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**SUBMISSION TO THE UN SPECIAL** **RAPPORTEUR ON THE RIGHT TO ADEQUATE HOUSING TO THE 52ND SESSION OF THE HUMAN RIGHTS COUNCIL**

# Right to adequate housing and climate change, July 2022

**Submitted by:**

**Women’s Legal Centre**

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6. **INTRODUCTION**
7. We refer to the call for input by the UN Special Rapporteur on the Right to Adequate Housing in respect of the Human Rights Council 52nd session on the questionnaire entitled “The right to adequate housing and climate change”.
8. The Women’s Legal Centre and the individuals listed above are honoured at the opportunity to make these submissions to the UN Special Rapporteur on the Right to Adequate Housing in preparation for his next thematic report to the Human Rights Council in 2023 on the issue of the right to housing and climate change.
9. **INTRODUCTION TO THE WOMEN’S LEGAL CENTRE**
10. The **Women’s Legal Centre** (“The WLC”) is an African feminist legal centre that advances womxn’s[[1]](#footnote-2) rights and equality through strategic litigation, advocacy, education and training. Through these methodologies, we aim to develop feminist jurisprudence that recognises and advances womxn’s rights to substantive equality. The WLC drives a feminist agenda that appreciates the impact that discrimination has on womxn within their different classes, race, ethnicity, sexual orientation, gender identity, nationality, and disability. The work of the WLC is done in an intersectional manner as we recognise that womxn are not a homogenous group and thus experience discrimination differently. The WLC does its work across five focus areas including the right to be free from violence, equality in relationships, womxn’s rights to land, housing property and tenure security, womxn’s sexual and reproductive health rights and womxn’s rights to work in just and favourable conditions of work.[[2]](#footnote-3) These submissions form part of the work being undertaken by our land, housing and tenure security focus area and the equality in relationships focus areas as they intersect within our context of discrimination against womxn.

1. Our submissions will deal only with the questions on which the WLC is uniquely placed to address the lived reality of womxn and we seek to provide a gendered lens to the right to adequate housing and the climate crisis in South Africa.
2. **INFORMING CONTEXT**
3. As this call for input focuses on questions on the right to adequate housing and climate change, as an African feminist legal centre we focus our submission on the right to adequate housing and the effects of climate change on womxn in South Africa. The WLC applies an intersectional feminist analysis in respect of the content of this submission based on the lived reality and experience of womxn in South Africa. Our responses are based on the fact that Statistics South Africa’s General Household Survey[[3]](#footnote-4) indicates that 35.5% of black people own a dwelling and that 5.4% of South African’s own land. Some 13% of households are owned by one person while only 17% of housing is shared jointly. 37% of households in South Africa are headed by womxn in a country with an estimated 59 million people. As such, we seek to answer the following questions in accordance with the questionnaire set out by the Special Rapporteur:
4. **BACKGROUND**
5. **The Right to adequate housing for Womxn in South Africa: An intersectional lens**

*The lived reality of womxn in relation to the right to adequate housing and the impact of climate change on womxn in South Africa.*

1. Climate change and the climate crisis that has arisen as a result has affected the health and stability of livelihoods globally. It is evident that while climate change affects everyone, there are vulnerable groups disproportionately impacted based on their various intersecting identities, including race, class, rural or urban setting, education, gender identity and sexual orientation. Womxn around the world have had to face the consequences of the crisis as they lack “equitable representation and power in crafting climate policies to address their needs.”[[4]](#footnote-5) Climate change exacerbates existing gender inequalities and discrimination because patriarchy has infiltrated every aspect of our social structures and identities. It is critical that when an analysis is had in respect of climate change and its intersection with housing that the analysis includes a gendered lens. This will ensure that womxn who are overlooked and who lack representation and power of influence are not excluded from processes such as these.
2. **The Context of The Right to Adequate Housing in South Africa**
3. The right to adequate housing is an important basic human right which is recognised in the Constitution of the Republic of South Africa 106 of 1998 (the Constitution)[[5]](#footnote-6) and international human rights instruments such as the Covenant on Economic Social and Cultural Right that South Africa is a state party to. The right to housing has been interpreted in the light of other constitutional provisions on equality, dignity, life, right to just administrative action, access to land, right to health care, food, water, and social security, amongst others[[6]](#footnote-7). Housing provides shelter and safety from varying elements, and a place to eat, sleep, relax and raise a family.[[7]](#footnote-8) Adequate housing is not only limited to four walls and a roof but alsoit extends to ensuring people enjoy physical and mental health and live in a safe place in peace and dignity.[[8]](#footnote-9)
4. Human rights are indivisible and interdependent[[9]](#footnote-10), the right to adequate housing cannot be separated from other rights such as sanitation, water, education, healthcare and the rights to dignity and equality. The right to housing is also inextricably linked to broader developments in the economy, labour markets, migration, demographic and other trends, which affect access to housing. Failure to realise these rights and provide socio-economic goods and amenities in turn compromise the progressive realisation of the right to access adequate housing.[[10]](#footnote-11)
5. **Historical Background**
6. Although the Constitution provides for the progressive realisation of rights, in particular the rights to land and housing, this is far from the reality for most womxn of colour in South Africa. Black womxn continue to remain the face of poverty and discrimination and where they have access to housing, such access is inadequate and undignified.
7. Womxn’s access to adequate housing in South Africa is informed by the historical, social, and economic setting in which womxn seek such access. Under the apartheid regime, housing segregation was mandated by law, this meant people of colour could only occupy designated areas like townships or in impoverished rural areas known as Bantustans or homelands.[[11]](#footnote-12) The regime ensured that the land people of colour were forcibly moved to, was underdeveloped, overcrowded and with the underfunded provision of basic services. This was just one of the methods to disown and disempower black people in South Africa.
8. With the realization of democracy in 1994, great strides had been made on the right to housing as it is intricately linked to the broader developments in the economy and greater transformation. However, black womxn in South Africa continue to live in similar conditions to those of our apartheid era with poor black families living on the outskirts or urban periphery with little to no access to basic services such as health care, education and employment opportunities reflecting continued spatial apartheid and segregation.
9. Spatial segregation and exclusion continue to be a barrier for Black people especially for black womxn living within the City of Cape Town metropole (the city) as there is no access to socio-economic opportunities, social amenities or public services, and on the other hand, central or well-located residential areas that offer the above are significantly less densely inhabited and typically dominated and reserved for white people.[[12]](#footnote-13)
10. Womxn in particular face a range of challenges when trying to access land in South Africa and this accessibility needs to be considered within the historical context of South Africa in which womxn were required to obtain state approval to find employment within cities and suburbs. Land, since the dawn of ages, has been the main barter in establishing power across the globe. Class, race and socio-economic background largely determine one’s access to adequate housing. Black womxn face compounded challenges when trying to access adequate housing as a womxn living in black poor and working communities such as informal settlements, townships and rural areas continue to struggle with access to resources and adequate basic services.
11. In the *Rahube v Rahube* judgement, the Constitutional Court of South Africa proclaimed that during apartheid and post-apartheid, black women face a three-fold discrimination based on their class, race and gender, resulting in black women not fully enjoying the full protection of the South African Constitution.[[13]](#footnote-14)
12. The recognition and effective implementation of the right to adequate housing is therefore vital to improved well-being, better livelihoods and in strengthening the enjoyment of other socio-economic rights. South Africa continues to be hailed for our progressive housing laws, jurisprudence, policies and programmes. The country’s housing policy and strategy has been developed in such a manner as to seek to be transformative within an environment where rights recognition and realisation had previously been actively denied by the state machinery.
13. **Recent instances of climate change**
14. Naturally, due to the difference in use and enjoyment of land in rural areas as opposed to urban areas, the impact of the climate crisis manifests differently. Cities like Johannesburg have seen rapid urbanisation, with housing demands continuing to increase. At present, the dominant mode of affordable housing delivery in South Africa confines lower-income households to the urban periphery- far from economic opportunities and essential services.[[14]](#footnote-15) As a result, the majority of poor black womxn live in informal settlements and townships that are often built with little to no planning, no formal infrastructure, on insecure land with no provision for flooding and with almost no consideration regarding drainage and sewage systems. This leaves the residents of these areas vulnerable to flooding, fires and diseases. Materials used to construct some of these homes are cheap, highly flammable and easily available.[[15]](#footnote-16) Effectively the realisation of housing has therefore continued to build on and extend the apartheid model of racial segregation and special segregation.
15. Access to basic services and lack of employment opportunities are just some of the challenges that people in rural areas face. Due to their seclusion, residents of rural areas tend to use the land they have access to, as their livelihood. Whether this is through subsistence farming, use and sale of livestock or government assistance initiatives. Much of South Africa’s rural land is situated in areas controlled by traditional leaders, customary practices, and law. This places womxn in rural areas in a particularly vulnerable position as they are faced with having to navigate patriarchy within customs and their continued exclusion from ownership and decision-making processes regarding use and availability of land. An example of this is that womxn often build homes on plots of land owned by their husbands’ families, land over which they have little claim as it belongs to the family. In instances of death or divorce or mere dissatisfaction, she can be ordered to vacate the land.

