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**Call for input for the 2024 reports of the**

**Special Rapporteur on the right to development**

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1. **Climate justice: Loss and damage**
2. ***How is the realisation of the right to development impacted by both economic and non-economic loss and damage from climate change? How is the impact experienced differently and/or disproportionately by different individuals (e.g., children and women), groups (e.g., Indigenous Peoples) and States (e.g., Small Island Developing States)?***

The holistic and comprehensive nature of the right to development is symmetrically reflected in the complex, interconnected and multifaceted dimensions related to its realisation. The structural obstacles to the full realisation of the right to development - mainly rooted in historic, geopolitical and socio-economic factors - have set the scene throughout the entire history of this individual and collective right since its establishment in 1986. Among the systemic issues related to those obstacles, climate change is probably the most recent to have gained due consideration and acknowledgment, but nowadays it is of paramount relevance for any public discourse and long-term initiative aimed at realising the right to development.

The catastrophic - and often irreversible - climate change's consequences generate loss and damage on an unprecedented scale, both economic and non economic. Their overall impact on human life in its entirety dramatically affects also the fulfilment of human rights, with the trajectories to fully realise the right to development critically undermined.

The holistic and comprehensive nature of the right to development is highly responsive to systemic processes such as those triggered by climate change at every level, that affect each individual and collective dimension of development as meant in the right to development perspective. Especially, being the right to development closely related to the respect for all human rights and fundamental freedoms, the climate change's consequences on basic rights and freedoms have a cascading effect also on the right to development in itself.

Loss and damage derived from climate change call into question essential principles, such as equity and justice as well as common but differentiated responsibilities, that are at the core of the right to development and of any genuine development process too. International cooperation - a cornerstone for the realisation of the right to development - is also called to play a vital role in the governance of loss and damage-related processes.

In terms of realising the right to development, the way and extent peoples and communities (with their rights and development paths) are impacted by loss and damage from climate change, are relevant just as much as how the prevention, mitigation and remediation processes are designed and governed.

Looking more closely into specific loss and damage situations, many other aspects and elements related to the realisation of the right to development are at stake:

- the sovereignty over resources crucial for development and undermined by climate change;

- the self-determination of peoples and communities that can be strongly limited because of climate change-related processes out of their influence;

- the accountability of the complex and often untraceable actions, failures and processes leading to climate change-related loss and damage (from pollution sources to environmentally harmful practices, from lacking prevention measures to inadequate mitigation schemes).

In relation to the unfair burden-sharing of climate change-related harms, we want to underline how the most impacted are mainly those that have contributed the least to global warming, and that often are among the most marginalised and vulnerable communities and countries. The principles of equity and justice, as well as of common but differentiated responsibilities, need to be put at the core of any loss and damage remediation policy. This is clear when looking for example at:

- the intergenerational dimension (with the young and future generations that will pay for the benefits that their predecessors have enjoyed at the expense of the environment);

- the international division of labour dimension (with developing countries that pay higher environmental costs for the extraction-based global economy, which makes them mainly dependent by exploitation and export of raw material without having access to the major benefits of such unfair economic system);

- the colonial dimension (with Indigenous peoples confined at the margins of societies and economies, without any significant acknowledgment of their fundamental contribution as custodians of the environment, as well as of the massive violations they suffer from the exploitation of their traditional lands and natural resources);

- the asymmetries among groups and economic actors in the food systems (with small scale farmers that are among the more impacted by the climatic consequences of the agribusiness intensive production models, without participating to and benefiting from them).

1. ***What are the obligations of States and other actors such as development finance institutions and businesses to prevent, mitigate and remediate the impacts of climate change-related loss and damage on human rights, including the right to development?***
2. ***What is the legal and/or moral basis for States and other actors including businesses to contribute to the Fund for climate change-related loss and damage?***

We especially underline the following two categories of obligations, moral even more than legal:

- *To pre-emptively avoid and reduce any adverse impact on human rights derived from activities that can meaningfully contribute to pollution, greenhouse gas emissions and environmental deterioration (prevention and mitigation category).* This applies in different ways to States (that primarily have the duty to protect human rights, by establishing legal frameworks and making them effective and enforced) and third parties such as businesses and finance institutions (with their co-responsibility in respecting human rights). Within the framework of the measures needed to comply with the prevention and mitigation category of obligations, human and environmental rights' impact assessment and due diligence processes should play a crucial role. Clearly, in terms of prevention, the first and foremost moral obligation is concretely addressing and tackling the root causes of climate change, in relation to the each single and collective responsibility.

