

POLICY PAPER

Advancing African Risk Capacity in Kenya

Applying a human rights-based approach to contingency planning

- First Version -

Vera Künzel and Psamson Nzioki



Brief Summary

African Risk Capacity (ARC) is a specialised agency that follows the vision of: “protect the livelihoods of vulnerable people in Africa against the impact of natural disasters through home-grown, innovative, cost-effective, timely and sustainable solutions.” As a regional, African-owned, and African Union (AU)-led insurance pool, ARC is an essential component of a more comprehensive approach to anticipatory climate risk management. It covers the issues of financial risk management through risk pooling and transfer. Contingency planning is a central part of ARC insurance, and a precondition to purchasing a policy. The specific advantage of an ex-ante mechanism such as this is its fast availability of support; thus, it help avert suffering.

This policy paper focuses on the ARC contingency planning process in Kenya and analyses the compatibility of the development, as well as the implementation of related plans, with human rights standards. It thereby applies the human rights-based approach to climate and disaster risk financing (HRBA-CDRF) to assess the degree of compatibility, identify room for improvement, and provide recommendations addressed to the responsible actors. The methodology is based on the HRBA-CDRF with its five principles of non-discrimination and equality, participation and empowerment, transparency, accountability, and do no harm.

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Authors:

Vera Künzel and Psamson Nzioki

Editing:

Adam Goulston

Layout:

Janina Longwitz, Marvin Müller

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Publisher:

Germanwatch e.V.

Bonn Office:

Kaiserstr. 201

D-53113 Bonn

Phone +49 (0)228 / 60 492-0, Fax -19

Berlin Office:

Stresemannstr. 72

D-10963 Berlin

Phone +49 (0)30 / 28 88 356-0, Fax -1

Website: www.germanwatch.org

E-mail: info@germanwatch.org

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Disclaimer

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Abbreviations

ARC	African Risk Capacity
CBT	Community-based targeting
CBV	Community-based verification
CBWR	Community-based wealth ranking
CRF	Climate risk financing
CRI	Climate risk insurance
CRM	Climate risk management
CSG	County steering group
CSO	Civil society organisation
DRFS	Disaster risk financing strategy
DRM	Disaster risk management
FIP	Final implementation plan
HRBA-CDRF	Human rights-based approach to climate and disaster risk financing
HSNP	Hunger Safety Net Programme
KFSSG	Kenya Food Security Steering Group
NDMA	National Drought Management Authority Kenya
OP	Operations plan
PRM	Peer review mechanism
PMT	Proxy means testing
TRC	Technical review committee

1 Introduction

Sub-Saharan Africa is among the world's regions most vulnerable to the impacts of a changing climate, for reasons such as its high reliance on agriculture, as well as its sensitivity to varying temperatures and precipitation, and its low adaptive capacity (Kotir 2010). Extreme weather events such as droughts can have a profound impact on countries' economic development and the particularly vulnerable agricultural and livestock sectors. The end result, thus, can be increased risk of hunger and malnutrition of the most vulnerable populations (FAO 2018).

Amidst a lack of appropriate (e.g., timely) financial mechanisms to respond effectively to extreme weather events, the African Union (AU) established African Risk Capacity (ARC) in 2012. This comprises two entities. ARC Limited (Ltd.) as the financial affiliate, established in 2013, provides insurance and is owned by member governments (ARC 2020b). ARC Agency provides capacity building to member states in customising their insurance policies, developing contingency plans, and monitoring and evaluation (ARC 2015). To benefit from the scheme, parties must enter into contracts for insurance with the ARC Agency and join the ARC Risk Pool.

ARC aims to “help African governments improve their capacities to better plan, prepare, and respond to extreme weather events and natural disasters”¹ and follows the vision of “protect[ing] the livelihoods of vulnerable people in Africa against the impact of natural disasters through home-grown, innovative, cost-effective, timely and sustainable solutions” (ARC 2016:9).

ARC plays an important role in combating human suffering due to climate change impacts, positioning food security at the centre of its efforts (ARC 2016). As a regional, African-owned, AU-led insurance pool², ARC is an essential piece within a more comprehensive approach of an anticipatory climate risk management that covers the issues of financial risk management through risk pooling and transfer. ARC has the potential to contribute to protecting its beneficiaries' lives and livelihoods. Such people are the most vulnerable within the ARC member countries with regard to extreme weather events, such as droughts.

Contingency planning is a central part of ARC insurance, meant to optimise ARC disbursement, and a precondition for purchasing a policy. Extreme weather such as droughts can lead to humanitarian crises, and humanitarian support, even if provided, often comes late because the related processes are time-consuming. Fast availability of support is the specific advantage of an ex-ante mechanism such as contingency planning. This ensures prompter and more reliable response/support, even before the crisis truly materialises (Warner et al. 2012). It is therefore highly relevant for anticipatory climate risk management that seeks to avert suffering.

From a human rights perspective, contingency planning plays a key role. This encompasses anticipatory planning to be prepared to support the most vulnerable when a disaster (in this case drought) occurs. As it encompasses the tangible response, it should also be customised to respond to the needs of the most vulnerable, and have them participate in its development.

Kenya has been an ARC member state since 2013 and held a policy for the 2014–2015 and 2015–2016 risk pools. At the national level, the National Drought Management Authority (NDMA), “mandated to

¹ <https://www.africanriskcapacity.org/>

² As it is unlikely that droughts will occur across the entire continent in the same year, not every country participating in the pool will receive a payout in a given year (ARC 2020b).

establish mechanisms which ensure that drought does not result in emergencies,”³ is the focal point for all ARC-related policies and processes, including contingency planning and preparations of the respective Operations Plans (OPs).⁴

This policy paper focuses on the ARC contingency planning process in Kenya⁵ and analyses the compatibility of the development, as well as implementation of related plans, with the human rights standards. It therefore applies the human rights-based approach to climate and disaster risk financing (HRBA-CDRF)⁶ to assess the degree of compatibility, identify space for improvement, and provide respective recommendations addressed to the responsible actors such as ARC and the Kenyan government/NDMA and civil society organisations (CSOs).

The methodology is based on the HRBA-CDRF⁷, with its five principles of non-discrimination and equality, participation and empowerment, transparency, accountability, and do no harm.

2 Methodology: The human rights-based approach to climate and disaster risk financing (HRBA to CRDF) applied to ARC contingency planning in Kenya

2.1 What is the HRBA-CDRF?

With climate change, extreme weather events such as floods and droughts are growing increasingly frequent and severe. These endanger people and their livelihoods. They particularly endanger the already marginalised and vulnerable people and communities in developing countries, and have severe impacts of their ability to enjoy their human rights. The need to manage such climate risks is becoming increasingly urgent as global temperatures rise, and it must be conducted in a human rights-compatible manner. The Paris Agreement thus recognizes that, “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on Human Rights (...)” (UNFCCC 2015).

In this context, climate and disaster risk financing and insurance-related instruments have become a part of the response to this challenge. When prudently designed, these can mitigate some of the risks by providing financial support to buffer the effects on people’s wellbeing. The HRBA-CDRF has

³ <https://www.ndma.go.ke/>

⁴ For more information on ARC and Kenyan engagement, see Transparency International Kenya/Germanwatch (2019) and <https://www.africanriskcapacity.org/>

⁵ For more comprehensive information on ARC in Kenya, see Hutfils et al. 2019.

⁶ See chapter 2.

⁷ The HRBA was developed in 2019 and further elaborated on in 2020. The 2019 version identified four key fundamental principles of an HRBA to CRI: non-discrimination and active inclusion of marginalised groups; transparency, accountability and mechanisms for complaints; participation and empowerment of those affected and; respect towards existing structures in the country or region.

been suggested to ensure those instruments are developed and implemented in a way that does not harm and that benefits the poorest and most vulnerable⁸ (see Figure 1).



