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**RARE**  
*Rights and Resilience in Kenya*

# Why land rights are important for climate action



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## Key Takeaways

1. Land rights are critical to climate change adaptation, but have been overlooked in climate change negotiations and -projects
2. People's needs to access land for climate change adaptation should be incorporated in national and local land use planning, and in adaptation projects
3. People's access to land for climate change adaptation should be included in national monitoring and reporting for UNFCCC Global Stocktakes and the Global Goal on Adaptation
4. Land rights are also critical for climate change mitigation. Land rights therefore also require policy attention in connection to the growing emphasis on carbon projects and nature restoration.



Land rights – and struggles over them - have been a core element in human society throughout history, and they are critical to successful and equitable climate action. Land rights are diverse and can be e.g., individual or communal, exclusive or partial, permanent or temporary – but common to all forms is that they provide access to land, water and other resources that are vital for people's adaptation. Land rights have so far rarely been discussed in the climate negotiations or national and local climate policies, but they can make or break the practical implementation of a number of the plans and mechanisms decided at the UN COP negotiations and in domestic climate policies.

Land rights are a critical underlying feature in several of the key issues and debates at the global climate change negotiations, including those at COP28. This includes the Loss & Damage agenda, the Global Goal on Adaptation, and the growing emphasis on Nature-based Solutions including carbon off-setting projects and land restoration. Incorporating land rights in the UNFCCC Global Stocktakes is equally important.

## Land rights and the Loss & Damage agenda

The new Loss & Damage fund aims to help compensate vulnerable countries for economic and non-economic losses and damages caused by climate change. In principle, this funding should ultimately end up helping people, whose livelihoods the climate changes have severely affected or made impossible, through various forms of compensation or insurance schemes.

Land-related losses and damages caused by climate change are common across the Global South. Examples include the 2022 extreme floods in Pakistan and Nigeria, which covered major parts of both countries and displaced millions, and the recent drought in Kenya and the Horn of Africa, which was the worst in decades. In such disasters, farmland, grazing areas, and housing plots are degraded or simply washed away due to intensified floods, droughts or cyclones. At the same time, more gradual changes such as new rainfall patterns, temperature change, and sea level rise undermine the basis for agricultural production and human habitation in entire regions.

It may, however, prove difficult for many of the world's inhabitants to document such losses and damages. In order to claim that your land has been degraded and your crops and homes have been lost to floods, you probably must prove that you had the rights over this land in the first place. This will be a problem for the many communities in Africa, who do not have formal state-sanctioned rights to their land but rely on customary land rights or locally negotiated access rights that the state has not sanctioned. This includes millions of farmers worldwide, as well as mobile groups, such as pastoralists, who move livestock

across large distances in search of graze lands. It is an even bigger problem for those who do not have any land rights at all - including people, who are too poor to own land and work on other people's farms instead, or those who live in unrecognized informal urban settlements.

Documenting losses and damages related to land may also be difficult in situations of displacement, where people have left their original homes and land because of floods, droughts, or long-term degradation caused by climate change. The situation may be particularly problematic for women, as land in small-holder farming is often owned by male household members.

Loss & Damage compensation- and insurance mechanisms must pay close attention to such issues if they are to succeed and be just and equitable. This includes finding ways to recognize different types of rights, such as customary, collective and locally negotiated rights – and working to strengthen the rights of those, who are at a disadvantage vis-à-vis land rights, or whose land rights are insecure for other reasons. Experiences from past and ongoing efforts to strengthen the land rights of women, indigenous peoples, and other groups – such as the programmes and initiatives under the International Land Coalition - will be important to bring into the Loss & Damage implementation work. Finding means to channel Loss & Damage financing to those, who are not likely to gain land rights, but whose livelihoods land related climate hazards nevertheless affect – such as farm workers - will also be important.





## Land rights and climate change adaptation

An important outcome of COP27 was the launch of a new initiative on climate change *adaptation*, namely the Sharm El Sheik Adaptation Agenda, the first global roadmap for adaptation action that brings together state and non-state actors. At COP28 the plan delivered its first progress report to the UNFCCC Global Stocktake. The Sharm El Sheik Adaptation Agenda does not mention land rights, and yet they constitute a significant factor in a number of the key areas that the initiative aims to address - including agriculture, water and ecosystems, irrigation, coastal protection, infrastructure development, and insurance schemes.

For example, the Sharm El Sheik Agenda aims to increase farmers' yields without expanding the agricultural frontier. This brings into play the complex connections between secure land rights and small-holder farmers' ability to enhance their yield. Here, it will be important to engage farmers themselves in order to understand their own preferences and rationales as to what kinds of land rights help them enhance farming outputs.