- *To compensate and remediate violations, damages, loss and harmful impacts on human rights derived from the activities above mentioned (remediation category).* This category of obligations is closely related to accountability for actions, failures and processes contributing to climate change. Therefore, it requires independent and reliable mechanisms to investigate, trace and monitor any specific responsibility and make each State and non-State actor accountable for them. Any remediation initiative should anyway be designed to also avoid indirect or unintended further violations and adverse impact on human rights and environment.

In applying such obligations and measures, the principle of meaningful participation of peoples and communities affected by these processes should always be prioritised, in order to promote their right to development. In the context of climate change, also in relation to the legal and moral basis to contribute to the Fund for loss and damage, we want to emphasise even the already mentioned principle of common but differentiated responsibilities, and the essential role of the duty to cooperate. Furthermore, we want to recall the moral obligation derived from the principle of international solidarity with the interrelated concepts of preventive solidarity, reactive solidarity and international cooperation (art. 2 of the Revised draft declaration on human rights and international solidarity - A/HRC/53/32).

1. ***In addition to making a financial contribution to the Fund, what non-financial components may be relevant from a climate justice perspective (e.g., transfer of green technologies, building of capacity and relocation pathways for climate-induced migrants)?***

To abide with the principles above mentioned, all the measures that can contribute to compensate the unfairness and inequity of the burden sharing of climate change-related loss and damage should be included in the non-financial components of the Fund, taking into due account also the common but differentiated responsibilities in the context of climate change. The following are some relevant examples:

- transfer of material and immaterial assets relevant for the green transition (devices, technologies) and removal of the barriers to access them (like unreasonable and disproportionate constraints due to Intellectual Property Rights regulations);

- increase in human capital locally available (through training and capacity building);

- relocation pathways for climate-induced migrants;

- grievance and remediation mechanisms to compensate Indigenous peoples for loss and destruction of traditional lands due to climate change, as well as to compensate economic actors (like small scale farmers of vulnerable countries) that are the most affected by the climate-impacting effects of value chains and subsidised markets (like food global market) from which they are excluded. Such measures could contribute not only to align the Fund's operationalising with the principles of equity and justice, but also to remove some major obstacles strangling the realisation of the right to development of marginalised and vulnerable countries and communities.

1. ***How should a human rights-based approach to operationalise and administer the Fund look like (e.g., integration of considerations such as accessibility, non-discrimination, fair representation in decision making, gender responsiveness, and accommodation for marginalised communities and countries especially vulnerable to the adverse effects of climate change)?***

The aspects related to how operationalising and administering the Fund are crucial, and a human-rights based approach should be ensured at all levels. Above all, every governance level needs to be democratically scrutinised and should embed equity, transparency and accountability-based representation mechanisms and decision making processes, allowing to take into due account the meaningful participation of marginalised and vulnerable communities and countries which are affected by the Fund's initiatives.

Moreover, such a human rights-based approach should allow the Fund's resources to effectively address the most critical situations, and avoid that hidden or inappropriate conditionalities are applied to the recipients.

It is essential also to ensure that adequate human rights impact assessment measures are put in place, in order to avoid that any Fund's initiative leads to activities that can negatively impact on human rights and affect locally-owned resources and development processes. An example of such adverse (even if indirect or unintended) impact on human rights by climate financing initiatives is the land grabbing phenomenon, which in many countries has been paradoxically enhanced or incentivised by the carbon market and carbon credits-related programmes.

1. ***How to ensure that the Fund and/or climate finance (including for mitigation and adaptation) does not result in a debt trap for developing countries?***

A crucial point for the Fund's operationalisation is avoiding that initiatives aimed at restoring climate justice result in increased inequity and exploitation at the expense of the more vulnerable to climate change-induced effects and to the distortions of the global financial architecture. The Fund's resources should be channelled mainly through grants; its climate finance initiatives should be designed as concessional financing programmes and vehicles, and should also support and incentivise debt swaps programmes finalised to redirect resources to nationally determined climate actions and socio-ecological transformation.