Because of the huge backlog in housing provision, womxn in rural areas often occupy makeshift structures or informal homes such as rondavels built with red clay and cow dung.

1. Womxn in urban areas are not spared the indignity of often living in makeshift structures in informal settlements. The Department of Human Settlements in their Housing Code[[16]](#footnote-17) has defined informal settlements as typically identified on the basis of the following characteristics: illegality and informality; inappropriate locations; restricted public and private sector investment; poverty and vulnerability; and social stress. Here housing takes shape with the help of corrugated iron sheeting and wooden beams. Informal settlements are too often built-in areas that are not conducive for housing development, and which poses serious danger to people and their surrounding environment.
2. Data from StatsSA’s General Household Survey indicate that 79.3% of households in South Africa live in formal dwellings, while 13.9% of households live in informal dwellings and 5.9% of households live in traditional dwellings. While the proportion of households living in formal dwellings has increased by 5.6% between 2002 and 2016, the percentage of households living in informal dwellings has also increased during the same period. This data is in all likelihood a conservative estimation because it’s based on public participation in the survey process.
3. The recent floods in the KwaZulu-Natal province in 2022, highlighted the precarious position residents of informal settlements and rural areas face in respect of climate change and its devastating impact. The province experienced heavy downpours that led to destructive flooding and landslides that destroyed thousands of homes, businesses, and infrastructure and killed an estimated 450 people.[[17]](#footnote-18) The devasting consequences of these floods were underscored by the country’s deep inequalities and manifested in a manner where South Africa’s poorest suffered the most. In 2019, the eThekwini municipality in Kwazulu-Natal released its climate action plan, which noted that heavy and disruptive rains would become more frequent in their area. The plan noted that many informal settlements are situated in environmentally sensitive areas, including floodplains, low-lying areas, or on land with steep slopes or unstable soils.[[18]](#footnote-19) Yet no measures were taken to ensure that these people were provided with adequate, safe, or sustainable housing.
4. The amount of rain that fell over a two-day period was the equivalent of a year’s rainfall. The impact of the rainfall and damage, as a result, was not only limited to the KZN province but also extended to some areas in the Eastern Cape. It is recorded that approximately 40 000 people were left destitute as a result of the flooding as 12 000 houses were destroyed.[[19]](#footnote-20)
5. The KZN province is not unique in having faced climate change challenges. In the City of Cape Town there has been as recent as June 2022 protests by affected communities in Khayelitsha which is the largest informal settlement in Cape Town[[20]](#footnote-21). These protests followed heavy rains after a long extended dry summer[[21]](#footnote-22). It appears that there is no comprehensive strategy being implemented and that the government is relying on early weather warning systems to simply impart information about impending weather conditions without addressing the impact on the lived reality of people most affected.
6. South Africa is particularly vulnerable to climate change, with warming in the interior of Southern Africa occurring at about twice the global average rate.[[22]](#footnote-23) The legacy of apartheid has created an inextricable link between the climate crisis and social inequality. This is important to note as it was not just the severity of the rainfall but also the structural inequalities that worsened the impact of the floods. Womxn, who face compounded intersectional forms of discrimination of class, race, and gender, no doubt suffers disproportionately as opposed to their male and white counterparts.
7. **Impact on the lives, health, and livelihoods of the affected populations?**
8. Studies have shown that there are disproportionate impacts that global warming and climate-related disasters have on certain populations.[[23]](#footnote-24) Gender remains a critical dimension in the definition of social structures and identities, and climate change exacerbates existing gender inequalities and discrimination. In both townships and rural areas, womxn bear the burden of environmental change. This is especially the case as it relates to unpaid care work done in the home and community. Where access to basic services such as fuel and water is not available, it is womxn who are required to collect water and firewood in the areas surrounding the homestead. Women are more likely to participate in subsistence farming and livestock rearing for the purposes of ensuring food security for their children, families, and communities. They are therefore most at risk of impact of drought and disaster.[[24]](#footnote-25)
9. An intersectional lens is needed when we look at the issue of impact of climate change and loss and damage, not just because women experience discrimination differently but also because loss and damage will impact them differently. Now more than ever it is critically important to frame care within its many facets as a human right and not simply a “nice to have”. We define care work as all paid and non-paid activities that make social reproduction in our societies possible. It includes both direct care work such as washing an elderly/frail relative or the sick or feeding a child. It also includes indirect activities such as food preparation, cleaning, collecting water and/or firewood, as well as community work such as soup kitchens or other such initiatives. Many of the indirect forms of care listed here are impacted or brought about by climate change and its destructive impact. Such care work is also conducted and taken on by womxn in affected communities as an alternative to a lack in and failing governmental initiatives.
10. Social reproduction upholds our families, communities and society even though in many of our countries it is not taken into account from a policy perspective. Systemic forms of discrimination in how care is viewed and valued feeds stereotypes about women and traps young girls and women in often vicious cycles of poverty. Social reproduction is far too often rendered invisible, and care has been naturalized as women’s responsibility in turn deepening the feminization of poverty. Our laws and policies are often entrenching the care burden and our financial policy frameworks benefit from them. Women living in informal housing or who lack access to adequate housing are left to address the impact of climate change.
11. Several key sectors are impacted by climate change including access to water, agriculture, forestry, biodiversity and healthy ecosystems, human health, urban environment, as well as rural livelihoods. This in turn contributes to the perpetuation of cycles of poverty, lack of food security, hunger, and other social issues.[[25]](#footnote-26) Although womxn are vastly underrepresented in climate decision-making positions at the United Nations global climate negotiations, many black womxn’s livelihoods in South Africa depend on these sectors.[[26]](#footnote-27)
12. An expert report in the Georgetown Journal of Human Rights examines how climate harm will impact the Southern African region. It draws the conclusion that substantial changes in the number of extreme temperature events in Southern Africa can already be detected. Events such as heat waves, high fire-danger days and oppressive temperatures impacting on human comfort and health can be expected in future in which climate change mitigation efforts are low or unsuccessful.[[27]](#footnote-28)
