
16th January 2024

**TO:**  Mr Surya Deva,

The United Nations Special Rapporteur on the right to development,

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**RE:** The 2024 reports to the Human Rights Council and the General Assembly on the following themes: (a) Climate justice: Loss and damage; and (b) The right to development of children and future generations.

**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?**

1. According to article 1.1. of the Declaration on the Right to Development, the right to development is an inalienable human right by virtue of which every human person and all peoples (including children) are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political rights. This includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources in the development process, wherein all human rights and fundamental freedoms can be fully realized. The right to development for children and future generations therefore necessitates active, free, and meaningful participation, demanding comprehensive and human-centred development policy, participatory development processes, social justice, and equity. The right to development thereby strengthens the basis for pro-poor growth, with due attention to the rights of the most marginalized such as youth and future generations. By acknowledging these principles, the right to development establishes a foundation for a more inclusive and equitable global development paradigm, one that is inclusive of development that considers implications to future generations in an ever-changing world; particularly one impacted by climate change.
2. Contemporary conceptions of development, such as those found in the Rio Declaration on Environment and Development and moreover, in the 2030 Agenda for Sustainable Development, explicitly include the protection of the environment as a necessary condition for development. This link is also recognized by the **[Framework Principles On Human Rights And The Environment](https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/FrameworkPrinciplesUserFriendlyVersion.pdf)**[[1]](#footnote-2), which affirm that ‘A safe, clean, healthy, and sustainable environment is necessary for the full enjoyment of human rights, including the rights to life, to the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to safe drinking water and sanitation, to housing, to participation in cultural life **and to development**, as well as the right to a healthy environment itself. This therefore also reinforces what could be considered as permissible development, having regard to implications of development on the protection of the environment for future generations.

**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.**

1. Children are considered one of the groups most vulnerable to the negative impacts of climate change. They bear the brunt of the impact of anthropogenic GHG emissions, and pollution of air, water and land linked to industry activities. Climate change can have a range of impacts on a child's well-being, including through impacts on their mental and physical health. The immediate impacts of climate change include physical injuries caused by floods, heat waves, respiratory diseases and mental trauma. Some examples include:
	1. South Africa’s air pollution hotspots – where air quality does not meet (already inadequate) national air quality standards – include the Mpumalanga Highveld, the Vaal Triangle and the Limpopo Waterberg and Bojanala. The state-owned energy provider Eskom’s fleet of coal power stations – of which 12 are located in the Mpumalanga Highveld and two in the Limpopo Waterberg – is responsible for most of the air pollution; these power stations are poised to continue operating beyond the 2030 decommissioning plan developed by South Africa. A [2017 study](https://cer.org.za/wp-content/uploads/2017/04/Annexure-Health-impacts-of-coal-fired-generation-in-South-Africa-310317.pdf) by UK-based air quality and health expert Mike Holland, who visited the South African coal belt, found that air pollution from coal-fired power stations killed more than 2,200 South Africans every year, and caused thousands of cases of bronchitis and asthma in adults and children annually.[[2]](#footnote-3) Other projected health impacts include 52,000 asthma emergency room visits, 9,300 new cases of asthma in children, 22,000 preterm births, 13 million days of work absence, and 18,000 years lived with disabilities.
	2. There are only two ways to reduce air pollution impacts exacerbated by use of coal fired power stations for electricity generation. Either capture emissions by installing and maintaining pollution abatement equipment; or reduce pollution by lowering coal plant utilisation or shutting down the noncompliant coal plants. Regarding capturing emissions, Eskom has said for years it cannot afford the cost of retrofitting noncompliant coal plants. It often cites figures of R300bn. If accurate, given Eskom’s financial position it is fair to say the utility cannot afford this. Regarding reducing pollution, the only way to limit further load-shedding (a state-led activity that shuts down segments of the national grid to account for a deficit in domestic energy supply; loadshedding has been common practice since 2007) while reducing pollution is to add as much new generation as quickly as possible — and solar PV and wind (with storage) is the quickest, cheapest way of doing it.

**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?**

1. Meaningful participation means that children are provided with information and the opportunity to express their views, influence the decision making, and achieve change at different levels in matters that concern them. In alignment with Article 4(2) of the African Charter on the Rights and Welfare of the Child, and recognizing the inherent right to participation, the framework for meaningful engagement is outlined as follows:

“In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law”.

This normative framework further reinforces other general principles of children’s rights that are applicable to matters involving and impacting children, that is non-discrimination, the best interests of the child and the right to life, survival, and development. These general rights within policy formulation and or impact assessments must be observed and respected at all times during all decision-making processes on any matter concerning children. Closely linked to the right of a child to be heard, child participation places value on the contributions of children in matters affecting them. Therefore, child participation is understood as an ongoing process – both in principle and practice – of children’s expression and their active involvement in decision-making at different levels in matters which concern them.[[3]](#footnote-4) It is to be systematic, effective, and meaningful as opposed to individual, one-off events.