1. **The right to development of children and future generations**
2. ***What does the right to development mean for children in line with the relevant policy frameworks and normative instruments? What about the right to development of future generations?***

There is an inextricable linkage between inclusive, equitable and sustainable development and the realisation of the rights of the child.[[1]](#footnote-1) Paragraph 2 of Article 6 of the CRC introduces the obligation on States Parties to ensure the survival and development of the child to the maximum extent possible.

The development of the child has been interpreted by the Committee as needing to be understood 'in its broadest sense as a holistic concept embracing the child’s physical, mental, spiritual moral and psychological development’ ([2003](https://link.springer.com/chapter/10.1007/978-3-030-84647-3_4#ref-CR13), para. 12, [2013a](https://link.springer.com/chapter/10.1007/978-3-030-84647-3_4#ref-CR28), para. 18). It imposes an obligation on States Parties to introduce all appropriate measures, both positive and negative, to promote the survival and development of the child. Its implementation is integrally linked to the Convention in its entirety, and in particular the principle of the best interests of the child in Article 3, as well as the rights to health and an adequate standard of living and education in Articles 24, 27, 28 and 29 (Nowak, [2005](https://link.springer.com/chapter/10.1007/978-3-030-84647-3_4#ref-CR3), p. 14). General Comment no. 7 illustrates this point by drawing the links to ‘health, adequate nutrition, social security and adequate standard of living, a healthy safe environment, education and play, along with the respect for parental responsibility and the provision of assistance and quality services’ (UN Committee on the Rights of the Child, [2006](https://link.springer.com/chapter/10.1007/978-3-030-84647-3_4#ref-CR17), para. 10).

Even if the Declaration on the right to development and the draft International Covenant on the right to development under scrutiny now by the General Assembly, do not refer specifically to the development of the child in their articles, the realization of the individual and collective right to economic, social, cultural and political development, aimed at the constant improvement of human well-being is key to a better future for children and the entitlements in both documents are necessary for children and youth to live full and dignified lives.

Articles 2 and 8 of the Declaration on the right to development call for fair distribution of the benefits of development, which includes equity within and between different age groups and generations. Article 3 which requires States to “cooperate with each other in... eliminating obstacles to development” is particularly relevant for children and youth facing challenges such as climate change, discrimination and statelessness.

Both the right to development and the rights of children and future generations are reflected in most major development summit outcomes such as the 1992 Rio Declaration on Environment and Development and the 1993 Vienna Declaration and Program of Action that recognized that “the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations”, the 2030 Sustainable Development Agenda, which is informed also by the Declaration on the Right to Development that seeks to implement a transformative vision of development “for the full benefit of all, for today’s generation and for future generation”, the United Nations Framework Convention for Climate Change (UNFCCC), which calls for all parties to “protect the climate system for the benefit of present and future generations of humankind” and the 2015 Paris Agreement that requires that young people should play a significant role in decision-making regarding climate policy.

1. ***How are the human rights of children and future generations impacted by development-related decisions (e.g., related to economic development or new technologies) made by the present adult generation? Please provide examples from your country or area of work.***

"At no time since the Convention on the Rights of the Child (CRC) was adopted have children’s rights been in greater jeopardy".[[2]](#footnote-2) The worsening of the global migration and refugee crisis and the proliferation of conflicts has had a devastating impact on the rights of millions of children worldwide, including their rights to life, survival and development.

UN figures released on World Children's Day show that one in five children globally (400 million) are now living in or fleeing from conflict zones. More than 315.000 grave child rights violations were verified between 2005 and 2022. Children are killed, maimed, kidnapped, and denied access to humanitarian aid. They are recruited by armed groups and at risk of exploitation and radicalisation. Children and the facilities they depend on are being targeted by conflict and suffering the collateral damage of war.

