



THE GREEN CONNECTION

www.thegreenconnection.org.za

PO Box 24308
Lansdowne
7779

7 June 2024

To: The United Nations Human Rights Special Rapporteur

By email: hrc-sr-climatechange@un.org

Dear Special Rapporteur

The Green Connection's submission: Access to information in relation to climate change and human rights

The Green Connection (TGC) is a registered non-governmental organisation that believes economic growth and development as well as the improvement of socio-economic status and conservation of natural resources can only take place within a commonly understood framework of sustainable development. TGC aims to provide practical support to both the government and nongovernmental/ civil society sectors, which are an integral part of sustainable development.¹ This submission is compiled based on our experience of working with coastal communities in South Africa ('SA') and assisting them in participating in environmental decision making.

1. What kind of information should be collected and shared to identify and prevent negative impacts on human rights arising from climate change and climate change response measures? What kind of information can be particularly challenging to access and why?

General information on climate change is not widely available or understood in SA. Despite SA being particularly vulnerable to the impacts of climate, there is a huge knowledge gap on the causes and consequences of climate change. This 'knowledge gap' impacts the environmental decision making of local communities who are unable to fully assess and appreciate the impact of climate change on their lives. Further, there is a strong push for SA to use LNG gas as a 'transition fuel' and therefore a need to share accessible data of how such fossil gas projects will not help us reach our emission targets and lead to

¹ More information about The Green Connection and our work can be found on our website: [Sustainable Development - The Green Connection](#)



THE GREEN CONNECTION

www.thegreenconnection.org.za

PO Box 24308
Lansdowne
7779

SA being in violation of the Paris Agreement. New evidence indicates that fugitive methane emissions are likely to be 80 times more damaging over a twenty-year period making gas a false solution to the climate crisis.²

In the EIA process relating to oil and gas projects, specific information, such as oil spill contingency plans, other technical documents and the economic benefit of artisanal fishing is not available to members of the public. There is also a significant information gap when it comes to local and indigenous knowledge systems being used in research. This makes the EIA process blind to the cultural and spiritual connections of coastal communities to the ocean.³ The EIA process is also exclusionary as many people in coastal communities will have to choose between fishing or earning a livelihood or attending a public meeting. Further, the principle of Free, Prior and informed Consent ('FPIC') does not extend to the oceans and off-shore oil and gas mining in SA which makes the consultation process feel futile to some coastal communities. The extension of this principle would align with States' obligations to protect and preserve the ocean from the impacts of climate change.

2. Are existing approaches to collect, share and monitor information on climate change and human rights sufficient for the public to assess the magnitude of actual and potential negative impacts on their human rights, and the adequacy of States' responses to these risks? How can these approaches be improved?

Existing approaches are not adequate. Public information around a recent tornado in the province of Kwa-Zulu Natal and flooding in the Eastern Cape has failed to explicitly state the links between climate change and these weather events. Instead, reporting on this has speculated that climate change "may" be a cause.⁴ These events have caused massive destruction to property and displaced approximately 1200 people.⁵ The failure to provide or undertake

² [Methane emissions are driving climate change. Here's how to reduce them. \(unep.org\)](https://www.unep.org/news-and-stories/story/methane-emissions-driving-climate-change-here-how-reduce-them).

³ This connection was highlighted in the High Court case of *Sustaining the Wild Coast NPC v Minister of Mineral Resources and Energy*: [Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others \(3491/2021\) \[2022\] ZAECMKHC 55; 2022 \(6\) SA 589 \(ECMK\) \(1 September 2022\) \(saflii.org\)](https://www.saflii.org/za/cases/zacmhc/2022/55.html)

⁴ [EXPLAINER | What's behind the KZN tornadoes, floods and snowfall across SA? | Business \(news24.com\)](https://www.news24.com/news24/Explainer/What-s-behind-the-KZN-tornadoes-floods-and-snowfall-across-SA-Business)

⁵ [Tongaat tornado death toll rises to 7 \(timeslive.co.za\)](https://www.timeslive.co.za/news/south-africa/2022/09/07/tonga-tornado-death-toll-rises-to-7/)



THE GREEN CONNECTION

www.thegreenconnection.org.za

PO Box 24308
Lansdowne
7779

research into the links between these incremental whether events and climate change fails to highlight the urgency of why we need to address climate change. SA as a developing country, does not have the necessary resources for replacing infrastructure and often must house displaced people in transit camps which impacts their lives due to the precarity of their living situation. SA does not have adequate climate adaptation plans in their local government frameworks and plans making climate adaptation a low priority despite the urgent need for this.