Figure 1: The GW human rights-based Approach to Climate and Disaster Risk Financing. Source: Schäfer et al., forthcoming

⁸ For a more comprehensive explanation, see Schäfer, Künzel, Jorks: A Human-Rights-Based Approach to Climate and Disaster Risk Financing, Germanwatch, forthcoming.

2.2 The Principles

The core of the HRBA-CDRF is in its five principles to guide the development, implementation, and evaluation of climate risk and disaster financing measures. These are as follows.

Non-discrimination and equality

Climate risk financing instruments and activities seek to protect and promote the rights of all, irrespective of origin, age, sex, mental or physical health, ethnic or religious affiliation, or any other such status. Pre-existing inequalities and discriminatory practices are analysed and taken into account during the development, implementation, and evaluation of climate risk financing instruments and activities. Equal access to the development, implementation, and evaluation process of climate risk financing instruments and activities is ensured for all rights holders.

Participation and empowerment

Active, informed, meaningful, and inclusive participation of all rights holders, and empowerment of affected people, is ensured during development, implementation, and evaluation of any CDRF instrument and activity.

Transparency

Individuals and communities are sufficiently informed about CDRF instruments and activities and their potential impacts. They are informed of meaningful and effective opportunities to participate in decisions on how these activities will be developed, implemented, and evaluated.

Accountability

In the case they cause social or environmental harm, climate risk financing instruments and activities incorporate accessible and adequate compliance mechanisms and procedures for rights holders.

Do no harm

Climate risk financing instruments and activities should include mechanisms to anticipate, avoid, or minimise unacceptable harm to communities or ecosystems. The development, implementation, and evaluation processes of climate risk financing instruments and activities must respect and build on existing structures and knowledge, such as traditional risk management and indigenous and local knowledge (Schäfer et al. forthcoming).

2.3 Application of the HRBA-CDRF

The HRBA-CDRF has the ultimate objectives of promoting and protecting human rights, preventing harm to communities and ecosystems, and promoting sustainable development. All actors involved in developing, implementing, and evaluating climate and disaster risk financing instruments and activities should therefore apply it.

The HRBA principles of non-discrimination and equality, participation and empowerment, transparency, accountability, and do no harm should guide the development, implementation and evaluation of all such instruments and activities, such as ARC contingency planning. Regarding this planning, an assessment was conducted to analyse whether the HRBA principles were complied with or to what extent they were fulfilled. It provides the possibility of identifying successes and potential space for improvement, and therefore strengthens the contingency planning's human rights compatibility.

Each principle was operationalised using “necessary measures” to implement it. The necessary measures were applied to the context of contingency planning in the context of ARC in Kenya (see Table in Annex.)

3 Analysis: Compatibility check of ARC contingency planning with the HRBA-CDRF

Application of the HRBA-CDRF, respectively a compatibility check with the HRBA-CDRF and its principles of the ARC contingency planning in Kenya, aims to assess the status quo of protection and promotion of human rights within this process. It also aims to identify good practices and potential space for improvement. These efforts lay the foundation for preparing highly concrete recommendations addressed to ARC and the Kenyan government/NDMA in the next step.

The analysis is based on ARC framework conditions, standards, and guidelines captured in the Contingency Planning Standards and Guidelines, Compliance Rules, Transparency Policy, and Strategic Frameworks (2016-2020 and 2020-2024), as well as Kenya’s OP. At the national level, national frameworks and strategies such as the Common Framework for ending drought emergencies and the Disaster Risk Financing Strategy 2018-2022 form the foundation of the analyses. Expert interviews with officials of ARC and the NDMA in Kenya were also considered.

The analysis does not claim to be complete and is mainly limited by the availability of relevant documents online.

3.1 Background information

“Contingency Planning is a management tool used to analyze the impact of potential crises and ensure that adequate and appropriate arrangements are made in advance to respond in a timely, effective and appropriate way to the needs of the affected population.” (IASC 2007:7)

In the context of ARC, contingency planning takes place in the respective country but in line with the procedures, standards, and guidelines ARC provides.

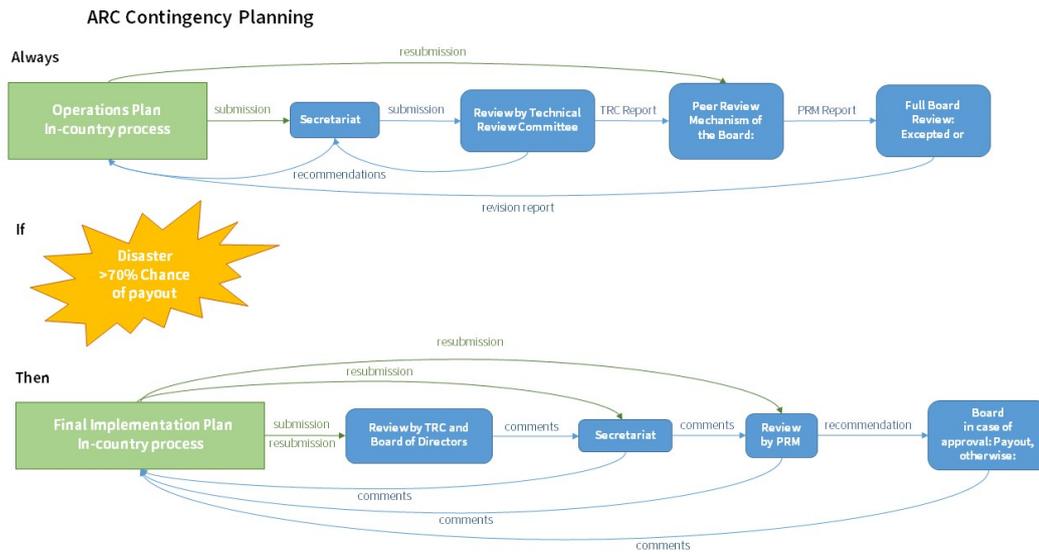


Figure 2: ARC Contingency Planning; Source: Authors

In Kenya, broader national contingency planning for droughts as part of overall drought response is coordinated by the Kenya Food Security Steering Group (KFSSG) at the national level and the County Steering Group (CSG) at the county level. The process is embedded in different national policies and legislation, such as the Common Framework for Ending Drought Emergencies and the Disaster Risk Financing Strategy. It considers livelihoods at the sub-county level and is based on drought cycle management, thus taking into account thresholds for different stages of drought based on particular parameters (Treasury 2018/NDMA 2017)⁹.

A technical working group is formed for preparing ARC OPs (and the Final Implementation Plan [FIP], if necessary). This consists of governmental actors and experts from different departments, as well as stakeholders from different sectors (academia, non-state-actors).

Rights holders and duty bearers

A key feature of an HRBA is the recognition of people as individual **rights holders**, who, by virtue of being human, have a claim to certain entitlements. Additional to them are **duty bearers**, who are legally bound to respect, protect, promote, and fulfil the entitlements associated with those claims. In the context of climate change impacts, rights holders are those affected by the impacts of extreme weather events and slow-onset hazards, which are increasingly frequent and severe. The duty bearers are, first and foremost, states required to protect everyone within their jurisdiction, and public actors acting on behalf of their governments¹⁰.

Rights holders = beneficiaries

The African member states are ARC policy holders. Following the initial vision of supporting vulnerable households in these African countries (ARC 2016), the beneficiaries, and therefore rights holders, are such households. Those groups/people should benefit from the interventions covered in the OPs. They should be identified during the preparatory process specified for each planned intervention/activity.

⁹ For more detailed information on the process, see Hutfils et al. 2019.

¹⁰ See Schäfer et al. forthcoming and Hutfils 2018.