Moreover, in many countries around the world, children are denied their rights to life. They are denied the right to be recognized as a person before the law which is a critical step in ensuring lifelong protection and is a prerequisite for exercising all other rights and this happens because of the lack of birth registration. Children are denied their right to food, to health and education; they are victims of sexual exploitation, of child labour, of early and forced marriage; they are abused in the digital world and victims of cyber bullying; they are recruited as child soldiers; they are tremendously affected by the consequences of climate change.

Some categories of children are even more vulnerable to violations of their rights such as, among others, Roma children, children with disabilities, children living on the streets, and unaccompanied migrant children.

As APG23, we are committed to denounce on regular basis the violations of children rights through the UPR and Treaty bodies reports, both official and confidential, of the countries where we are present and where we can have a direct observation from our members, making recommendations to overcome such abuses.

We also send contributions to those Special Procedures pertaining the rights of the child. So far, we made reports on the situation of children rights in Zambia, Italy, Chile, Brazil, France, Greece, Romania and Albania.

Concerning development decisions made by the present adult generation, especially the ones related to economic development or new technologies, according to UNICEF[[3]](#footnote-3) over 1 billion children are touched by global business supply chains directly or indirectly, through their impact on families. Around 160 million children were subjected to child labour in 2020, with millions more at risk since the COVID-19 pandemic. Over 800 million mothers worldwide are not adequately protected with leave and cash benefits in case of maternity and approximately 2 billion children live in areas where air pollution levels exceed World Health Organization (WHO) standards.

We live in a world that is profoundly unjust where inequalities are on the rise and where a structural war is going on between those who have and those who have not. The current international trading system, the profit-oriented market economy and unregulated finance, the asymmetries of power in global governance, environmental degradation and resource depletion, unequal access to information and technology, the problem of external debt for many countries, tax havens, the issue of property and intellectual rights, lack of protection and remedies against the negative effects of globalisation, conflicts and arms trade, international crime and corruption, unilateral coercive measures and the prevailing of greediness on solidarity are all structural obstacles to social justice and the realization of the right to development. Children and future generations are those most affected by such a situation.

At global level, the impact of these structural obstacles is exacerbated by the still inadequate political will to overcome them through an effective and fair international cooperation, which results in resource gaps, lack of accountability and generally insufficient achievements in facing global challenges.

Reinforcing collective action is key to address these global systemic issues by redefining the global financial architecture as well as by filling the resources gaps in the advancement of the Financing for Development Agenda and in financing the Green Climate Fund and the recently established Loss and Damage Fund.

In this regard, APG23 wants to point out as a practical international cooperation initiative what Pope Francis proposed in his Encyclical “On Fraternity and Social Friendship”: “converting the money spent on weapons and other military expenditures in a global fund, with the aim to sustain international programs finalized to combat hunger, extreme poverty and promote the sustainable development of the most marginalized and vulnerable peoples and communities”.

1. ***How to ensure a meaningful participation of children and future generations in development-related decisions at all levels (e.g., in policy formulation or impact assessment)? Are there any existing good practices or models?***

Children should be agents of change by playing an active part in their life and in the decisions that pertain to them. For this, children must be allowed to express their views and take part in the various decision processes that aim to protect their rights. The principle of children participation is clearly explained in article 12 of the CRC and the Declaration on the right to development in article 2, paragraph 3 affirms the fundamental principle that participation of individuals and peoples in development processes and decision making should be free, active and meaningful.

The United Nations Committee on the Rights of the Child has written a list of conditions that help those supporting children in creating the best possible environment for children to participate and realise their unique potential. These conditions are based on the General Comment No. 12 and are called ‘Basic requirements for the implementation of the right of the child to be heard.’ In summary, the Committee on the Rights of the Child states that child participation must be: **1. Transparent** — There is clear and complete information available **2. Free (voluntary)** — It happens out of children’s free will **3. Respectful** — Everyone gives due consideration to what is expressed **4. Relevant** — It makes sense for children why they are participating **5. (Child) Friendly** — Experience is adapted to the needs and interests of each child **6. Inclusive** — Everyone should feel they can participate, in their own way **7. Safe** — Children feel protected from any harm **8. Supported** — Everyone involved feels they are prepared **9. Responsive (Accountable)** — Children must know what is done with their views. Around the world, there are numerous good practices of child participation and, in literature, several models of child participation in decision-making can be found that have been adopted by national and international institutions.

