**IUCN - World Commission on Environmental Law**

***Climate Change Law Specialist Group***

In response to the call for inputs made by the 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”**

Contributions made by the following members:

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**Questionnaire**

**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?**

Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality (“European Climate Law”). The European Green Deal aims, inter alia, to “protect the health and well-being of citizens from environmental-related risks and impacts”. The EU just transition seeks inclusion, “leaving no one behind” (Recital (2)). It calls for “economic and societal transformation”, in line with the UN Sustainable Development Goals (SDGs) (Recital (5)). It seeks to address “the growing climate-related risks to health, including … food and water safety and security threats (Recital (5)). Regulation (EU) 2018/1999, Articles 10 and 11 (public consultation and multilevel climate and energy dialogue). Reporting obligations imposed on the EU Member States. The European Social Fund supporting vulnerable citizens, communities and regions in the energy transition.

**2. How do you think climate change legislation should frame a connection to human rights obligations?**

In a holistic manner, with legal instruments carefully developed through mechanisms of regime interaction, and shedding light on the consequences that climate change (knowingly) entails for the enjoyment of human rights, such as the right to life; the right not to be subjected to torture, cruel, inhuman or degrading treatment; the right to right to freedom of expression; the right to a fair trial with access to justice and remedies, including procedural and substantive rights to liberty and not to be subjected to arbitrary arrest or detention—which has been increasingly concerning as States have been detaining climate and environmental activists; the right of self-determination, economic, social and cultural development; the right to privacy, family, home; the right to freedom of thought; peaceful assembly; freedom of association; information; the right to an adequate standard of living; the right to liberty of movement and freedom to choose residence; the right to the enjoyment of just and favourable conditions of work; the right to be free from hunger; the right to the highest attainable standard of physical and mental health; the rights of minorities. Climate change and human rights obligations have to be integrated so that the normative development of human rights in connection with environmental protection can consider the intricacies of climate change as a wicked global problem, and confront the doctrines and procedural hurdles that prevent effective remedies and integral access to justice, such as obligations to exhaust domestic channels, jurisdictional limitations, limited participation of non-State actors and limited accountability of non-State actors, among other issues.

For this purpose, climate change legislation needs to, inter alia, enshrine and refine mechanisms for different methodologies to be considered, and scientific assessments to be translated into obligations. Public participation, transparency and information need to be enhanced, and multilevel decision-making needs to be embedded with democratic principles across jurisdictions.

**3. How do you think climate change legislation should engage the concept of loss and damage?**

Through the enshrining of the principle of solidarity in substantive and procedural norms; through the development of the notion of equity that encapsulates flexibility to establish legal obligations with clarity, uniformity and certainty; through the improvement of the dialogue between courts and scientific bodies and institutions; through the codification of environmental obligations and the structuring of frameworks for accountability of private actors and individuals; through assistance on the ground for developing countries in relation to best practices, standards and distribution of resources, and transparency in the flowing of such resources according to the adaptation needs and vulnerabilities of different communities across different geographical regions, and different levels of economic and social development.

**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?**

Yes. This difference could be implemented through the principle of solidarity entailing a duty of assistance without expectations of reciprocity, but on the basis of the existence of an international community and the need for a paradigm shift in international law from the previous framings of inter-State relationships in terms of coexistence and cooperation, into a duty of assistance and collective responsibility. In its truest sense, solidarity is linked to the idea of distributive justice, reduction of disparities and inequalities, and promotion of the common good without which a value-based international community cannot thrive. Solidarity is the value that inspires the principle of common but differentiated responsibilities and respective capabilities, enshrined in the climate regime. But beyond the CBDR-RC principle, solidarity needs to be translated into international norms that take into account historical and current responsibilities to assist the most vulnerable and poorest members of the international community, who make for the group that is most affected by climate change, and have not contributed to the climate crisis. The development of the loss and damage fund, and of norms, mechanisms and procedures that assist vulnerable States, communities and regions, can be a means to implement solidarity and give expression, to some extent, to reparations for climate change, which can also inform solidarity duties in relation to future generations (see below). The improvement of science-policy interfaces, the development of new methodologies, climate models and mechanisms of attribution science can help investigate weather events and support findings of economic damages and the corresponding amount of compensation/contribution to assistance. These developments can underpin the differentiation for loss and damage obligations. Finally, climate change legislation needs to be the driving force of a value-based international community where a sense of belonging and multilateralism deliver obligations *erga omnes*, whose enforcement is not hindered by jurisdictional limitations and doctrines and principles that cripple human rights treaties, impeding the enjoyment of rights by vulnerable members of the international community and denying them justice.

