders, but more needs to be done to protect environmental defenders from harm in the first place.

*Ends.*

1. [https://www.cbd.int/gbo/gbo4/outlook-africa-en.pdf pf 13](https://www.cbd.int/gbo/gbo4/outlook-africa-en.pdf%20pf%2013) [↑](#footnote-ref-1)
2. <https://www.carbonbrief.org/explainer-can-climate-change-and-biodiversity-loss-be-tackled-together/> [↑](#footnote-ref-2)
3. <https://www.worldbank.org/en/news/feature/2019/02/14/biodiversity> [↑](#footnote-ref-3)
4. [See](https://www.carbonbrief.org/explainer-can-climate-change-and-biodiversity-loss-be-tackled-together/) footnote 2 for more information. [↑](#footnote-ref-4)
5. <https://naturaljustice.org/wp-content/uploads/2017/04/Biodiversity-and-Culture.pdf> [↑](#footnote-ref-5)
6. <https://ipbes.net/resource-file/20951> [↑](#footnote-ref-6)
7. <https://naturaljustice.org/countries/senegal/> [↑](#footnote-ref-7)
8. <https://naturaljustice.org/wp-content/uploads/2018/11/2018_Community-Protocols-in-Africa_Lessons-Learned_Natural-Justice.pdf> [↑](#footnote-ref-8)
9. <https://naturaljustice.org/wp-content/uploads/2020/04/NJ-Rooibos-BCP-Web.pdf> [↑](#footnote-ref-9)
10. Walker, W., Baccini, A., Schwartzman, S., Ríos, S., Oliveira-Miranda, M.A., Augusto, C., Ruiz, M.R., Arrasco, C.S., Ricardo, B.,Smith, R., Meyer, C., Jintiach, J.C. and Vasquez Campos, E. (2014) ‘Forest carbon in Amazonia: the unrecognized contribution of indigenous territories and protected natural areas’. Carbon Management 5(5-6), pp. 479-485. | Persha, L., Agrawal, A. and Chhatre, A. (2011) ‘Social and Ecological Synergy: Local Rulemaking, Forest Livelihoods, and Biodiversity Conservation’. Science 331(6024), pp. 1606-1608. [↑](#footnote-ref-10)
11. <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/> [↑](#footnote-ref-11)
12. <https://www.iwgia.org/en/focus/global-governance/3276-violence-indigenous-women.html> [↑](#footnote-ref-12)
13. <https://naturaljustice.org/wp-content/uploads/2021/12/AEDF-Report-2019-2021-FA_MAILER.pdf> [↑](#footnote-ref-13)