In Kenya, these are the most vulnerable people and households in the ASAL counties. “[...] as a result of the historical marginalisation of dryland regions which has weakened the necessary foundations for food security and development.” “Pastoral and marginal agricultural households” have been named as particularly vulnerable groups, “with particular impacts on women and girls,” along with the conclusion that, “In general, poverty has accentuated food insecurity, limited access to education, healthcare, and the capacities to diversify livelihoods” (NDMA 2017:4).

CSOs play an important role in this context, as they can act as advocates of the most vulnerable populations and ensure inclusion of their needs in decision-making processes.

3.2 Results: HRBA-CDRF applied to the Kenyan context

The analysis follows the “necessary measures” and uses them as a “checklist” to assess the compatibility with the HRBA-CDRF¹¹.

Necessary measures to be implemented
Principle 1. Non-discrimination and equality
Identify (a) rights holders, (b) pre-existing inequalities discrimination, marginalization, and vulnerabilities, and (c) specific needs.
Take into account at every further step of the process: specific needs and pre-existing obstacles.
Establish conditions that ensure rights holders’ equal access by considering accessibility criteria (inclusion, coverage, eligibility, economic background, physical aspects).
Principle 2: Participation and empowerment
Create fundamental conditions for participation.
Establish active, informed, meaningful, and inclusive formats of participation.
Principle 3: Transparency
Ensure transparency through information.
Ensure transparency of processes, structures, and institutions.
Principle 4: Accountability
Provide adequate pre-conditions for accountability.
Ensure accountability with regard to processes.
Ensure accountability with regard to legal frameworks.
Principle 5: Do no harm
Anticipate harm.
Minimise and avoid harm.

Table 1: Necessary measures structured after HRBA-CDRF principles and categories, source: Author

¹¹ A comprehensive checklist of necessary measures is found in the annex; some of the topics are summarised but reference is made in the table.

3.2.1 Non-discrimination and equality

Identify (1) rights holders, (2) pre-existing inequalities, discrimination, marginalisation, and vulnerabilities, and (3) specific needs

Requirement: To comply with the HRBA-CDRF, targeting of beneficiaries should be based on identification of people most vulnerable to drought, including potential discriminatory circumstances and identification of their specific consequent needs.

ARC/Kenyan performance: ARC, as part of its implementation criteria, requires countries to undertake needs assessments and targeting. This, in turn, requires countries to consider the beneficiaries and their needs when conducting both.

Even if human rights are not specifically mentioned in the targeting, they are implicitly considered, such as, for instance, most interventions being focused on the right to food and intent to alleviate the suffering of the most vulnerable (those whom climate change most affects) (Diarra 2020).

The Kenyan OP lays out different approaches to needs assessment as required, considering issues such as food security and household expenditure, and includes tools such as household questionnaires. These indicate the needs of the vulnerable are taken into account.

Targeting of beneficiaries is separately conducted for each intervention. For the first intervention – a scaling up of cash transfers in the context of the already established Hunger Safety Net Programme (HSNP) – it uses the program’s own targeting. The HSNP website explains that the current third phase of the HSNP uses a targeting method based on proxy means testing and community-based verification and builds on lessons learnt from the assessment of phase 2. The method was adjusted after assessment, which identified gaps in the method; e.g., regarding its objectivity and performance (for comprehensive assessment, see Silva-Leander et al. 2016). However, no specific information on the current method could be found; this complicates interpretation of its potential improvements.

However, as explained in Kenya’s OP, targeting combines two methods: (1) a proxy means test (PMT), an electronic selection of beneficiaries based on set predetermined criteria, and (2) community-based wealth ranking (CBWR; also known as community-based targeting [CBT]). Community members are asked to categorise or rank different households on predetermined criteria of vulnerability and/or poverty. In a second step, the results from the PMT and CBWR are combined for each household¹² (Silva-Leander et al. 2016). This methodology was used to select the poorest households in each of the four counties (identified as the poorest in Kenya) to be routine beneficiaries of the HSNP. “When a scale up is triggered in a county, households will be selected from the MIS (web-based Management Information System) in wealth order, starting with the next poorest household on the list after the last routine beneficiary” (NDMA 2017:37). Community members will be given the chance to contribute to the wealth ranking of households in a community so as to identify obvious inclusion and exclusion errors (NDMA 2017).

Poverty and vulnerability are treated equally in this approach. The NDMA explains the relationship between both aspects as follows: “While there is no automatic correlation between poverty and vulnerability (the vulnerable may be a different segment of the population requiring different kinds of intervention) there is nonetheless a high correlation between the two. Poor households are more vulnerable to shocks than non-poor households. Social protection mechanisms that reduce poverty

¹² <https://www.hsnp.or.ke/index.php/our-work/registration-targeting>

are therefore also likely to reduce vulnerability; moreover, they can help identify affected households and inform targeting decisions during periods of crisis” (MDPK 2015:123).

For the second intervention¹³, water-related activities comprising water trucking and borehole activities, there are two approaches. For the trucking, a drought early-warning system indicates the status at the county level, and a rapid assessment is performed to identify communities with insufficient supply systems. The targeting for borehole activities is based on bottom-up requests from community borehole committees to the respective county steering groups (NDMA 2017).

Even if a final assessment of the HSNP method is difficult because no specific information on the current method could be found, different positive elements of the targeting are notable, such as inclusion of community members in the HSNP method, as well as the bottom-up approach for water-related interventions.

Take into account in every further step of the process: Specific needs and pre-existing obstacles

Requirement: To take into account the situation of the most vulnerable, guidelines and processes of ARC’s contingency planning should consider specific needs of and potential obstacles for the most vulnerable.

ARC/Kenyan performance: The contingency planning standards and guidelines encompass a set of criteria and procedures for the setup and assessment of contingency plans.

OPs/FIPs: The generic OP format requires separately defining the specific targeting method used for each intervention to ensure intervention meets the needs of the most vulnerable (see above). Upon the first intervention, cash transfers, the Kenyan OP points out that, “Cash also provides the beneficiary with greater choice and control in addressing needs arising as a result of the shock” (NDMA 2017:33).

Payout modalities: Those are especially important regarding the cash transfers. The infrastructure for cash transfers is already in place and customised to people’s ability to receive money, irrespective of where they live, as cash can be collected at different locations: “Electronic payments are made into beneficiary bank accounts and accessed via biometric/pin validation through a bankcard at Equity Bank Agents throughout the four Counties” (NDMA 2017:39).

Review process of OPs/FIPs: The Technical Review Committee and the Peer Review Mechanism base their review of OPs (and later FIPs) on eligibility and implementation criteria and scoring of the OPs (see below).

Review and evaluation of OPs and FIPs are based on two sets of criteria:

- a) Eligibility criteria: Especially the second criterion, “critical services and impacts,” points out that activities must be “protecting livelihoods of beneficiaries” and funds should be used in accordance with the “best available understanding of needs and clearly defined impacts to address these” (ARC 2015:8/9). Explicitly pointing out why an activity helps to protect and promote human rights could be an improvement.
- b) Implementation criteria: Two of the five implementation criteria in particular laid out in the CP guidelines – needs assessment and targeting – are important for ensuring beneficiaries’ needs are grasped and their specific situations are taken into account (ARC 2015:11). Neither effort specifically requires including an assessment of the human rights

¹³ At the time of publication, the Technical Working Group was set to consider inclusion of a third intervention, on livestock.

situation. They do, however, implicitly include relevant aspects; e.g., the targeting criteria request attention be paid to gender equality and social inclusion.

OP/FIP scoring: The technical review committee (TRC) evaluated the OPs against a transparent scoring system (ARC 2015) by assigning numerical scores to the OP's different sections. The FIP scoring (if a payout is likely) is simplified to be done very quickly. The overall requirements to be fulfilled include, "sufficient information on the needs assessment process" (ARC 2015: 31). The intervention-specific requirements include "sufficient information on the targeting," which should help to truly serve the most vulnerable (depending on the targeting method applied). Both take beneficiaries' need into account, but could be improved by indicating the need to clearly consider the human rights situation of the affected population.