13. The climate crisis will essentially grossly affect the economic freedom of womxn in South Africa. We need to reject the focus on economic growth as the dominant and only paradigm of development and understand that limitless economic growth and pursuit of profit are unsustainable for all forms of life.
14. Studies show there will be a high likelihood that agricultural production in southern Africa will be reduced and eventually collapse, and livestock production will also become unviable. Freshwater availability will be reduced as a result of decreasing rainfall and increasing evaporation. The risk of severe storms will increase climate change in southern Africa. As a result, loss of life, injury and damage to infrastructure will also increase.[[28]](#footnote-29)
15. Therefore, it is important that government officials are held accountable to ensure that they address the systematic challenges faced by womxn. Firstly, womxn require more access to markets, resources and credit as these are barriers to womxn’s access to agricultural marketplaces.[[29]](#footnote-30) There are currently no safeguards or security for womxn in agriculture, even at the small scale of communal gardens and this is due to the limited government support for such initiatives. If small-scale womxn farmers’ efforts were supported by policies designed to do so, there could be a greater production of effective and sustainable solutions to climate change.
16. Based on the fact that KwaZulu Natal has suffered from floods in 2017, 2019 and now in 2022, with each episode more disastrous than the previous one[[30]](#footnote-31) it can be expected to recur in the future and with increasing frequency. The states response to climate change and its impact needs to strengthen people’s ability to respond to the impact of climate change. Loss and damage cannot be left to those most vulnerable to carry. We have experienced over the past months that natural disasters are exacerbated by poor infrastructure which means that there needs to be progress made in improving the drainage system, strengthening roads and poorly built housing.[[31]](#footnote-32)
17. Access to water as part of adequate housing has increasingly reached crises levels in South Africa. Cape Town as a major metropolitan in the country and world tourist destination experienced one of the worst droughts in recent history of the country. The rationing of water became a daily challenge for many Capetonians during the warmest months of the summer. We share here a first-hand account of the experience of the drought on everyday people[[32]](#footnote-33).
18. The Cape Town experience turned out not to be unique with the impact of climate change and droughts across the country[[33]](#footnote-34) causing many taps in major urban areas to run dry. This is happening with little to no strategic plan or intervention on the part of the State.
19. **Key Judgments**
20. *Earthlife Africa Johannesburg v Minister of Environmental Affairs and Others* is referred to as South Africa’s first climate change litigation as it was the first time that South Africa’s courts were asked to decide such a case.[[34]](#footnote-35) The High Court made a significant finding that Earthlife was correct in claiming that the Minister of Environmental Affairs should have considered the power station’s climate change impacts before deciding whether to authorise it.[[35]](#footnote-36) This judgment confirms that climate change poses a substantial risk to sustainable development in South Africa, that our existing law must include a comprehensive assessment of climate change impacts for all projects. Lastly, in considering whether to authorise a development with significant climate change impacts, the environmental authority must determine which, if any, measures are required to reduce its emissions, and to ensure the resilience of the project and the surrounding environment to those impacts.[[36]](#footnote-37)
21. In *Trustees for the Time Being of Groundwork Trust and One Other v The Minister of Environmental Affairs and Others*, (Deadly Air case) it was held that the poor air quality in the Highveld priority area is in breach of section 24(a) of the Constitution and that this right should be immediately realisable.[[37]](#footnote-38) This means that the State has a duty to take steps to make it possible for the public to realise this right here and now. This not only emphasises the duties placed on the State, but it places pressure on the State to take action to combat poor air quality in South Africa.[[38]](#footnote-39)
22. Currently, a civil society coalition is trying to appeal the decision to allow the Musina-Makhado Special Economic Zone (MMSEZ) project to proceed. The appeal argues that the environmental authorisation process is deeply flawed and that there is an unresolved conflict of interest among major decision-makers.[[39]](#footnote-40) The coalition argues that even if the procedural flaws of the latest environmental assessment were to be remedied, no environmental authorisation should be issued due to the MMSEZ project’s highly negative consequences for climate change, water scarcity in the region, and the effect the project will have on cultural heritage and human health.[[40]](#footnote-41)
23. Both the Earthlife and Deadly Air case make great strides in ensuring that both private and public companies and organisations prioritise analysing and calculating the environmental impact of their decisions and projects. These judgements oblige parties to not only consider the environmental impact but take positive steps to limit any negative impacts on the land and surrounding areas.
24. As stated previously, the right to adequate housing is not just four walls and a roof, the quality of the housing and environment is just as important. This is an important step for people who usually had little recourse in holding companies and the State accountable for ensuring that the places that they live are not grossly affected by projects that do not consider the environmental and human health impact.
25. In *Minister of Public Works and others v Kyalami Ridge Environmental Association and another[[41]](#footnote-42)* a case dealing with flood victims and alternative accommodation rights, the Constitutional Court stated that “‘Although the interests of the Kyalami residents [the neighbours] may be affected this case concerns not only their interests, but also the interests of flood victims. The flood victims have a constitutional right to be given access to housing. The fact that property values may be affected by low-cost housing development on neighbouring land is a factor that is relevant to the housing policies of the government and to the way in which government discharges its duty to provide everyone with access to housing. But it is only a factor and cannot in the circumstances of the present case stand in the way of the constitutional obligation that government has to address the needs of homeless people, and its decision to use its own property for that purpose.’
26. **Redress and Measures**
27. South Africa as a country with a heavy reliance on extractive mining, produces significant carbon emissions and is therefore a contributor to climate change. Its actions to mitigate its contribution to greenhouse gas emissions have been insufficient.South Africa is the 14th largest greenhouse gas (GHG) emitter globally, and it is the biggest on the African continent.[[42]](#footnote-43) As mentioned previously, the impact of climate change will hit certain groups harder than others depending on their gender, social status and access to and control over resources. This means that the poorest and most vulnerable groups within society will be disproportionately affected by climate-related disasters and that climate change will exacerbate existing inequalities.[[43]](#footnote-44)