The Sharm El Sheik Agenda also plans to make substantial use of so-called Nature-based Solutions in both rural and urban settings. This includes "*protection of 45 million hectares (lands and inland waters), 2 billion hectares sustainable management and 350 million hectares restoration of land securing legal indigenous and local communities with use of nature-based solutions to improve water security and livelihoods.*" [our underscore]. It is a positive feature of the Agenda that it pays attention to indigenous peoples' and local communities' livelihoods. As decades of experience in conservation have shown: if such initiatives do not at the same time secure indigenous peoples and communities' rights to land and other natural resources, they will fail.

In addition to global and nationally driven adaptation initiatives, it is also essential to be aware that autonomous adaptation is already ongoing among most communities. This, too, raises important questions about land rights. As we have found in the Rights and Resilience (RARE) research program in Kenya (<https://rare-net.org/>), rural households' needs for land access may change as they adapt to climate change. In some areas, for instance, pastoralist households increasingly engage in crop farming as part of their adaptation strategies, and with that comes a need to secure small plots of land with adequate soils and water. Other pastoral households focus more on intensified livestock production, and/or growing their own feed and rely on individual plots that can sustain this. Yet others move their livestock further afield or to new areas, relying on access through communal rangelands that become more and more scarce, or – if they are well-off – leasing or buying private grazing land in other parts of the country.

Efforts that aim to support adaptation – such as the Sharm El Sheik Adaptation Agenda - must therefore pay more attention to the connections between adaptation and different land rights and how adaptation can be supported under different tenure arrangements. This includes options for flexible cross-tenure arrangements (e.g., communal/individual) and developing conflict resolution mechanisms to deal with the conflicts that may arise from the adaptation strategies of different stakeholders as their land interests collide. There is need for attention to land rights also when developing methods and metrics for monitoring adaptation progress under the Global Goal for Adaptation (GGA) and the future UNFCCC Global Stocktakes.



## Land rights and climate change mitigation

While adaptation and loss & damage agendas often overlook the importance of land rights, the issue has been more contentious in the context of climate change *mitigation*, i.e., the actions that aim to reduce emissions in order to halt further climate change. One example is large-scale renewable energy schemes, such as wind- and solar farms, which have sometimes lacked attention to – or even overruled – local land rights. This has led to conflict with local communities, and in some cases delayed or even entirely stopped such projects.

Contestations over land rights have however been particularly debated in relation to forest and climate initiatives such as the REDD+ mechanism, which aim to store and capture carbon dioxide through forest conservation. In the climate negotiations and elsewhere, indigenous peoples and local communities supported by civil society organizations have long voiced concerns that such schemes will disenfranchise them from their territorial and customary land rights.

Despite the controversies and a recent period of stagnation at the climate negotiations, the forest and climate agenda recently returned to a prominent role. At COP27, forests were mentioned in the final negotiation text for the first time, and a new 26-country Forest and Climate Leaders' Partnership was formed. At recent COPs, African, Asian and Latin American countries in the Coalition for Rainforest Nations have furthermore negotiated – with some success – for greater private sector financing and -trading in the REDD+ finance mechanism.

In recent years, the original emphasis on forest and climate initiatives has furthermore expanded to also including carbon storage in wetlands, rangelands, and other ecosystems, and the scope has grown from only protecting existing ecosystems to also restoring and expanding them. Land restoration among smallholder farmers has also entered the COP agenda. For example, at COP27 the Arab Bank for Economic Development in Africa, the Bezos Earth Fund, and a Pan-African investment company launched a 2-billion-dollar blended finance mechanism to support land restoration among small-holder farmers.

The sheer amount of land on which such climate change mitigation efforts will take place is very substantial. According to the Land Gap report (<https://www.landgap.org/>), the combined reliance on land for carbon removals in country pledges under the UNFCCC amounts to 1.2 billion hectares of land globally, which is roughly equal to the extent of current global crop land. Approximately 633 million hectares of this involve a change of existing land uses to forest.

Many of these efforts do, in principle, aim to engage and benefit communities and indigenous peoples alongside the broader benefits from climate change mitigation, but land rights issues remain disputed in carbon projects. There are concerns that these initiatives will drive up land values and impose too many restrictions on the rights of communities to access and manage their land and ecosystems.

Attention to the issue of land rights is thus pivotal also in mitigation measures, and especially those that involve external measures to protect and restore natural ecosystems in order to store carbon and avoid emissions. Relevant principles and standards are developing that can help guide such measures, such as the IUCN Global Standards for Nature Based Solutions and the recent Land Rights Standard facilitated by the Right & Resources initiative. While these frameworks constitute important steps forward, they are not recognized by all stakeholders and can be circumvented in practice. Ensuring their effective implementation in climate measures is therefore critical, as is working from the ground up and incorporating the particularities of local and national land rights in interventions.

Land rights issues thus underpin a number of the key agendas in climate action in the Global South, ranging from compensation for loss and damage over adaptation to mitigation. They are critical for successful implementation of many major initiatives agreed at the recent UNFCCC COPs, and they are important for a just transition in the Global South. Yet land rights are often forgotten or not articulated in debates and initiatives about these agendas. Land rights, in all their different shapes and forms, should therefore be high on the agenda in future climate negotiations.