1. In 2021, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) adopted the continental Child Participation Guidelines. The focus of these Guidelines is to guide child participation processes at the African Member States’ level, and in the exercise of the ACERWC’s protection and promotional mandate. The Guidelines reflect the necessary institutional mechanisms and structures that State Parties to the African Children’s Charter need to put in place for the effective and meaningful participation of children.

**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.**

1. By recognizing, prioritizing and giving effect to the right to development for children, nations can ensure that economic, social, and cultural rights are upheld while also prioritizing environmental protection. This approach can promote a more inclusive and equitable global development paradigm, taking into account the needs and rights of present and future generations so as to ensure that there is a reconciliation of the dual imperatives of sustainable development and environmental concerns. This could be achieved for example by having regard to environmental protection and the provision of global environmental goods as fundamental and necessary areas of public policy and action for the full realization of all three generations of human rights (as defined in Articles 3, 4, and 6 of the United Nations Declaration on the Right to Development).

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

1. States parties to the United Nations Convention on the Rights of the Child (UNCRC) shall ensure the respect for the rights to each child within their jurisdiction without discrimination of any kind.[[4]](#footnote-5) In the context of protecting and empowering child human rights defenders, this provision underscores the obligation of states to ensure that child defenders, who advocate for human rights, are granted the same rights and protections as other children. It emphasizes that these rights should be upheld without discrimination, allowing child human rights defenders to carry out their activities in a safe and supportive environment, free from bias or prejudice.
2. State Parties must also recognize that every child has the inherent right to life, which requires states to ensure to the maximum extent possible the survival and development of the child.[[5]](#footnote-6) In the context of protecting and empowering child human rights defenders, this implies that states must take comprehensive measures to ensure not only the survival but also the holistic development of children, including those engaged in defending their human rights.
3. State parties must ensure that the child shall have a right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds. Regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.[[6]](#footnote-7) States should establish an inclusive environment that not only empowers children to freely express themselves but also acknowledges and respects the diverse forms of their expression. This recognition is crucial for allowing children to articulate their views and ideas effectively in their advocacy efforts, particularly in discussions surrounding human rights.

**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?**

1. Create safe and inclusive spaces for children to express their views in a manner that is more accessible and respectful of the perspective of the child. This will ensure that an environment is created which encourages children to participate freely, ensuring their safety and comfort.
2. Enhance the quality and relevance of decisions impacting children's rights by implementing robust accountability processes. This approach not only recognizes the invaluable contribution of children's input but ensures its meaningful consideration throughout the entire life cycle of policies or projects. By prioritizing accountability, decision-makers are compelled to actively acknowledge and incorporate the perspectives of children, resulting in more informed and child-centred outcomes.
3. Afford due significance to the perspectives and inputs contributed by children in the decision-making process. This not only bolsters the credibility of remedial mechanisms addressing violations but also underscores an authentic commitment to respecting children's opinions. This approach fosters a more equitable and just decision-making process, carefully considering the age and maturity of each child involved.
4. Institute robust feedback mechanisms to hold stakeholders accountable for actions or oversights leading to violations of children's rights. This initiative not only reinforces accountability and transparency but ensures that children receive responses and feedback from stakeholders regarding their views and concerns. This establishes a dynamic and continuous feedback loop of communication among stakeholders, decision-makers, and the children affected by rights violations.

In summary, the incorporation of these four points creates a foundation for child-friendly mechanisms that not only respect children's rights but actively involve them in decision-making processes, ensuring their voices are heard and valued and influence outcomes. This approach promotes a more inclusive and effective framework for addressing violations of children's rights in the context of development policies, projects, and programs.

1. UN Framework principles on human rights and the Environment UN Doc. A/HRC/37/59 [↑](#footnote-ref-2)
2. Holland.M. 2017. Health impacts of coal fired power plants in South Africa. Please see [Microsoft Word - Annexure Health impacts of coal fired generation in South Africa 310317.docx (cer.org.za)](https://cer.org.za/wp-content/uploads/2017/04/Annexure-Health-impacts-of-coal-fired-generation-in-South-Africa-310317.pdf) [↑](#footnote-ref-3)
3. ACERWC ‘Child Participation Guidelines’ (2022) [↑](#footnote-ref-4)
4. Article 12 of the UNCRC [↑](#footnote-ref-5)
5. Art 6.2 of the UNCRC [↑](#footnote-ref-6)
6. Art 13 of the UNCRC. [↑](#footnote-ref-7)