28. Womxn, especially poor womxn, are one of the most vulnerable to the effects of climate change. Womxn are 14 times as likely as men to die during a disaster, to be affected in the aftermath by health issues, gender-based violence and loss of livelihoods. Due to the existing social norms that undervalue the economic contributions womxn make to households like care work, womxn will have an increased care burden.[[44]](#footnote-45)
29. The National Climate Change Response White Paper (White Paper) presents the South African Government’s vision for an effective climate change response and the long-term, just transition to a climate-resilient and lower-carbon economy and society.[[45]](#footnote-46)
30. The White Paper discusses climate change challenges faced by both informal and urban human settlements. Regarding urban settlements, it identifies issues such as the fact that climate change may exacerbate the problems caused by poor urban management.[[46]](#footnote-47) Cities are particularly vulnerable to climate change because they are slow to adapt to changes in the environment and they have entrenched dependencies on specific delivery mechanisms for critical services.[[47]](#footnote-48) Cities’ vulnerability is further exacerbated by issues such as spatial planning and effective service delivery and the stress on the water supply system.[[48]](#footnote-49)
31. To address these challenges, South Africa plans to investigate how to leverage opportunities presented by urban densification to build climate-resilient urban infrastructure and promote behavioural change as part of urban planning and growth management. In the implementation of low-cost housing, ensure access to affordable lower-carbon public transport systems, incorporate thermal efficiency into designs and use climate-resilient technologies.[[49]](#footnote-50)
32. Develop effective information, monitoring and assessment tools to evaluate the resilience of our cities and towns to climate change and assist urban planners in identifying priorities for scaling-up climate change responses. Strengthen and enhance decision support tools and systems such as the Toolkit for Integrated Planning and develop geographic information systems that include, but not limited to, asset management components for public infrastructure.[[50]](#footnote-51)
33. Encourage and develop water-sensitive urban design to capture water in the urban landscape and to minimise pollution, erosion and disturbance. Acknowledging the current modelling limitations, encourage and support the appropriate downscaling of climate models to provincial and, where possible, metropolitan and district levels to provide climate information at a scale that can be integrated into medium- and long-term spatial development plans and information systems.[[51]](#footnote-52)
34. With regards to its approach in rural settlements, there are certain context-specific challenges. For example, Climate change, in particular changes in production systems and climate change-related damage and crop failures, is likely to negatively affect employment in rural areas. Secondly, spatial planning needs to address historical inequalities in land distribution without compromising the ability of the agricultural sector to contribute to food security.[[52]](#footnote-53) Rural communities with the highest dependence on natural water sources are in KwaZulu-Natal, the Eastern Cape and Limpopo provinces. The former two will probably experience more flooding and water contamination. In addition to these, Limpopo will probably experience more droughts. These are areas with some of the poorest communities and under-resourced municipalities with limited capacity and skills to adapt to changing conditions.[[53]](#footnote-54)
35. These challenges may be addressed by empowering local communities, particularly womxn who are often primary producers, in the process of designing and implementing adaptation strategies.[[54]](#footnote-55) Within the country’s research and development system, prioritise technologies for climate change adaptation within rural areas, including low water-use irrigation systems, the improved roll-out of rainwater harvesting strategies, and drought-resistant seed varieties.[[55]](#footnote-56)
36. Target adaptation programmes to build resilience among the most vulnerable sections of the rural population and ensure that disaster management architecture includes the provision of safety nets for rural communities most vulnerable to the impacts of climate change. This includes enhancing their knowledge of sustainable environmental conditions and optimising the ecosystem services that these provide.[[56]](#footnote-57)
37. The White Paper frames the achievement of South Africa’s Climate response guided by specific principles. We note that among these principles is the consideration of the special needs and circumstances of persons particularly vulnerable to the dire effects of climate change. The Policy document specifically includes womxn and especially poor/or rural womxn though this is a progressive paper, its impact whether positive or negative will be measured in the next couple of years.
38. Our experience is that the White Paper and other strategies to address climate change is not known amongst those most vulnerable in our society and communities. Where strategies clearly identify womxn as a target group for public participation and implementation the reality is that very few ordinary womxn are aware of the strategies being implemented, have not been made aware of public participation processes and lack a basic understanding that the devastating impact on their communities are as a result of climate change.
39. We further note that the lack of inclusivity, transparency and participation of those vulnerable groups, result in initiatives and implementation which is not inclusive or reflective of the lived reality and does not reflect the needs of those womxn mostly affected within the communities.
40. **Energy efficiency, green urban planning, climate mitigation and adaptation policies and programmes**
41. Urban green infrastructure plays a vital role in providing ecosystem services to cities. These services benefit urban residents directly but are also key to cities’ climate change adaptation and mitigation strategies have given the increase of climate-related risks within cities. It is critical for local governments to consider green infrastructure solutions in development and climate adaptation strategies.[[57]](#footnote-58)
42. While the national government supports a green growth agenda and climate action, municipal governments have a considerable role in implementing the necessary action. Often the environmental priorities and perceptions of local governments have a determining factor in how cities incorporate green infrastructure into fiscal planning.[[58]](#footnote-59)
43. Assessments of the social or environmental impact of housing often consider the associated access to services, amenities and economic opportunities. The longer the average trip distance, the greater the environmental impact associated with transport infrastructure and the ongoing resources used and pollutants emitted. From a sustainability perspective, it is preferable to have shorter commutes and greater reliance on public and non-motorized transport modes. Longer commutes also tend to increase residents’ time and expenses to access services and economic opportunities.[[59]](#footnote-60)
44. For government housing developments to help achieve both justice and sustainability imperatives, it is necessary to consider the broader implications of housing – not merely housing as access to adequate accommodation and basic services, but the associated access to goods, services, and work opportunities and income generation options.[[60]](#footnote-61)