Positive mention can be made that, with the TRC, a body of independent experts¹⁴ (ARC 2015) with an objective perspective is included in the process. A potential improvement would be to expand the experts by including dedicated human rights experts to strengthen this perspective.

Establish conditions that ensure equal access of rights holders by considering criteria of accessibility (inclusion, coverage, eligibility, economic background, physical aspects)

Requirement: To comply with an HRBA, the development process for OPs and FIPs, such as the Technical Working Groups, should be inclusively accessible and potential barriers for participation should be considered. Moreover, it should be ensured that beneficiaries actually benefit from interventions.

ARC/Kenyan performance: The process of developing OPs and FIPs is open for beneficiaries/the most vulnerable. When conducting in-country workshops, ARC recommends which different stakeholders should be included, such as different government institutions, donors, partners, civil society, and the private sector (Diarra 2020). However, thus far, there is no concrete requirement to include, for instance, beneficiaries and/or community members.

It can also be positively highlighted that the current ARC strategic framework (2020–2024) includes a strengths, weakness, opportunities, threats (SWOT) analysis that emphasises the thread of "The exclusion of the most vulnerable (women & children) in disaster management processes" (p. 13). Unfortunately, there are no specific countermeasures defined, such as, for instance, guidelines requiring inclusion of the above-mentioned into those processes. This could help ensure they have access to decision-making processes.

The experience in Kenya shows challenges in bringing community members to TWG workshops because of a lack of (financial) support, limited resources, and challenging logistics. The NDMA, however, is working on securing more budget to support those actors to engage and enable community members' participation in these meetings (Mutanda 2020).

To ensure the interventions actually reach the most vulnerable/the beneficiaries, the review process within ARC tries to ensure that "activities proposed in the contingency plan should demonstrate that they carry a positive impact on for beneficiaries who would be negatively impacted if they need to wait to receive assistance" (Diarra 2020).

The Kenyan OP also detects in its "program risks and assumptions" section the "Risk that intervention(s) do not reach the targeted populations (most vulnerable)," and it has a mitigation strategy in place in the form of a "stringent methodology in beneficiary targeting. Community

¹⁴ Encompasses experts in contingency planning, humanitarian response and disaster risk management.

participatory process is now part of revised targeting guideline.” The likelihood of occurrence of this risk is ranked as low because of strong measures in place to counter the risk (NDMA 2017).

3.2.2 Participation and empowerment

Create fundamental conditions for participation

Requirement: Structures should be in place that foster participation of different stakeholders such as most vulnerable/the beneficiaries in the decision-making process (OP, FIP, monitoring and evaluation, reporting) to ensure an HRBA-compatible implementation of contingency planning.

ARC/Kenyan performance: As part of the Scoping Mission, the ARC Secretariat then convenes a workshop to explore existing contingency funding mechanisms in the country that ARC could complement and provides support to the country in drafting the OPs. “The audience for this workshop is relatively broad, extending to experts in: disaster management; social protection; finance and planning; nutrition; agriculture and livestock; development planning; and women, among others. Key NGOs, farmers’ organisations, civil society and representatives of regional bodies participate. (...) If a payout is anticipated, the ARC Secretariat supports the country in the drafting of the Final Implementation Plan by convening a workshop, reviewing the plan, and providing suggestions for improvements” (ARC 2016:49).

ARC recommends stakeholders be included when conducting a workshop at the country level, with the intent of breaking down silos. The aim is to be as inclusive as possible and leave no one behind in this process; e.g., recommend bringing people from the decentralised structure, such as the sub-national level, to the workshops. However, challenges occur; e.g., regarding logistics (Diarra 2020).

Regarding the question of **involvement of beneficiaries/most vulnerable as a prerequisite**, there have been no ARC guidelines or requirements for countries; this would ensure their participation. There is openness towards their participation and general access to the process, but the responsibility for active inclusion and invitation lies with the governments, according to ARC (Diarra 2020).

At the national level, it is emphasised that CSOs and community members are supposed to take part in the TWG. This is to have most vulnerable represented and to ensure all issues are captured during contingency planning, and that the interventions are customised to these people’s needs (Mutanda 2020). However, thus far, there are challenges in implementing this intention (see below).

Capacity building:

Requirement: To comply with an HRBA-CDRF, capacity building should be customised to different stakeholders, such as beneficiaries/CSOs, considering their specific needs and circumstances.

ARC/Kenyan performance: ARC’s capacity building programme¹⁵ is dedicated to governmental actors such as senior political officials and technical, finance, and disaster management experts in key government departments. There is no focus on the needs of different stakeholders, such as beneficiaries/the most vulnerable.

In its new Strategic Framework (2020-2024), ARC formulates the goal “to design innovative training programmes (...) for various stakeholders key to this process such as decision makers in

¹⁵ <https://www.africanriskcapacity.org/product/capacity-building-programme/>

government, parliamentarians involved in national budget reviews and the media to enhance understanding of the role of disaster risk financing and insurance for all critical stakeholders involved in the engagement process.” While it is a positive development to enhance stakeholder orientation, such as towards media, which could play an important role in informing beneficiaries, neither the most vulnerable/beneficiaries themselves nor CSOs as their potential advocates are mentioned in this plan.

At the country level, the NDMA reports on challenges in actively engaging stakeholders such as CSOs, community members, and media, and there is no structured approach existing to build capacity for those stakeholders this is especially due to lack of resources¹⁶. However, the value of their integration is recognised (Mutanda 2020).

Provision of customised information and related platforms

Requirement: Information customised to different stakeholders on the contingency planning itself, as well as on possibilities to participate, should be provided to enable active participation of stakeholders such as beneficiaries in line with the HRBA-CDRF. Related platforms accessible to the beneficiaries should be established.

ARC/Kenyan performance: At the ARC level (website and documents) there are several documents explaining ARC’s functioning and specific procedures such as the contingency planning. However, this information is not specifically customised to different stakeholders; e.g., those with different levels of expertise, such as beneficiaries/most vulnerable.

The ARC’s aim should not be overlooked. It is stated in their Transparency Policy, seeking “to disseminate information to the public by other means such as hard copy publications and informative documents, social media, press releases, conferences, meetings, and workshops.” This is additional to making all key documents available in the four official languages (English, French, Portuguese, and Arabic) (TP). An improvement here could be additional publications of documents in local languages.

At the national level, on the NDMA website, no comprehensive information on ARC (or rather its contingency planning) could be found. ARC is only mentioned within specific documents such as the Common Framework to End drought emergencies and the Disaster Risk Financing Strategy. According to its own statement, the NDMA has not yet been able to make information accessible for community members. Specific information also has not been prepared, and platforms are not specifically easy to access for beneficiaries/most vulnerable. However, fortunately, the NDMA plans to work with the ARC team to prepare content for different stakeholders and disseminate it to the counties. One challenge thereby is the need for more support regarding such dissemination (Mutanda 2020).

Establish active, informed, meaningful, and inclusive formats of participation

Requirement: There should be mechanisms in place to ensure representation of marginalised groups and their needs in decision-making to enable inclusive contingency planning in line with the HRBA-CDRF.

¹⁶ The partnership could provide a platform, especially in recent years (2018+2019), but there is no continuous platform/flow of resources and no NDMA-led activity.

ARC/Kenyan performance: No specific ARC measure could be identified that aims at ensuring involvement of vulnerable groups in decision-making; e.g., a quota of beneficiaries/most vulnerable, or even CSOs, in Technical Working Groups.

At the national level, ARC contingency planning is an integration and based on the broader national contingency planning. When country contingency plans are prepared, the national contingency planning process includes direct engagement with communities; e.g., community-based disaster risk reduction committees (CMDRRs) provide platforms for community members to participate in the process, and offer room for discussion. This is a bottom-up process, so that plans developed at the community level are then integrated into the county contingency plan, and the national plan integrates all of them (Mutanda 2020).

