

**Call for inputs**

**Special Rapporteur on the promotion and protection of human rights
in the context of climate change**

**“Enhancing climate change legislation, support for climate change litigation and advancement of the principle of intergeneration justice”**

**Purpose**

To inform the Special Rapporteur on the promotion and protection of human rights in the context of climate change’s report on enhancing climate change legislation, support for climate change litigation and advancement of the principle of intergeneration justice, to be presented to the United Nations General Assembly in October 2023.

**Background**

One of the thematic priorities identified by the Special Rapporteur relates to enhancing climate change legislation, support for climate change litigation and advancement of the principle of intergeneration justice.

As countries meet their commitments under the Paris Agreement, many are developing national legislation. The Special Rapporteur wishes to understand, from the perspective of his mandate, whether countries are incorporating human rights considerations in their legislation and whether they are developing elements of legislation relating to Article 8 of the Paris Agreement which relates to loss and damage.

With respect to climate change litigation, a UNEP report[[1]](#footnote-1) states that the current levels of both climate ambition and climate action are inadequate to meet the challenge. As a consequence, individuals, communities, non-governmental organizations, business entities, governments and others have brought cases seeking to compel enforcement of those laws, replace them with stronger ones (and sometimes weaker ones), extend existing laws to address climate change, or define the relationship between human rights and the impacts of climate change. UNEP suggests that climate cases to date often fall into one or more of six categories: (a) climate rights; (b) domestic enforcement; (c) keeping fossil fuels in the ground; (d) corporate liability and responsibility; (e) failure to adapt and impacts of adaptation; and (f) climate disclosures and greenwashing.

The Special Rapporteur is particularly interesting in whether climate change litigation incorporates considerations of human rights.

The principle of intergeneration equity goes back to the Stockholm Declaration 1972. This principle occurs in many agreements including the preamble to the Paris Agreement. Nevertheless, the concept of intergenerational justice does not appear to be well advanced in international or national laws. Intergenerational justice in the context of climate change and human rights is founded on the principle that people must protect current and future generations from the adverse impacts of climate change.

The Special Rapporteur wants to explore whether intergeneration justice has been incorporated into international law, national constitutions and domestic laws and how it can be anchored in these key elements of law.

**Questionnaire**

The Special Rapporteur is therefore seeking input from States, business enterprises, civil society organizations and intergovernmental organizations on how to enhance climate change legislation, how to support climate change litigation, and how to advance the principle of intergenerational justice.

The Special Rapporteur invites and welcomes your answers to the following questions:

**Enhancing Climate Change Legislation:**

1. Can you provide examples of climate change legislation that incorporates human rights elements, or a reference to obligations relating to loss and damage?
2. How to you think climate change legislation should frame a connection to human rights obligations?
3. How do you think climate change legislation should engage the concept of loss and damage?
4. Should climate change legislation that incorporates loss and damage be different for major greenhouse gas emitting countries to those that are mostly affected by climate change? What would this difference look like?

**Supporting Climate Change Litigation:**

1. How are human rights considerations being incorporated into climate change litigation?
2. Are there issues with making the link between human rights and climate change litigation?
3. What do you think are the major barriers to initiating climate change litigation?
4. Are the barriers different in different parts of the world? What are they?
5. Is the judiciary in your country well equipped to understand the connection between human rights and climate change?
6. How could this be improved?
7. Are there particular issues with getting access to the courts?

**Advancement of the principle of intergenerational justice**

1. What examples do you have of how intergenerational justice, as it applies to climate change and human rights, has been incorporated into international law, national constitutions or domestic law?
2. How would you best define intergenerational justice in the context of climate change and human rights?
3. Has the concept of intergenerational justice been incorporated into climate change litigation?
4. What options are available for enshrining the principle of intergenerational justice in international law?
5. How can States incorporate the concept of intergenerational justice in their national constitutions and legislation? What are some good practices in that respect?
6. Can you share some good practices that allow youth to be represented in courts and to have their views and concerns properly expressed in the judicial process?

**Submission of responses**

We strongly encourage you to please send your responses to the questionnaire in Word format **by email** to: hrc-sr-climatechange@un.org

We kindly request that your submission be concise and limited to a maximum of
5 pages (or 2,500 words), not including appendices or attachments. Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.

**The deadline for submission is 25 May 2023.**

All submissions will be made publicly availableand posted on the Special Rapporteur’s homepage at the OHCHR website.

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1. UNEP, *Global Climate Litigation Report: 2020 Status Review* (Nairobi, 2020), https://www.unep.org/resources/report/global-climate-litigation-report-2020-status-review. [↑](#footnote-ref-1)