**South Africa’s Constitutional Framework**

1. The achievement of equality and non-discrimination is the very essence of our constitutional architecture. As the supreme law[[61]](#footnote-62), the Constitution applies to everyone and affirms the values of human dignity, equality, and freedom through the Bill of Rights.
2. The right to equality is provided for in section 9 of the Constitution and guarantees that everyone is equal before the law and as such has the right to equal protection and benefit of the law. Further, the equality clause encompasses a comprehensive list of grounds on which neither the State nor any person may unfairly discriminate against anyone. These grounds include inter alia race, sex, class, gender, and sexual orientation
3. The right to dignity is entrenched in section 10 of the Constitution.[[62]](#footnote-63) Millions of poor and vulnerable groups of persons particularly womxn face significant challenges in adequate housing and imperative basic services including adequate water, sanitation, electricity and refuse removal. The constitutional right to access adequate housing plays an interconnected and important role in the realisation of the human dignity of persons. Moreover, South Africans continue to live in deplorable conditions without access to basic services which has a dire impact on human dignity.

In the case of Government *of the Republic of South Africa and Others v Grootboom and Others,* the Constitutional Court enunciated that all rights in the South African Bill of Rights are inter-related and mutually supporting, thus the right to human dignity, freedom and equality are denied to persons who do not have access to inter alia the right to adequate housing. Importantly the court noted that the realisation of these rights is the “key to the advancement of race and *gender equality* and the evolution of a society in which men and women are equally able to achieve their full potential”.[[63]](#footnote-64)

The right to access adequate housing is enshrined in section 26 of the Constitution of South Africa. The section mandates and imposes a positive obligation on the State to take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the right to adequate housing.[[64]](#footnote-65) However, over 20 years into democracy, black people continue to live in informality which is an alternative to waiting on the government to provide them with adequate housing in areas zoned for residential purposes.[[65]](#footnote-66) This is evident at the rate that black people occupy land in informal settlements which is wet land in most instances and very prone to flooding and fires.[[66]](#footnote-67)

1. In South Africa, the Constitutional Court has attributed the understanding and meaning of the term “progressive realisation to mean that it was contemplated by the drafters of the Constitution that the right could not be immediately realised, however, the constitutional aim is to ensure that the State takes reasonable steps towards achieving the goal to have all persons in the South African society’s basic needs effectively met. Furthermore, the court understood it to mean that accessibility with respect to the right to adequate housing should be progressively facilitated, i.e., operational, financial, legal and administrative challenges should be evaluated and where possible addressed over time.[[67]](#footnote-68) However, we submit that the progressive realisation of this right has become an obstacle to the provision of delivery of adequate housing by the State. We highlight the following statistics and comments to speak to this.
2. According to a study by professors at the University of Johannesburg, on subsidised housing in South Africa, at the time the article was written in 2018, the State had delivered about 4.5 million subsidised housing to low and medium-income households since South Africa’s transition to democracy in 1994. Despite the significant amount of housing delivered, more than 2 million households were estimated to live in inadequate housing in South Africa and the unmet demand for housing continues to rise. Further statistics show that the housing backlog rose from about 1.2 million in 1994 to about 2 million households in 2017 and the number of informal settlements comparison across South Africa had been 300 in 1994 and more than 2700 in 2017. It was evident from the study that the reasons for the high demand for subsidized housing and by extension the reason for inadequate housing in South Africa is primarily divided into three factors.
3. Firstly, the crisis is attributed to socio-economic issues which include high levels of poverty, employment, rapid urbanisation, low economic growth and the lack of access to affordable housing to which womxn are disproportionately affected. Secondly, the demand of housing exceeds the supply. The last factor is clustered as the unintended consequence of the current housing policy has been the culture of dependency on the State among some communities, the legacy of discriminatory policies during the apartheid era and the expectation that the State will provide people with free housing.[[68]](#footnote-69)
4. The General housing statistics of 2019 by Stats SA depicts an analysis of the types of housing and the extent of the use of state-subsidised housing as well as the perceived quality of these dwellings.[[69]](#footnote-70)
5. According to the survey, 81,9% of all households resided in formal settlements in 2019. Although the percentage of households that received some form of government housing subsidy increased from 5,6 in 2002 to 18,7 by 2019, 12,7% of South Africans still resided in informal dwellings. Cape Town and Gauteng accounted for the provinces with the highest percentage of persons living in informal dwellings, both being 18,7%, followed by 18,4% for the Northwest. This has been said to be a result of the difficulty in addressing existing housing subsidy backlogs in the face of new demands as there continues to be rapid growth and population relocation.[[70]](#footnote-71)
6. About 81,9% of households in metropolitan areas lived in formal dwellings, while 16,8% lived in informal dwellings. Informal dwellings were most common in the City of Cape Town (19,6%), Johannesburg (19,1%) and Ekurhuleni (18,4%), and least common in Nelson Mandela Bay (7,1%).
7. We submit that a significant portion of households is female-led. Statistics SA depicts that in 2019, approximately 41,8% or 2,7 million households in South Africa were headed by women. As such, according to the above statistics, we can conclude that inadequate housing and the impact of climate change on the right to adequate housing gravely affects women in South Africa, particularly rural black women as statistics show that the most common provinces with female-headed households were provinces with large rural areas such as Eastern Cape (50%), Kwa-Zulu Natal 947%) and Limpopo (48,8%).[[71]](#footnote-72)
8. In*Amardien and Others v Registrar of Deeds and Others (Women’s Legal Trust Amicus Curiae)[[72]](#footnote-73)* the WLC highlighted the plight of women before the constitutional court in relation to the CTCHC Housing Scheme. We noted that access to housing and land in urban and rural areas has continued to be problematic in Cape Town Western Cape where apartheid and spatial planning and development continued to hinder womxn from enjoying access to housing. Womxn often have difficulty in accessing formal credit from financial institutions and the reality for many of the womxn who come to the WLC continues to be that the value of property has increased exponentially to the point where ordinary working-class womxn can no longer afford to purchase property or rent property.
9. The Amardien case further evolved around the existence of ongoing discrimination faced by womxn in respect of access to land, housing, security of tenure, and ownership when womxn attempt to access social housing schemes. The constitutional court set aside and replaced the High Court order which upheld the cancellation of instalment sale agreements between the CTCHC Housing Scheme and the Applicants and the sale of their homes. We noted that the effect of this would have opened the 12 applicants, 8 of which were womxn and their families who were all beneficiaries and purchasers of homes under the state-subsidised housing project administered via the Cape Town Housing Community Housing Company (CTCHC), to eviction and the loss of their homes.[[73]](#footnote-74)
10. Rights relating to climate change and the climate crisis are encompassed in section 24 of the Constitution as it provides that everyone has a right to an environment that is not harmful to their health or wellbeing... The Constitution frames this right for the benefit of present and future generations, through reasonable and legislative measures which ensure the prevention of pollution and ecological degradation and promote conservation. Moreover, the right guarantees and secures ecologically sustainable development and the use of natural resources while promoting justifiable economic and social development.[[74]](#footnote-75)
11. Section 26 of the Constitution which speaks to housing, is divided into three subcategories of rights, firstly that everyone has the right to access adequate housing and that the State must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right. It further entrenches the obligation on the State to ensure that no one may be arbitrarily evicted from their home or have their home demolished without a court order made after all the relevant circumstances are considered. Therefore, no legislation may permit arbitrary evictions.[[75]](#footnote-76)

**National Legislative and Policy Framework**

1. As alluded to in previous sections of this submission, South Africa has committed to promoting and enhancing gender equality while mitigating and responding to climate change. This section sets out some of the key legislation and policies in South Africa relating to both gender equality and climate change. Notably, there is very little overlap between the two constitutional guarantees.