However, community members have not been involved in preparation of ARC contingency plans themselves (participation in the Technical Working Groups) because of logistical challenges and lack of (financial) resources (Mutanda 2020). NDMA, however, according to its own statements, strives to gather more resources to support those actors engage and enable community members to participate in the TWG meetings (Mutanda 2020).

Apart from that, CSO participation could be realised, as the current composition of the TWG contains four CSOs out of 23 members. The NDMA reported on problems in reaching out to CSOs, and a lack of suitable platforms (Mutanda 2020). Inconsistent participation of CSOs in the process was also a challenge experienced in Kenya and beyond (Forest 2018).

3.2.3 Transparency

Ensure transparency through access to information

Requirement: The HRBA-CDRF requires accessibility of information on contingency planning and relevant documents such as OPs and FIPs.

ARC/Kenyan performance: Each country's OPs and FIPs (if a payout is likely) are accessible via the ARC website. However, the absence of systematically uploaded documents is problematic (Diarra 2020). This poses a challenge towards accessibility of the latest information.

Apart from that, no information was found regarding the question of whether beneficiaries/most vulnerable are actively informed about the interventions to which they are entitled to benefit.

At the country level, the NDMA website includes no specific information on ARC or the Kenyan OP. The NDMA highlights that beneficiaries/community members may be implicitly aware of the interventions, as ARC contingency plan activities have been picked from the list of national contingency plan activities or include upscaling components of programmes already running, such as the HSNP (Mutanda 2020). However, no information was found on explicit ways to inform them.

(Complaint mechanism – see below)

Ensure transparency of processes, structures, and institutions

Requirement: According to the HRBA-CDRF, the entire process of contingency planning, including guidelines, plans, and review criteria, should be transparent.

ARC/Kenyan performance: The ARC-related process of contingency planning is transparent and can be accessed via the website as part of the *Contingency Planning Standards and Guidelines*. Also described are the OP and FIP review processes and the underlying criteria (see above “non-

discrimination and equality). The in-country process is to an extent described within the Strategic Framework, though this not as detailed and clear as the ARC-related steps.

At the national level, the NDMA website does not provide information on in-country ARC contingency planning. There may be other communication channels about these processes, but this cannot be validated as part of the analyses.

Information on the contingency planning cycle – such as points of decisions and possibilities for engagement (e.g., schedule of TWG meetings) – could not be found either on the ARC or NDMA website.

Monitoring and evaluation (M&E)

ARC/Kenyan performance: The *Contingency Planning Standards and Guidelines* include clear guidelines for M&E of ARC payouts. Contingency planning development itself is not part of the M&E system.

The M&E guidelines seek to ensure payouts' compliance with the OPs and FIPs, and the interventions planned within. Among other areas, it highlights the principle of non-discrimination (“...not plainly exclude recipients on the basis of ethnicity, skin colour, gender, religion or political affiliation”), fosters transparency and accountability through a request for monthly reports during implementation of a payout in the respective country, and seeks to prevent corruption (ARC 2015:33).

Countries are additionally required to conduct M&E for each intervention/activity implemented, and submit a Final Implementation Report at the end of the implementation process (ARC 2015).

Independent financial reconciliations and process audits of the ARC payouts complement the M&E (ARC 2015/Diarra 2020).

Countries are requested to set up M&E for each intervention/activity of their OP/FIP, additional to the overall M&E system in place.

Kenya's OP describes how M&E for both of the planned interventions (cash transfers and water interventions) is set up. The programme itself, as well as independent external evaluators (Oxford Policy Management), will monitor the upscaling of cash transfers as part of the HSNP. Notable regarding the inclusion of beneficiaries is the inclusion of complaints and grievances in the required information for monitoring and that, “The cash transfers and water interventions will both seek to enhance community participation in decision-making. The HSNP grievance and complaints committees and the water resource user associations, which are already established, also have equal participation of both men and women across all age brackets” (NDMA 2017:50).

The M&E process outcomes (or issues identified through complaints) are taken up in the process. The Contingency Planning Standards and Guidelines state that M&E should foster a learning process helping the country to improve its performance by providing information on “lessons learned, impacts, challenges, and recommended alterations to the implementation activity or Operations Plan drafting process for future” (ARC 2015:35). OPs should also be revised every two years, and amendments are possible amidst the biennial period and even after the implementation has started.

(also important for non-discrimination and equality)

3.2.4 Accountability

Provide adequate pre-conditions for accountability

Requirement: Define duty bearers and their obligations

Duty bearers regarding the HRBA-CDRF are, first and foremost, states; therefore, responsibility for promoting and protecting the population's human rights lies with the Kenyan government and its authorities such as the NDMA. Additionally, ARC, as the state-owned risk pool, should contribute to fulfilment and protection of human rights of the beneficiaries of ARC policies.

Ensure accountability with regard to processes

Requirement: Accountability measures need to be in place to ensure enforcement of social and environmental safeguard policies and compliance with rules and procedures.

ARC/Kenyan performance: ARC is using the M&E system (explained above) to assess the implementation and, where necessary, adapt specific framework conditions. The Contingency Planning Standards and Guidelines point out that “the Board may amend the CP Standards over time as the Board, Secretariat and the participating countries gain greater experience with contingency planning and evaluation” (ARC 2015:1). The Strategic Framework 2020–2024 also highlights the intention that “ARC will continue to refine these standards and guidelines” (ARC 2020:16).

A respective process is already implemented, as lessons learnt are assessed annually and the guidelines are updated (Diarra 2020).

Complaints handling mechanism

ARC has established a complaint-handling mechanism. The ARC website provides no further explanation apart from a phone number, but the “Compliance rules”¹⁷ describe as follows: “A Whistleblower Hotline [...] has been established to allow government officials and staff of implementing partners to report problems with FIP Implementations anonymously” (ARC 2015b:3). The main aim and principle of the Whistleblower Hotline Policy and Procedures are to ensure funds are used “in full compliance with Members’ approved Contingency Plans and the ARC Contingency Planning Standards and Guidelines” (ARC 2015b:12). Regarding the procedures and how complaints are taken up, the following is stated: “Any complaints received by the ARC Secretariat through the ARC Whistleblower Hotline will be dealt with promptly in accordance with the present Whistleblower Hotline Policy and Procedures (the Policy) and the Compliance Rules.” Additionally, this information “shall be considered in the Mid-Implementation Review Mechanism and the Compliance Rules, depending on the timing of the allegation. Individuals are encouraged to use the guidance provided by this Policy for reporting all allegations of suspected improper use of ARC Payouts, and the staff of the ARC Secretariat shall use these procedures to properly respond to such allegations.”

As the ARC complaints mechanism is clearly not designed for beneficiaries’ complaints, Kenya’s OP mentions that both planned Interventions “will put in place a mechanism to solicit feedback from beneficiaries on any complaints and satisfaction with the services provided. This will be incorporated in the M and E framework of both interventions.”

¹⁷ ARC/COP4/D010.0412_15

In terms of cash transfers by the HSNP, it enables beneficiaries, as part of their “case management,”¹⁸ to place complaints to ensure the cash transfers actually reach them. This function is accessible via SMS or phone, as well as the case management forms on the website, the local chief, or the NDMA office, and with the staff of NGOs, INGOs, and Huduma centres within the counties. According to the NDMA, efforts to inform beneficiaries about this opportunity have been undertaken and information has been disseminated via local radio (Mutanda 2020).

Ensure accountability with regard to legal frameworks

Requirement: ARC and the respective policy should be compatible with and embedded into the national regulatory framework on insurance, including the right to issue insurance policies and receive payments.