- 3. Are there examples in which international cooperation effectively supported public access to information on climate change and human rights? What are the challenges in implementing UNFCCC Articles 4 (public access to information) and 6 (public awareness), and Paris Agreement Article 12 (public access to information), and other international instruments and processes that can support/contribute to international cooperation on access to information on climate change and human rights?**

We have encountered a significant number of challenges regarding the implementation of UNFCCC. As part of our work, TGC runs the “Who Stole Our Oceans” campaign. This was launched in 2020 in relation to ‘Operation Phakisa’ which was introduced by the former president Jacob Zuma. Operation Phakisa’s focus was to boost the country’s economy through the oceans economy. Subsequently, SA’s coast was divided into blocks and leased off to oil and gas companies.⁶ This was done without public consultation and local communities have since had to challenge these projects individually through litigation. There has been a limited amount of success in terms of holding corporate actors accountable for failing to meaningfully consult with communities,⁷ however this is not sustainable given the number of resources needed for communities to access justice.

- 4. Are there concrete examples of, or specific challenges for business to communicate information on risks, including in different countries, in relation to climate change and human rights? What are the barriers for the rights holders to access to this information and to evaluate the adequacy of an enterprise’s response to these risks? Are there specific**

⁶ <https://www.petroleumagencyrsa.com/images/pdfs/Hubmap0524.pdf>

⁷ [Victory for small-scale fishers after high court interdicts Searcher Geodata’s West Coast seismic survey \(daily-maverick.co.za\)](http://daily-maverick.co.za)



PO Box 24308
Lansdowne
7779

THE GREEN CONNECTION

www.thegreenconnection.org.za

examples of State regulation that have significantly improved access to information held by private actors on climate change and human rights?

South Africa is a country with a diverse population and twelve official languages. Accessing information is complicated due to this and a number of socio-economic issues such as access to the internet and electricity, especially so for rural communities. Because of barriers to accessing education under Apartheid, local communities struggle to participate in processes that are technical and do not offer information in their first language. South Africa has national legislation in which a person can request information from a private or public body through the Promotion of access to information Act (PAIA). However, PAIA has also been used as a barrier for accessing information as bodies now request that formal requests be undertaken before information is shared which is contrary to the purpose of the act.

In SA government bodies have been complicit in the preventing the publication of information related to the Karpowership deal.⁸ Karpowerships have been touted as a potential 'solution' to SA's energy crisis, it is a floating power plant which would anchor in South African ports and use gas as a fuel to generate electricity. This process has been fraught with irregularities and is the subject of litigation.⁹ Fishing communities who are reliant on the ocean to survive have not been adequately consulted, nor has important information about the contracts and environmental impacts of these ships have been disclosed. Without this information, people are unable to make decisions about their energy future and the government is locking South African's into fossil fuel dependency.¹⁰ The estimated costs of this project is two hundred billion Rands (approximately \$10 528 000 000) and the Karpowerships are only able to generate 1220 megawatts of electricity – far from what SA's energy needs are. Despite this technology having a massive impact on the public purse and potentially on the environment, civil society has been forced to go to court to gain access to relevant information, and this has only been granted subject to a confidentiality agreement by the National Energy Regulator and has not yet been made publicly available.

⁸ [Karpowership South Africa](#)

⁹ [Green Connection Takes Fight Against Karpowerships to Court - The Green Connection](#)

¹⁰ [Karpower – Could Cost An Arm And A Leg And Our Oceans And Environment - The Green Connection](#)



THE GREEN CONNECTION

www.thegreenconnection.org.za

PO Box 24308
Lansdowne
7779

- 5. What are the impacts on human rights of inadequate access to information from public authorities and/or business? Are there concrete examples of, or specific challenges in, collecting and sharing information on disproportionate levels of actual and potential harm from climate change and climate change response measures (disaggregated data on Indigenous Peoples, women, children, local communities, persons with disabilities, older persons, persons living in extreme poverty, others)?**

Substantive human rights can only be secured by the securing of procedural rights, which include access to information. Put differently, access to information (procedural right) is crucial to securing the right to a healthy environment (substantive right) in SA. In the context of climate change, the EIA process in SA has failed to ensure meaningful consultation, which is the legal standard. Instead, local communities often do not know about these processes, or the impact of these projects are downplayed. Information is often presented in a confusing way or is misrepresented in terms of its impacts on people. In particular, fishing communities have had to deal with a barrage of off-shore oil and gas applications and information is presented by EIA consultants in a way that does not adequately convey the potential harms. There are no conclusive scientific studies on the impact of oil and gas operations on fishing communities in South Africa, including impacts on the right to food security, tourism and access to traditional fishing grounds. Despite this lack of information, projects proceed and have the potential to irreparably impact the rights of these communities. Accessing information in the context of climate change is the only way to guarantee the protection of substantive environmental rights.

Submitted on behalf of The Green Connection.

Priyanka Naidoo: priyanka@thegreenconnection.org.za;

Lisa Makaula: lisa@thegreenconnection.org.za

Liz McDaid: liziwe@thegreenconnection.org.za

Neville Van Rooy: neville@thegreenconnection.org.za