**Gender Equality**

1. Gender equality is deeply entrenched in the South African law and policy framework. Thus, it is extensive in that the State has attempted to operationalise the constitutional commitments through law and policy to promote gender equality and gender responsiveness across different spheres of life as part of its gender mainstreaming efforts.
2. The State has given effect to the right to equality and to be free from discrimination as guaranteed by the Constitution by enacting the Promotion of Equality and Unfair Discrimination Act (PEPUDA). PEPUDA expands on the normative content of the listed grounds for discrimination set out in section 9 of the Constitution while also making provision for processes and procedures to access legal recourse through the Equality Court in cases where there has been an infringement of the right.
3. The State’s extensive legal framework on violence against womxn contains the Criminal Law (Sexual Offences and Related Matters) Amendment Act; the Prevention of Combatting Trafficking in Persons Act; the Domestic Violence Act; and the Protection from Harassment Act 17 of 2011 coupled with pivotal policy documents to respond to gender-based violence.
4. South Africa has substantial policies and draft policies relating to gender equality. These comprise of the National Gender Policy Framework (2000) and Women’s Charter for Effective Equality (1994). Draft policies include the Framework for South Africa’s National Gender Machinery (2019) and the Women’s Financial Inclusion Framework (2019).
5. We note that these policies do not focus on gender and climate change. Still, South Africa’s broader commitment to gender mainstreaming as well as in law and policy sets precedent for the inclusion of a legislative framework which intersects climate change and gender. The approach implemented however, is very much soiled with little to no overlap being visible in the daily experience of womxn.

**Gender Responsiveness of Climate Change in South Africa**

1. We submit that the constitutional obligations set out in section 24 of the Constitution are expanded through extensive legislation focused on protecting the environment. This legislative framework includes but is not limited to:
   * + the National Environmental Management: Air Quality Act (Act 39 of 2004 and its amendments):
     + the National Environment Management: Integrated Coastal Management Act 24 of 2008;
     + National Environmental Act: Waste (Act 59 of 2008);
     + National Environmental Management Act: Protected Areas Act (Act 57 of 2003);
     + The Carbon Tax Act 15 of 2019
2. We note that gender is not mainstreamed within these Acts. The Integrated Coastal Management Act only mentions womxn in relation to demolishing unlawful structures on coastal public property and the Carbon Tax Act establishes carbon tax but fails to mention gender.
3. South Africa’s policy framework includes the White Papers on Marine Fisheries (1997), Conservation and Sustainable (1997), Environmental Management (1998), Integrated Pollution and Waste Management (2000) and the National Environmental Management of Oceans.

*The National Environmental Management Act (NEMA) Act 107 of 1998[[76]](#footnote-77)*

1. The National Environmental Management Act 107 of 1998 is aimed at providing for cooperative, environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that promote this governance and procedures for coordinating environmental functions. Section 2(4) of the Act relates to the sustainable development and notes the consideration of relevant factors which includes the overlap of sustainable development and gender in providing that *“…[t]he vital role of women and youth in environmental management and development must be recognised and their full participation therein must be promoted..*.”.
2. The Act in section 4 establishes the National Environmental Advisory Forum. The Forum has been launched to inform the Minister of the views of stakeholders and to advise the Minister on any matter that concerns environmental governance and management and establishing methods of compliance. Furthermore, in appointing persons to represent stakeholders the Minister must *“…[t]ake into account the desirability of appointing women, youth and persons disadvantaged by unfair discrimination and ensuring representation of vulnerable and disadvantaged persons…”.*[[77]](#footnote-78)

*The National Development Plan 2030*

1. The National Development Plan seeks to eliminate poverty and reduce inequality by 2030. The NDP has identified climate change as a major threat to development and notes that it has the potential to impact the availability of potable water and reduce food production with dire consequences for migration patterns and levels of conflict. It suggests that *“…[s]ocial vulnerability and dispersed and poorly planned development, rather than inadequate climate-specific policy…”* has rendered South Africa’s response to climate change compromised.
2. The Plan has noted marked temperatures, rainfall variations and rising sea levels as manifestations of climate change in South Africa. As South Africa is a huge contributor to greenhouse gases, which contribute to climate change, there is a dire need to increase the diversity in South Africa’s energy mix.[[78]](#footnote-79) Although the Plan recognises that climate change disproportionately affects womxn and children and that the crisis will be the reason for young migrant womxn to move away from regions severely affected by climate change, it fails to identify and encompass gender-inclusive actions. The vision for the NDP by 2030 enunciates that *“… South Africa’s transition to an environmentally sustainable, climate-change resilient, low-carbon economy and just society will be well underway…”*, however, the goals and principles set out in the plan do not contain express aims framed through a gender-inclusive lens.

*The Draft Bill on Climate Change in South Africa*

1. South Africa’s Draft Climate Change Bill was published for comment in June 2018 and again in May 2022. The aim of the Bill is to provide for a coordinated and integrated response to climate change and its impact on all spheres of governance. Further its objectives relate to providing for the management of climate change impacts, and adaption, to make a fair contribution to global efforts to address climate change. The State is yet to pass the draft Bill. We submit that the draft Bill does not include reference to gender, womxn or aspects relating to vulnerabilities on the grounds of gender and how these characteristics will be addressed in an intersectional manner.
2. It is imperative to note that currently, South Africa’s response to climate change as set out in the legislative framework does not include an explicit analysis or provision that speaks to the gendered impact of climate change on womxn, and how the State will address the discriminatory impact of climate change on womxn.
3. One of the key developments for the State is the approval of the National Climate Change Adaption Strategy, in that it encompasses and recognises gender sensitivity. It notes that the development and implementation of the strategy will promote the participation of women, take gender differences in vulnerability to climate change into account, address the needs and priorities of both women and men and will not exacerbate gender inequalities.
4. South Africa’s Economic Strategy notes that water supply will be affected by climate change and as a result, the State will not be able to support economic transformation and inclusive growth. The strategy contains certain recommendations to alleviate the effects of climate change and includes the need for a national water conservation programme to manage with the aim of reducing wastewater and demand in urban areas, and a comprehensive management strategy for water investment. It identifies challenges like the fact that many agricultural producers in South Africa are not insured against the negative impacts resulting from natural disasters such as drought given that agriculture has been noted to be the primary focus for the growth of the economy. Yet, the strategy does not identify the gendered implications of economic decisions relating to changing the State’s energy supply mix or the promotion of womxn’s economic empowerment.

**Regional and International Obligations**

1. The Constitution of South Africa provides that when interpreting the Bill of Rights, a court, tribunal, or forum must consider international law and may consider foreign law. Accordingly, international, and regional obligations on the right to adequate housing are reflected in both the State’s national legislative framework and Constitutional Court judgements.
2. We highlight the following international and regional obligations imposed on the State by international and regional law instruments which oblige the State to address climate change, the right to adequate housing and/or enhance gender equality:

**International Law on the right to adequate housing, climate change and womxn**

1. Article 11 of the International Covenant on Economic, Social and Cultural Rights and Article 25 of the Universal Declaration of Human Rights speak to the right to adequate housing and provide protection from arbitrary evictions. Furthermore, these provisions recognise that the social-economic needs of citizens of States are interrelated and as such oblige State parties to ensure that communities can access social services and economic opportunities by adequate planning in housing delivery.

*The United Nations Convention on the Elimination of Discrimination Against Women (CEDAW)*

1. The United Nations Convention on the Elimination of Discrimination Against Women (CEDAW) ratified by South Africa on 15 December 1995, sets out the minimum standards for the State to meet to ensure the prohibition and prevention of discrimination in addition to ensuring equality. The convention places a positive obligation on States to eliminate discriminatory laws and promote and protect the rights of vulnerable womxn. This obligation entrenches the promotion of womxn in all spheres of life including politics, employment, and education. Further, the Convention necessitates the State to take all measures to eliminate discrimination against particularly rural womxn to ensure that they benefit from rural development. This encompasses the right to adequate living conditions including the supply of water.