ARC/Kenyan performance: The established insurance regulatory framework guides the ARC process in Kenya. This ensures that climate risk insurance is anchored on and adheres to insurance regulation¹⁹. Additionally, the Insurance Regulatory Authority sits in the technical working group to provide guidance on adherence to insurance regulations (Hutflits et al. 2018).

3.2.5 Do no harm

Anticipating harm

Requirement: The contingency planning process, to comply with the HRBA-CDRF, should encompass means to anticipate harm to communities and ecosystems; thus taking into account factors such as the human rights situation in the country, as well as existing structures and approaches.

ARC/Kenyan performance: At the ARC level there are no clear requirements to include information on *the status quo on the enjoyment of human rights* that is particularly endangered by climate impacts such as droughts (in ways such as the right to food and water) in the respective country; e.g., as part of the generic OP format.

The Kenya OP already contains indications as to which human rights may be at risk and which groups are particularly marginalised: “Vulnerability to drought is high as a result of the historical marginalisation of dryland regions which has weakened the necessary foundations for food security(...) In general, poverty has accentuated food insecurity, limited access to education, healthcare, and the capacities to diversify livelihoods (...) particular impacts on women and girls” (NDMA 2017:4). However, they are not described as such or not conceptually analysed/recorded.

According to the NDMA, the human rights situation in the country has been taken into account and factored in when conducting the OP, and is illustrated in the section on risks and assumptions (as described above) (Mutanda 2020). Additionally, human rights organisations are involved at the community level when conducting broader national contingency planning. This is to ensure the type of interventions undertaken do not negatively affect human rights (Mutanda 2020).

OPs need to be *revised and submitted biennially* to ensure they are always suitable to the in-country circumstances (ARC 2015:17). The same is true for the “certificate of good standing,” whose approval relies on an approved OP (ARC 2015:20). During the biennial period, the country is allowed to

¹⁸ <https://www.hsnp.or.ke/index.php/our-work/case-management>

¹⁹ See, for example, Insurance Act 487 2020.

additionally “amend the OP twice.” The M&E system focuses on the FIPs and the interventions/activities implemented, but takes no account of the process of development (including issues such as stakeholder engagement).

Integration of planned interventions (in the case of an ARC payout) into the countries’ climate/disaster risk management landscape is necessary to prevent deterioration of community-based support systems. The “Operations Plans should take into account existing national systems” (ARC 2015:8), according to ARC. This includes national legislation, institutions, and programs, and intends to build on existing experiences and capacities. However, according to ARC, there are also attempts to include traditional structures (of mutual support) and traditional climate risk management, such as through community-based targeting (CBT). In this way, those support systems can be taken into account when ranking and defining the most vulnerable among the communities (Diarra 2020).

Even if not clearly labelled, the NDMA also describes that those existing systems are taken into account, as broader national contingency planning follows a bottom-up approach starting from the community level and moving on to the next levels (county, national) (Mutanda 2020).

Minimise and avoid harm

Requirement: The contingency planning process should encompass means to minimise and avoid harm to communities and ecosystems to comply with the HRBA-CDRF. It should also be integrated into existing systems at the national level, as well as within traditional structures.

ARC/Kenyan performance: ARC thus far lacks specific environmental and social safeguard policies, or policies to protect and promote human rights, especially of the most vulnerable and groups in marginalised situations, to ensure this. A compatibility check to ensure the ARC-related interventions do not conflict with other human rights should be undertaken to minimise and avert harm. The ARC framework conditions do not yet include such a requirement to conduct this check.

As part of the generic OP format, the section on Institutional Arrangements also asks countries to describe “National Policies and legislation.” The Kenyan OP includes national policies and/or legislation related to drought and to other disaster risk management issues currently in place. The documents, at a glance, reveal that the ARC Policy (including contingency planning) is integrated in Kenya’s climate risk finance management. It is part of Kenya’s comprehensive Disaster Risk Financing Strategy 2018-2022 (Treasury 2018) and mentioned within the Common Programme Framework for Ending Drought Emergencies (MDPK 2015). Additionally, Kenya’s OP states that the “NDMA has been taking concrete steps to ensure that there is close collaboration between the national and the county governments on matters of drought management.”

4 Successes and potential for improvement to fulfil compatibility with HRBA-CDRF

The check of the ARC contingency planning in Kenya’s compatibility with necessary measures defined in the HRBA-CDRF shows it is set up in a way that offers some commendable achievements that may be further elaborated upon. Kenya as a country also performs well in many aspects.

Both levels, ARC and the Kenyan government mainly via the NDMA, have a proven understanding of the importance of human rights in the context of contingency planning, and of the situation of the most vulnerable as intervention beneficiaries. The same is true for the need to consider human rights when conducting contingency planning and customising interventions, but it lacks a structured approach for its implementation.

It is, for example, recognised as valuable to include the most vulnerable/beneficiaries in the contingency planning process. ARC recommends inclusion of different stakeholders, such as decentralised structures, while the NDMA is also trying to better involve them. The existence of a complaints mechanism for beneficiaries in the context of interventions is also a success and key in making their voices heard.

There generally are good entry points regarding all of the HRBA-CDRF's five principles, but there remains room for improvement in amendment of framework conditions and requirements from ARC and concrete implementation of the processes in Kenya. These include:

- a) Lack of **inclusion of beneficiaries/most vulnerable** in the actual development of contingency planning (principle of participation and empowerment).
- b) Lack of **capacity building and awareness creation** for different target groups, especially the most vulnerable and non-state actors (principles of participation and empowerment and transparency).
- c) Lack of **comprehensive and customised information**: No structured approach for informing about in-country contingency planning related to ARC, and no structured approach and specific informational material or measures for informing potential beneficiaries of the instrument and interventions planned. This negatively affects enabling of active participation. However, fortunately, the NDMA plans to work with the ARC team on preparing content for different stakeholders, and to disseminate it to the counties (principles of participation and empowerment, and transparency).
- d) Lack of a structured approach to better **respect local structures** – especially to explicitly respect traditional systems and potential for conflict (principle of do no harm).
- e) Lack of structured **inclusion of human rights issues** (principles of non-discrimination and equality).
- f) Lack of possibilities to **assess the process of contingency planning** itself, especially the development of OPs, as it is not part of the M&E system and of the complaints mechanisms (principle of non-discrimination and equality, and transparency and accountability).
- g) Gap in the complaints mechanism, such as a lack of **possibilities for placing beneficiaries' complaints** at the ARC level and a lack of procedural information (principle of accountability).
- h) Lack of **continuous participation of CSOs (or even beneficiaries)** in the process (principle of participation and empowerment).

Compatibility with the HRBA-CDRF would be much improved if those points were considered.

5 Recommendations

In general, active engagement of the marginalised and most vulnerable in the decision-making processes should still be improved. There is an opportunity for this to be coupled with continuous capacity building and improvement for all stakeholders so as to ensure meaningful engagement. Engagement of CSOs is vital in these processes. It should be strengthened, as it ensures interest groups' representation and participation, and ultimately enhances transparency and accountability.