**Supporting Climate Change Litigation:**

**5. How are human rights considerations being incorporated into climate change litigation?**

A trend of rights-based climate litigation, particularly in the Global South and spanning several jurisdictions, has been well-documented in previous years. These cases draw not only on Climate Law, but also on rights arising out of environmental and human rights rules and principles. A noteworthy development in this front is the recent Brazilian Supreme Court ruling on the Climate Fund Case, recognizing that environmental treaties (namely, the Paris Agreement) are human rights treaties, and, as such, are of supralegal nature – a decision with important ramifications for future climate cases that deal with clashing ordinary law.

In the groundbreaking *Urgenda* case, the Supreme Court of the Netherlands based its judgment on the existing threat of dangerous climate change and on the clear fact that respective measures are urgently needed: “The State is obliged to do ‘its part’ in this context. Towards the residents of the Netherlands, whose interests Urgenda is defending in this case, that duty follows from Articles 2 and 8 ECHR, on the basis of which the State is obliged to protect the right to life and the right to private and family life of its residents” (para. 8.3.4).

In its Order of 24 March 2021 (Neubauer et al. v. Germany), the German Federal Constitutional Court underlines that “the State’s duty of protection arising from Art. 2(2) first sentence of the Basic Law also encompasses the duty to protect life and health against the risks posed by climate change. It can furthermore give rise to an objective duty to protect future generations”.

In the *Torres Strait* case (Daniel Billy et al. v. Australia), the Human Rights Committee, in its Views adopted on 21 July 2022, concluded “that the information made available to it indicates that by failing to discharge its positive obligation to implement adequate adaptation measures to protect the authors’ home, private life and family, the State party violated the authors’ rights under article 17 of the Covenant”. The Committee also considered “that the information made available to it indicates that the State party’s failure to adopt timely adequate adaptation measures to protect the authors’ collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources discloses a violation of the State party’s positive obligation to protect the authors’ right to enjoy their minority culture. Accordingly, the Committee considers that the facts before it amount to a violation of the authors’ rights under article 27 of the Covenant”.

Overall, however, there is variation across countries – constitutions, interpretation of legislation – depending on paths available in countries, e.g., use of Anchorage Declaration of 2009, standing for rivers, and the emerging jurisprudence on the rights of nature.

**6. Are there issues with making the link between human rights and climate change litigation?**

No. The two fields are linked and providing new paths for connections to be made in litigation will provide a coherent and workable solution.

As said above, the link between human rights and climate change litigation has been made rather successfully in several jurisdictions, but advancing climate laws – both substantive and procedural – remains important, as climate litigation and climate laws reciprocally draw from and influence each other in relevant ways.

**7. What do you think are the major barriers to initiating climate change litigation?**

Cost and bases for actions in national laws – barriers between different legal fields, underdevelopment of synergies.

From a *legal* standpoint, barriers can be either *procedural* – e.g. hurdles regarding standing – or *material* – e.g. absence of cogent domestic norms regarding climate change.

Furthermore, barriers often relate to a lack of *capacity-building* and/or dialogues among relevant actors – judges, lawyers, scientific experts –, the state and interpretation of *climate* *science,* especially attribution science, across different jurisdictions and countries’ emissions profiles, or to the *financial* ability of plaintiffs, or lack thereof, to borne litigation costs and/or access litigation finance.

Last but not least, barriers to climate litigation can also derive from *economic* and *political* questions that adversely shape a country’s litigation culture and undermine the effectivity of access to climate justice.