In regards to the direct experience of APG23 in running development projects at grass root level with children/youth participation, we would like to briefly mention the Chichetekelo Youth Project in Zambia (the world Cichetekelo means Hope in the local language). This project began in 1997 with the aim to enabling youth from the dumping and street areas of Ndola to become self‑reliant and restore their own dignity by providing them with an opportunity for total transformation in their lives. In this way, youth may be able to guarantee to themselves and their families sustainable household food security and basic needs. It is a project that deals with both the root causes and symptoms of the phenomenon of children living on the streets. The integral development of youths is achieved through**:** a. Education: b. Skills training c. Job opportunities d. recreational and sport activities d. Spiritual formation.

So far, Chichetekelo project has supported hundreds youths (boys and girls) and has contributed considerably to reduce the number of children living on the streets of Ndola. In this project, according to the spider gram model, children and community participation is quite high in need assessment, resource mobilisation and organisation even if it is lower in management and leadership. CYP involves representatives of youth and their families in the Executive board and works closely with the Residential Development Committees.

1. ***How to integrate an intersectional approach to the participation of children to ensure that differentiated impacts on children due to various discriminations, exclusions or vulnerabilities are considered? Kindly share any good practices.***

An intersectional approach allows the particular experience of discrimination by an individual, based on the confluence of grounds involved, to be acknowledged and remedied. For example, children belonging to minorities can be discriminated not only because of their ethnicity but also because of their poverty, disability, religion, gender and so forth. Categories of discrimination may overlap, and children may suffer exclusion on the basis of multiple grounds. Therefore, it is important to adopt such an approach and integrate it to the participation of children. As APG23, we apply this approach in caring for the many vulnerable children welcomed in our family-homes and in our different realities such as schools and day-centres. In Italy and Greece, we also welcome and care for unaccompanied migrant minors. In our contribution to the CMW-CRCJoint General Comment on the Human Rights of Children in the Context of International Migration and in our written intervention in the 2012 Day of General Discussion of the Committee on the Rights of the Child we recommended to take significant measures tailored to the degree of vulnerability so that migrant children may be the protagonists of their own development, by recognizing their dignity, addressing their needs and promoting in every way their participation in the adoption of strategies, implementation, evaluation and reporting of actions that concern them.

1. ***What measures should be taken to protect and empower child human rights defenders?***

All of the provisions contained in the United Nations Declaration on Human Rights Defenders apply also to the child human rights defenders. In 2018, the Day of General Discussion (DGD) of the Committee of the Right of the Child focused on the theme “Protecting and Empowering Children as Human Rights Defenders”. As APG23, we fully agree with the recommendations made in the final report[[4]](#footnote-4).

1. ***How to create child-friendly judicial and non-judicial remedial mechanisms to address violations of children’s rights in the context of development policies, projects or programmes?***

The best interests of the child should always be identified, met and at the core of child-friendly judicial and non-judicial remedial mechanisms in the context of development policies, projects or programmes. Children should be heard when participating in judicial proceedings, but they need to feel safe and comfortable. For this reason, professionals should be adequately equipped to work with children, setting should be adapted to children needs, legal representation and aid should be provided, the length of proceedings should be shortened and information material adapted to children’s needs. Moreover, it is necessary to keep children safe from wrongs, including reprisals, to ensure a non-discriminatory treatment and protection of children’s identity and privacy as well as to provide support and guidance before, during and after the hearings.

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1. Committee on the Rights of the Child, Contribution in response to a call for inputs by the HLPF (15 March 2019). [↑](#footnote-ref-1)
2. https://unsdg.un.org/latest/stories/children%E2%80%99s-rights-jeopardy-34-years-after-landmark-un-treaty [↑](#footnote-ref-2)
3. https://www.unicef.org/child-rights-business [↑](#footnote-ref-3)
4. https://www.ohchr.org/en/events/days-general-discussion-dgd/2018/2018-day-general-discussion-protecting-and-empowering [↑](#footnote-ref-4)