The following adjustments, oriented towards the identified areas for further improvement, provide suggestions on how HRBA-CDRF compatibility could be improved:

- a) Lack of **inclusion of beneficiaries/most vulnerable** in the actual development of the contingency planning.
 - **Composition of TWG**
ARC: Make it a prerequisite to assign a certain percentage of TWG member slots to beneficiaries or their advocates, such as associations or CSOs.
 - NDMA: Establish a quota for beneficiaries and/or CSOs (combined with improved information and communication measures, see below).
- b) Lack of **capacity building and awareness creation** for different target groups, especially the most vulnerable and non-state actors.
 - ARC: Provide sufficient support to customised capacity building for different stakeholders with different backgrounds and levels of expertise; e.g., beneficiaries and CSOs.
 - NDMA: Conduct those capacity building activities
- c) Lack of **comprehensive and customised information**.
 - ARC: Foster transparency by applying a systematic approach for uploading (updated) documents on its website; e.g., publish customised information, and documents in local languages.
 - NDMA: Inform via its website or other communication channels about ARC, the OP, and potential interventions; e.g., provide information on the in-country process and publish the OP on the website.
Move forward with plans to work with the ARC team on preparing content for different stakeholders and then disseminate it to the counties.
- d) Lack of a structured approach to better **respect local structures**, especially to explicitly respect traditional systems and potential for conflict.
 - ARC: Request a concrete mapping/assessment of traditional systems of mutual support and map potential conflicts through ARC policies/interventions from the OP.
 - NDMA: Include mapping/assessment in the OP.
- e) Lack of structured **inclusion of human rights** issues.
 - ARC: Expand the round of experts (TRC) by including dedicated human rights experts to strengthen this perspective.
Protection and promotion of human rights is to be incorporated into existing standards and frameworks (e.g., generic OP format, inclusion in the implementation criteria/eligibility criteria).
 - NDMA: Human rights experts as necessary members of TWG to include information *on the status quo on the enjoyment of human rights in the OP*.
- f) Lack of possibilities to **assess/evaluate the process of contingency planning** itself.
 - ARC and NDMA: Include development of OPs as part of the M&E system and complaints mechanisms.

- g) Gaps in complaints mechanism **for placing beneficiaries' complaints** at the ARC level and lack of **procedural** information.
- ARC: Provide information disclosure on the complaints handling mechanism regarding the nature of complaints received and how they were addressed; e.g., establish a whistle-blower hotline also for beneficiaries and ensure they are informed of it and have access to it.
 - NDMA: HSNP "case management" to place complaints; this should include timelines for resolving complaints, provision for public disclosure of complaints received, and their nature and status.
- h) Lack of **continuous participation CSOs (or even beneficiaries)** in the process.
- ARC/NDMA: (financially) Support stakeholders such as beneficiaries or CSOs in participation in TWG meetings, and assess further reasons for inconsistent participation.

Finally, not overlooked is that apart from ARC and the NDMA, CSOs can also improve their performance in contingency planning to support application of the HRBA-CDRF. Even if it was not a focal point of this analysis, improved self-organisation – such as appointing representatives to participate in TWGs, conducting outreach to affected communities to understand needs, and increasing input into the TWGs – to enable action to be taken despite scarce resources could help in maximising the existing possibilities. With combined efforts, compatibility of ARC contingency planning in Kenya with the HRBA-CDRF is within reach.

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ANNEX

Application of “necessary measures to ARC contingency planning”

Necessary Measures	Application to ARC Contingency planning in Kenya
Non-discrimination and equality	
<p>Identify:</p> <p>Step 1: Rights holders (adequately)</p> <p>Step 2: Pre-existing inequalities, discrimination, marginalization and vulnerabilities</p> <p>Step 3: Specific needs</p>	<p>Identify beneficiaries:</p> <ul style="list-style-type: none"> Who are the most vulnerable people to drought? Why are they most vulnerable to drought? What are the specific inequalities and discriminating circumstances for this target group? What specific needs result from their situation? <p><i>Needs to be considered as part of implementation criteria (needs assessment and targeting)</i></p>
<p>Take into account in every further step of the process:</p> <p>Specific needs</p> <p>Identified pre-existing obstacles</p>	<ul style="list-style-type: none"> Are the interventions of OPs and FIPs tailored to the needs of the most vulnerable? Are they taking into account obstacles to fulfil them? Are the modalities of payouts tailored to the needs of the most vulnerable/are obstacles to fulfil them been taken into account? Is the M&E process tailored to the needs of the most vulnerable? Are obstacles to fulfil them been taken into account? <p>Also needs to be considered in...</p> <ul style="list-style-type: none"> Contingency planning guidelines Development of OPs and FIPs By the Technical Review Committee and the Peer Review Mechanism of ARC when reviewing both plans ARC eligibility criteria and implementation criteria, scoring system
<p>Establish:</p> <p>conditions that ensure rights holder´s equal access by considering accessibility criteria: inclusion, coverage, eligibility, economical background, physical aspects</p>	<ul style="list-style-type: none"> Is the design process, e.g. the Technical Working Groups (TWGs) as well for Operation Plans (OPs) as for Final Implementation Plans (FIPs) inclusively accessible? Are potential economic, social and physical barriers considered? Is ensured beneficiaries actually benefiting from interventions?
<p>policies that ensure that projects are designed and implemented in such a way that all people receive <i>culturally compatible social and economic benefits</i> and <i>do not suffer adverse effects</i> during the development and design as well as the implementation process of climate risk finance instruments. Such policies must foster full respect for dignity and human rights</p>	<p>Needs to be considered by</p> <ul style="list-style-type: none"> Technical Review Committee Peer Review Mechanism of the Board
<p>adaptability of the climate risk finance schemes and related processes in case of any negative impacts in terms of exacerbated discrimination and inequality are revealed by the monitoring and evaluation process</p>	<ul style="list-style-type: none"> Will potential gaps identified in the M&E process or through complaints placed processed and analysed? Will underlying circumstances improved/design failures adapted? Will Contingency Planning Guidelines adjusted based on potential gaps identified?

Participation and empowerment	
Create fundamental conditions for participation	
provide a safe and enabling environment for meaningful participation, especially for vulnerable and marginalized groups and/or individuals	<ul style="list-style-type: none"> • Are structures/rules implemented that allow/incentivize participation of different stakeholders – esp. the most vulnerable/the beneficiaries in decision making/design process of Operation Plans, Final Implementation Plans as well as M&D and reporting process? • Are rights holders/beneficiaries/most vulnerable or their advocates defined as necessary members of Technical Working Groups?
Identify capacity gaps of marginalized and vulnerable groups and undertake specific action for education, training and public awareness on climate risks and financial instruments	<ul style="list-style-type: none"> • Are Capacity building activities provided that are tailored to different stakeholders needs esp. Most vulnerable/their advocates (CSOs)? • Are special needs and circumstances been taken into account? Circumstances
ensure access to relevant information to enable effective and inclusive participation	<ul style="list-style-type: none"> • Are information tailored to different stakeholders/the most vulnerable - as the key target group on the African Risk Capacity - are provided? • Are information tailored to different stakeholders/the most vulnerable on the possibilities to participate in decision making – esp. in the TWGs are provided? • Are platforms of information/modes of communication suitable/accessibile to the most vulnerable?
Establish active, informed, meaningful and inclusive formats of participation	
Establish mechanism to ensure marginalized and vulnerable groups and their issues are represented and have influence in decision-making spaces and strengthen the “power to” and “power with” of poor and marginalized people, and to build influence and participation in decision-making processes	<ul style="list-style-type: none"> • Are mechanisms in place that ensure representation of marginalized and vulnerable groups and their issues/needs in decision making (e.g. a quota for beneficiaries (most vulnerable) or their advocates (e.g. CSOs) in Technical Working Groups)?
Take specific measures to actively involve marginalized groups and people affected by climate-induced risks and harm	<ul style="list-style-type: none"> • Are meaningful and inclusive consultations (or other measures) undertaken to actively ensure the participation of the most vulnerable?
Make formats of participation available, accessible, acceptable, adequate and adaptable along all phases of designing, implementing and evaluating climate risk finance instruments for all relevant actors	<ul style="list-style-type: none"> • Are formats of participation established that allow for an active, informed, meaningful and inclusive participation of the most vulnerable in the process of developing Operation Plans and Final Implementation Plans (e.g. the Technical Working Groups) as well as M&E and reporting process e.g. corresponding capacity building opportunities?
Transparency	
Ensure Transparency through information	
ensure and regularly review availability, accessibility and adequacy of information on <ul style="list-style-type: none"> • Existence of climate risk finance options • what climate risk finance instrument is most beneficial for their individual situation and needs • how to take up and use climate risk finance products in a way that they benefit their needs in the most effective way possible. 	<ul style="list-style-type: none"> • Are Contingency Plans/Ops+FIPs accessible to the public/CSOs/beneficiaries? Are rights holders/beneficiaries informed about their “rights”/the expected interventions evolving from an ARC insurance policy/a specific OP/FIP? • Are rights holders/beneficiaries informed about the existence of a complaints mechanism?