**8. Are the barriers different in different parts of the world? What are they?**

Barriers vary widely across different legal systems and jurisdictions. Bringing a climate case to court in the United States, for instance, can prove more procedurally challenging – e.g. with regard to standing, which can be considerably easier to demonstrate in, for example, Brazil – and expensive. As for material grounds for litigation, some jurisdictions enshrine climate protection in their constitutional or infraconstitutional norms, while others do not, leaving plaintiffs to substantiate claims on principles or on regulations that are not climate-specific. A common barrier, on the other hand, relates to considerations as to whether climate science, in its current state, is sufficient for attribution of damages. A significant number of climate claims aims at changes in conduct instead. Strengthening material and procedural climate law is, therefore, vital for the development of climate litigation, and so is reinforcing the climate law-climate science dialogue.

Overall, the different legal systems, constitutions, their embedding of human rights, the ability to raise a case based on human rights, remedies, delays, and the separation between private and public sectors in climate-related obligations and procedural considerations.

**9. Is the judiciary in your country well equipped to understand the connection between human rights and climate change?**

In several jurisdictions, courts have been showing increasing command of legal climate change concepts, as well as appropriate levels of deference to climate science. However, due to several reasons – e.g. lack of appropriate training, lacking institutional conditions, political settings, lack of technical support in interpreting climate science –, the judiciary is often not sufficiently well equipped to interpret and apply the connection between human rights and climate change.

Capacity-building is, therefore, of the essence. Potential ways to do so include a) working with the climate epistemic community comprised of lawyers, judges, scientists, business entities, prosecutors, academia, NGOs, and national and subnational governmental actors to disseminate knowledge; b) Reinforce common narratives (e.g. the climate emergency) and circulation of legal and scientific arguments, theses, and concepts; and c) explore the fact that there is a growing globalcorpus of domestic climate cases across jurisdictions and legal systems, that are often cross-referenced by judges.

Over the years the Hellenic Council of State (Supreme Administrative Court) has developed a worth mentioning environmental case-law. It has issued plenty of decisions on cases concerning RES projects, mostly wind parks. When deciding in favour of the projects, the Court has often based its judgments also on climate-related considerations, as contained in the amended Art. 8 of the Framework Law for the Environment and in EU legal acts on RES. However, it has not decided yet on a genuine climate law case. Nevertheless, the Judges of the Council of State may be regarded as well-equipped to understand the connection between human rights and climate change. It is not certain, if the same answer would be valid also with regard to Judges serving on the civil and criminal courts.

The United Kingdom is well-equipped to understand the connections, but has limited pathways and openness to creativity to explore them.

**10. How could this be improved?**

In this contribution, the IUCN World Commission on Environmental Law – **Climate Change Law Specialist Group** would like to emphasize the proposition of new paths for climate litigation.

Looking ahead, it is necessary to consider the linkages between, on the one hand, climate litigation and, on the other hand, litigation brought forth under other regimes that are related to climate change and to human rights, e.g. *biodiversity* and *international trade*.

Biodiversity litigation is on the rise and may set off under the Kunming-Montreal Global Biodiversity Framework, as climate litigation did under the Paris Agreement. Biodiversity loss and climate change threaten irreversible changes to the global environment and have been aptly treated as twin crises due to their strong, scienced-backed reciprocal implications. Nature has immense potential to offer solutions for the climate crisis, and can provide invaluable contributions to addressing other human rights threats, including water security, food security, disaster risk management, and health, important to point out that biodiversity loss actually increases the risk of future pandemics. Therefore, considering and exploring the relationship between climate litigation and biodiversity litigation is vital.

As for international trade, the world has witnessed a flourishing of carbon-related trade regulations, from the EU’s CBAM and anti-deforestation norms to domestic due diligence legislation with extraterritorial implications that span multiple jurisdictions along global supply chains. Carbon trade mechanisms could incentivize climate action globally by establishing low-carbon economies as more trade competitive, but, if not implemented correctly, could incite a backlash that can undermine both the climate and trade regimes’ goals. Also, due to a) its links to preventing human rights abuses associated with the production and export of commodities, and b) the fact that it often lends itself to *transnational* climate litigation, climate litigation based on international trade norms is likely to gain traction, and deserves due attention from the global community.