**Regional Law**

*African Union Agenda 2063*

1. The AU continental framework aims to deliver on its aim for inclusive development and speaks to both gender equality and climate change. One of the priorities of the agenda is to build a prosperous Africa that is based on Inclusive Growth and Sustainable Development. To achieve this sub-goal 7 on the agenda is Environmentally sustainable and climate-resilient economies and communities, which includes (among other focus areas) climate resilience and natural disasters preparedness and prevention. Sub-goal 17 of Priority Area 6 is to realise full gender equality in all spheres of life. Agenda 2063 thus provides a commitment to a gender-responsive approach to climate change.

*AU Draft Strategy on Climate Change (2014)*

1. The Strategy is aimed at identifying actions for African Countries around climate change, which includes mitigation actions. Notably, it identifies gender as a key issue relating to climate change and notes that womxn are more affected by climate change and vulnerable to its impacts through the recognition of the intersections between gender and poverty.

*Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol)*

1. The Maputo Protocol obliges State Parties to inter alia combat all forms of discrimination against womxn through appropriate legislative, institutional and other measures and to promote political participation. Notably, although the Protocol does not explicitly mention ‘climate change’ it does make provision for commitments to respond to issues relating to climate change and the climate crisis.
2. Section 18 of the Protocol provides for States to ensure the right to a healthy and sustainable environment and obliges States to “take appropriate measures to ensure greater participation of womxn in the planning, management and preservation of the environment and the sustainable use of the natural resources at all levels”. Additionally, Article 18 includes the promotion of investment and research into renewable energy sources and technologies, ensuring that womxn have access to these and participate in their control. States have the responsibility to protect and enable the development of womxn’s indigenous knowledge and systems, among other issues.
3. Article 19 encompasses a gendered approach by committing States to take all appropriate measures to include a gendered perspective in national development planning procedures, ensuring womxn participate in all levels of decision making and implementation, and promoting womxn’s access to and control over productive resources etc.

*The Southern African Development Community Protocol on Environmental Management for Sustainable Development (2014)*

1. Article 12 of the Protocol obliges States to take measures including adopting necessary legislative and administrative measures to address issues relating to climate change and enhance adaption to the impacts of climate change. Importantly the protocol notes that in adopting these measures, States bear in mind the diverse and gender-differentiated levels of vulnerabilities and as such take the appropriate mitigation measures when dealing with issues of climate change.

*The SADC Protocol on Gender and Development (SADC 2008)*

1. This Protocol commits States Parties to ensure the equal participation of womxn and men in decision-making by developing and implementing policies, strategies and programmes to build womxn’s capacity to participate effectively through leadership and gender sensitivity training and mentoring, providing support structures for womxn in decision-making positions, establishing structures to enhance gender mainstreaming, and changing discriminatory attitudes and norms of decision making structures and procedures. Article 18 focuses on access to property and resources and commits States Parties to review all policies and laws that determine access to, control of, and benefit from, productive resources by womxn in order to: end all discrimination against womxn and girls with regard to water rights and property such as land and tenure thereof. Unfortunately, the SADC Protocol does not mention climate change or address this issue in a gender-equitable way.
2. **CONCLUSION**
3. We trust that through these submissions we are able to assist the Special Rapporteur in its investigation assimilate change and the crises that we are experiencing as a result requires a multifaceted, intersectional approach if we are to address its devastating impact on people and the planet.
4. We further highlight the need for effective policy action which is inclusive and transformed and will result in legislation and effective implementation which is not only in line with international standards but also meet the needs of the womxn on the ground who are directly affected by the effects and consequences of climate change. This approach is essential to ensure that our laws and policies reflect the lived reality of womxn and is meaningful in its impact and implementation and this can only be achieved through meaningful social dialogue and participation between the State and those vulnerable groups directly affected.