Ensure Transparency of processes, structures and institutions	
transparent system of governance over financial mechanisms through reporting and information disclosure requirements	<ul style="list-style-type: none"> • Is the design of the Contingency planning process itself transparent and comprehensible for the public/beneficiaries? • Are Contingency Planning Guidelines transparent and comprehensible? • Is the review of Operations and Final Implementations Plan by Peer Review Mechanism done according transparent criteria? (gibt ja das Scoring System)
time-bound plan of action, including benchmarks and ultimate targets in terms of development, implementation and evaluation of climate risk finance instruments to guarantee transparency in terms of visibility, predictability and understandability over the course of the whole cycle of designing, implementing and evaluating climate risk finance instruments and avoid corruption	<ul style="list-style-type: none"> • Is the concrete cycle of contingency planning incl. points of decisions and possibilities of engagement (e.g. dates of meetings of TWGs) transparent/ Are relating information accessible? • Is the evaluation of potential pay-outs/implementation of FIPs transparent?
monitoring & evaluation with minimum standard and indicators which contain information that is as disaggregated as possible	<ul style="list-style-type: none"> • Is an M&E system in place? (with disaggregated information)
Set up appropriate institutional and processual arrangements to enable people who are affected by policies to participate in monitoring and assessing their success or failure	<ul style="list-style-type: none"> • Are beneficiaries adequately included in the M&E system? e.g. are consultations undertaken?
Accountability	
Provide adequate pre-conditions for accountability	
mapping of duty bearers to make them and their obligations transparent to facilitate accountability	<ul style="list-style-type: none"> • Who are the duty bearers? What are their obligations and how can their accountability be facilitated?
Ensure Accountable in regard to processes	
have accountability systems or measures that are designed to ensure enforcement of its environmental and social safeguard policies, including a means to determine whether climate risk finance instruments in their implementation are complying with their own policies	<ul style="list-style-type: none"> • Are accountability systems or measures in place to ensure enforcement of environmental and social safeguard policies, including a means to determine whether implementation of the contingency planning complies with ARC policies?
Complaints mechanisms to address potential violations of any policies and procedures; and ensure independence, transparency, accessibility, adequacy and effectiveness of complaints further ensure of mechanisms to support affected people in enforcing their entitlements. This includes providing information of procedures in timely manner so that mechanisms are accessible	<ul style="list-style-type: none"> • Is a complaint mechanism for beneficiaries in place? • Are information on the functionality and related procedures available? • Is the process how potential complaints are taken up transparent?
monitoring & evaluation with minimum standard that explicitly addresses accountability and	<ul style="list-style-type: none"> • Will potential gaps identified in the M&E process or through complaints placed processed and analysed?

<p>grievance systems, including adequate follow-up processes</p>	<ul style="list-style-type: none"> • Will underlying circumstances improved/design failures adapted? • Will Contingency Planning Guidelines adjusted based on potential gaps identified?(also see above) • Does an M&E system exist? Does it apply transparent criteria for M&E? • Do Guidelines for M&E include requirements for accountability and grievance/complaint systems, including adequate follow-up processes?
<p>Ensure Accountability in regard to legal frameworks</p>	
<p>make the elements of the climate risk finance instruments recognizable and enforceable by law, in the case of climate risk insurances this e.g. includes the right to issue insurance policies or to claim on insurance contracts in the event of a loss</p>	<ul style="list-style-type: none"> • Is the instruments compatible/embedded into the national regulatory framework on insurances incl. the right to issue insurance policies and to receive payments?
<p>Do no harm</p>	
<p>Anticipate harm</p>	
<p>Apply preventive and precautionary approaches in design and implementation, including prior assessment and systematic observation of the impacts of potentially climate risk finance instruments on the enjoyment of human rights, assessment should also include identification of pre-existing circumstances in terms of rights that are not being fulfilled not only "needs", and their root causes to set out the status quo before the climate risk finance instrument was designed and implemented</p>	<ul style="list-style-type: none"> • Has the status quo of enjoyment of HR in the country been assessed in advance esp. regarding those rights that particularly endangered by climate impacts/drought (right to food, water, ...)?
<p>Continuously assess the impacts of climate risk finance instruments and related processes and policies on rights holders</p>	<ul style="list-style-type: none"> • Is the process and the interventions/activities of the OP+FIPs regularly monitored and evaluated?
<p>Analyze traditional, indigenous and local framework conditions</p>	<ul style="list-style-type: none"> • Have existing structures of mutual support been mapped? • Has the ARC policy and the relating contingency planning been integrated into traditional climate risk management?
<p>Minimise and avoid harm</p>	
<p>Setting up an environmental and social safeguard policy as well as additional policies to respect, protect and promote human rights especially of the most vulnerable and groups in marginalized situations</p>	<ul style="list-style-type: none"> • Does ARC have an environmental and social safeguard policy as well as additional policies to respect, protect and promote human rights especially of the most vulnerable and groups in marginalized situations?
<p>Ensure integration of safeguards with robust accountability mechanisms and appropriate contingency plans to address harm if it occurs</p>	<ul style="list-style-type: none"> • Are safeguards integrated into the Operations Plans and the Final Implementations Plans?
<p>Continuously adapt instruments, policies and processes to changing needs and circumstances while ensuring a minimum level of stability</p>	<ul style="list-style-type: none"> • Is the OP in place regularly reviewed and adapted if necessary? (also see above)

Ensure coherence with existing national and regional legal and policy frameworks	<ul style="list-style-type: none"> • Is the ARC Policy (incl. the contingency planning) integrated in the national climate risk finance management?
Respect traditional, indigenous and local knowledge	<ul style="list-style-type: none"> • Is traditional, indigenous and local knowledge respected in development of OPs, Review Process and M&E process?
Ensure complementarity with other sets of rights such as the right to privacy	<ul style="list-style-type: none"> • Is there a compatibility check undertaken to ensure interventions planned do not conflict with other Human Rights?
Provide assistance to relevant policymakers or duty bearers on how to effectively prevent harm and safeguard human rights	<ul style="list-style-type: none"> • Are Human Rights experts involved in the contingency planning process?

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BIC/Swift: BFSWDE33BER
IBAN: DE33 1002 0500 0003 2123 00For further information, please contact one of our offices

Germanwatch – Bonn Office

Kaiserstr. 201
D-53113 Bonn, Germany

Phone: +49 (0)228 / 60492-0
Fax: +49 (0)228 / 60492-19

Germanwatch – Berlin Office

Stresemannstr. 72
D-10963 Berlin, Germany
Phone: +49 (0)30 / 2888 356-0
Fax: +49 (0)30 / 2888 356 -1

E-mail: info@germanwatch.org

or visit our website: www.germanwatch.org

Transparency International Kenya

Transparency International Kenya is one of the autonomous chapters of Transparency International founded in 1999 with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya champions the fight against corruption by promoting integrity, transparency, and accountability at all levels. Through its climate governance integrity programme, TI Kenya has been working on ensuring good governance and anti-corruption safeguards in climate finance and the broader climate governance spectrum through advocacy, research, capacity building, and policy and legislative interventions at the sub-national, national, and international levels.

For more information, please contact us at:
Transparency International Kenya
Kindaruma Road | Off Ring Road Kilimani
Gate No. 713 | Suite No. 4

P.O. Box 198-00200, Nairobi | Tel: (+254) 0202727763/5 |
0722296589 |

Email: transparency@tikenya.org | Web:
<http://www.tikenya.org>