1. The WLC uses the term “womxn” throughout these submissions as the term is inclusive of all persons who identify themselves as womxn. It further serves as a feminist reminder of the rejection of patriarchal values attached to the gender binary. [↑](#footnote-ref-2)
2. Website: [www.wlce.co.za](http://www.wlce.co.za) [↑](#footnote-ref-3)
3. <https://www.statssa.gov.za/publications/P0318/P03182018.pdf> [↑](#footnote-ref-4)
4. Climate Change’s Disproportionate Impact on Women: Agricultural Workers in South Africa <https://gjia.georgetown.edu/2020/07/19/climate-change-disproportionate-impact-on-southafrican-women> [↑](#footnote-ref-5)
5. Section 26 (1) “Everyone has the right to have access to adequate housing.” [↑](#footnote-ref-6)
6. See Government of the Republic of South Africa and Others v Grootboom and Others 2000 (11) BCLR [↑](#footnote-ref-7)
7. The Right to Adequate Housing: Factsheet, South African Human Rights Commission <https://www.sahrc.org.za/home/21/files/Fact%20Sheet%20on%20the%20right%20to%20adequate%20housing.pdf> [↑](#footnote-ref-8)
8. The Right to Adequate Housing Factsheet: SAHRC pg 2. [↑](#footnote-ref-9)
9. In relation to the interdependency of housing and other rights, the Constitutional Court in Grootboom held that “the rights in our Bill of Rights are inter-related and mutually supporting. There can be no doubt that human dignity, freedom and equality, the foundational values of our society, are denied those who have no food, clothing or shelter,” [↑](#footnote-ref-10)
10. The Right to Adequate Housing Factsheet: SAHRC Pg 2. [↑](#footnote-ref-11)
11. Ibid [↑](#footnote-ref-12)
12. *Adonisi and Others v Minister for Transport and Public Works Western Cape and Others; Minister of Human Settlements and Others v Premier of the Western Cape Province and Others [2021] 4 All SA 69 (WCC) para 33* [↑](#footnote-ref-13)
13. *Rahube v Rahube and Others 2019 (2) SA 54 (CC)* [↑](#footnote-ref-14)
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    <https://www.engineeringnews.co.za/article/research-shows-where-how-housing-developments-are-built-impact-on-residents-carbon-footprints-2021-09-30> [↑](#footnote-ref-15)
15. In formal Settlements and Human Rights in South Africa- Submission to the United Nations Special Rapporteur, SERI, 2018 [↑](#footnote-ref-16)
16. Department of Human Settlements (DHS), ‘Upgrading of Informal Settlement Programme’, Part 3 of the National Housing Code (2009) [↑](#footnote-ref-17)
17. <https://www.globalcitizen.org/en/content/apartheid-climate-change-impact-south-africa/> [↑](#footnote-ref-18)
18. <https://www.globalcitizen.org/en/content/apartheid-climate-change-impact-south-africa/> [↑](#footnote-ref-19)
19. <https://www.carbonbrief.org/climate-change-made-extreme-rains-in-2022-south-africa-floods-twice-as-likely/> [↑](#footnote-ref-20)
20. <https://www.dailymaverick.co.za/article/2022-06-15-khayelitsha-residents-flee-flooded-homes-to-shelter-in-churches-after-relentless-rainfall/> [↑](#footnote-ref-21)
21. <https://www.news24.com/news24/southafrica/news/pics-winter-of-discontent-we-just-want-decent-houses-say-flood-hit-cape-town-residents-20220618> [↑](#footnote-ref-22)
22. R Scholes and F Engelbrecht “If we don’t take climate action now, this is what life in South Africa will look like” Centre for Environmental Rights <https://cer.org.za/news/if-we-dont-act-now-on-climate-change-this-is-what-life-in-south-africa-will-look-like> <<28/08/2021>> [↑](#footnote-ref-23)
23. https://www.scientificamerican.com/article/climate-change-doubled-the-likelihood-of-devastating-south-african-floods/ [↑](#footnote-ref-24)
24. [Climate Change’s Disproportionate Impact on Women: Agricultural Workers in South Africa - Georgetown Journal of International Affairs](https://gjia.georgetown.edu/2020/07/19/climate-change-disproportionate-impact-on-southafrican-women/) [↑](#footnote-ref-25)
25. Smout J “A Gendered Lens: Mainstreaming Gender into South Africa’s Climate Change Response, Johannesburg” 2020. [↑](#footnote-ref-26)
26. [Climate Change’s Disproportionate Impact on Women: Agricultural Workers in South Africa - Georgetown Journal of International Affairs](https://gjia.georgetown.edu/2020/07/19/climate-change-disproportionate-impact-on-southafrican-women/) [↑](#footnote-ref-27)
27. <https://cer.org.za/news/if-we-dont-act-now-on-climate-change-this-is-what-life-in-south-africa-will-look-like> [↑](#footnote-ref-28)
28. <https://cer.org.za/news/if-we-dont-act-now-on-climate-change-this-is-what-life-in-south-africa-will-look-like> [↑](#footnote-ref-29)
29. [Climate Change’s Disproportionate Impact on Women: Agricultural Workers in South Africa - Georgetown Journal of International Affairs](https://gjia.georgetown.edu/2020/07/19/climate-change-disproportionate-impact-on-southafrican-women/) [↑](#footnote-ref-30)
30. Mwai P “Durban floods: Is it a consequence of climate change?” BBC News 19 April 2022 <https://www.bbc.com/news/61107685> [↑](#footnote-ref-31)
31. Mwai P “Durban floods: Is it a consequence of climate change?” [↑](#footnote-ref-32)
32. <https://time.com/cape-town-south-africa-water-crisis/> [↑](#footnote-ref-33)
33. https://www.bloomberg.com/news/articles/2022-05-22/south-africa-faces-critical-water-shortage-within-weeks [↑](#footnote-ref-34)
34. *Earthlife Africa Johannesburg v Minister of Environmental Affairs and Others [2017] 2 All SA 519* [↑](#footnote-ref-35)
35. <https://cer.org.za/news/winning-sas-first-climate-change-court-case-what-it-means-for-affected-communities-industry-government-and-the-people-of-south-africa> [↑](#footnote-ref-36)
36. <https://cer.org.za/news/winning-sas-first-climate-change-court-case-what-it-means-for-affected-communities-industry-government-and-the-people-of-south-africa> [↑](#footnote-ref-37)
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39. <https://cer.org.za/news/civil-society-coalition-appeals-approval-for-musina-makhado-special-economic-zone-and-demands-dffe-intervention> [↑](#footnote-ref-40)
40. <https://cer.org.za/news/civil-society-coalition-appeals-approval-for-musina-makhado-special-economic-zone-and-demands-dffe-intervention> [↑](#footnote-ref-41)
41. *Minister of Public Works and others v Kyalami Ridge Environmental Association and another 2001 (3) SA 1151 (CC)* [↑](#footnote-ref-42)
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44. Ibid [↑](#footnote-ref-45)
45. National Climate Change Response: White Paper. Pg 7. [↑](#footnote-ref-46)
46. National Climate Change Response: White Paper. Pg 7. [↑](#footnote-ref-47)
47. Ibid [↑](#footnote-ref-48)
48. Ibid [↑](#footnote-ref-49)
49. National Climate Change Response: White Paper Pg 22 [↑](#footnote-ref-50)
50. Ibid [↑](#footnote-ref-51)
51. Ibid [↑](#footnote-ref-52)
52. National Climate Change Response: White Paper. Pg 7. [↑](#footnote-ref-53)
53. National Climate Change Response: White Paper Pg 23 [↑](#footnote-ref-54)
54. Ibid [↑](#footnote-ref-55)
55. Ibid [↑](#footnote-ref-56)
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57. Pasquini L, Enqvist JP “Green Infrastructure in South African Cities” 2019. [↑](#footnote-ref-58)
58. Ibid pg 8 [↑](#footnote-ref-59)
59. Culwick C and Patel Z “Building Just and Sustainable Cities” pg 139 [↑](#footnote-ref-60)
60. Culwick C and Patel Z “Building Just and Sustainable Cities” Pg 151. [↑](#footnote-ref-61)
61. *Constitution of the Republic of South Africa*, 1996 s2 provides that the Constitution is the supreme law of the Republic and that any law or conduct, inconsistent with it, is invalid. Furthermore, it states that the obligations imposed by it must be fulfilled [↑](#footnote-ref-62)
62. *Constitution of the Republic of South Africa* 1996, Section 10. [↑](#footnote-ref-63)
63. *Government of the Republic of South Africa v Grootboom 2001 1 SA 46 (CC)* [↑](#footnote-ref-64)
64. *Constitution of the Republic of South Africa 1996, Section 26.* [↑](#footnote-ref-65)
65. <https://www.groundup.org.za/article/housing-activists-fear-draft-bylaw-could-see-land-occupiers-fined-or-face-imprisonment-2-years/> accessed 2022/07/01 [↑](#footnote-ref-66)
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69. Statistics South Africa *General Housing Survey 2019:* <https://www.statssa.gov.za/publications/P0318/P03182019.pdf> Date of access 21 June 2022. [↑](#footnote-ref-70)
70. Statistics South Africa *General Housing Survey 2019:* <https://www.statssa.gov.za/publications/P0318/P03182019.pdf> p32-p33. [↑](#footnote-ref-71)
71. Statistics South Africa *General Housing Survey 2019:* <https://www.statssa.gov.za/publications/P0318/P03182019.pdf> p8. [↑](#footnote-ref-72)
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73. *Amardien and Others v Registrar of Deeds and Others (Women’s Legal Trust Amicus Curiae) 2019 (2) BCLR 193 (CC).* [↑](#footnote-ref-74)
74. *Constitution of the Republic of South Africa* 1996, Section 24. [↑](#footnote-ref-75)
75. *Constitution of the Republic of South Africa* 1996, Section 26. [↑](#footnote-ref-76)
76. *National Environmental Management Act 107 of 2008*  [↑](#footnote-ref-77)
77. *Section 4(20, the environmental management Act 107 of 1998* [↑](#footnote-ref-78)
78. National Planning Commission, 2013 p169. [↑](#footnote-ref-79)