Furthermore, it is relevant to consider that *not* *all climate litigation is pro-climate*. Investor-State Dispute Settlement (ISDS) mechanisms have been invoked against several States – e.g. Canada, Italy, the United States, the Netherlands, and Spain – in order to block environmental and climate progress that is seen as detrimental to the interests of international investors. In this sense, a welcome development of the ongoing ISDS reform before UNCITRAL would be to devise means to ensure that deployment of ISDS arbitration proceedings does not hamper efforts to advance climate ambition and human rights protection.

The National School of Judiciary in Greece could organize seminars concerning climate change law and human rights, as part of its Lifelong Learning programme. It could also include a dedicated course in its Educational Programme.

In the United Kingdom, more training, more willingness to explore new paths to combine fields. Compare <https://www.lawscot.org.uk/members/journal/issues/vol-66-issue-11/opinion-mary-robinson/> and approaches taken in *Greenpeace v BEIS, OGA (BP, Ithaca)* <http://climatecasechart.com/non-us-case/greenpeace-v-united-kingdom/>. More inspiring that courts can be innovative within existing paths to pursue this most important of goals.

**11. Are there particular issues with getting access to the courts?**

Costs, legal advice, appetite for risk-taking.

Beyond matters regarding access to courts, described in the previous questions, it is important to point out that *enforceability* remains an important issue. A number of decisions in jurisdictions all around the world have interpreted the Paris Agreement to set legally enforceable targets, but the overall implementation of NDCs still largely depends on political will. Clarifying and strengthening the relationship between international and domestic climate obligations as two sides of the same coin may prove instrumental to bridge this divide, by precluding arguments in the sense that domestic implementation of NDCs is detached from a country’s international commitments.

**Advancement of the principle of intergenerational justice**

**12. 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?**

Intergenerational justice is strictly linked to the principle of sustainable development, encompassing economic, social and environmental substantive dimensions, and intra- and intergenerational temporal dimensions. Both principles are expressions of the principle of solidarity.

At the international level, the notion has been mentioned by the Human Rights Council, Preliminary report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, December 24, 2012, UN Doc. A/HRC/22/43, para 19. It is now contained in UNGA res 76/300: “The General Assembly ... Recognizing further that environmental degradation, climate change, …, constitute some of the most pressing and serious threats to the ability of present and future generations to effectively enjoy all human rights”. UNFCCC, COP27, Sharm el-Sheikh Implementation Plan: “The Conference of the Parties, …, Recognizes the role of children and youth as agents of change in addressing and responding to climate change and encourages Parties to include children and youth in their processes for designing and implementing climate policy and action, and, as appropriate, to consider including young representatives and negotiators into their national delegations, recognizing the importance of intergenerational equity and maintaining the stability of the climate system for future generations”. Also, HRC Resolution 52/23: “The Human Rights Council, ... Encourages States … to explore ways to incorporate information on human rights and the environment, including climate change, … , in school curricula, in order to teach current and future generations to act as agents of change, including by taking into account the traditional knowledge of Indigenous Peoples”. It is contained in the Stockholm Declaration (principle 2), the Rio Declaration (principle 3), and in judicial proceedings, such as the Pacific Fur Seal Arbitration (USA v. Great Britain) (1893); the Nuclear Weapons Advisory Opinion (ICJ); and the Gabcikovo-Nagymaros Project case (ICJ). The idea of environmental protection for future generations is contained in a variety of other legal instruments of soft and binding characters.

At the supranational level, Article 3(3) of the Treaty on European Union (TEU) refers to the “protection and improvement of the quality of the environment”, “solidarity between generations” and “the sustainable development of the Earth” within the EU and in its relations with the wider world.

At the regional level, the principle has been part of the OAS, General Assembly Resolution entitled: “Human Rights and the Environment,” adopted at the third plenary session held on June 5, 2001, OEA/Ser.P AG/ RES. 1819 (XXXI-O/01). OAS, General Assembly Resolution entitled “Human Rights and the Environment in the Americas,” adopted at the fourth plenary session held on June 10, 2003, AG/RES. 1926 (XXXIII-O/03), preamble and second operative paragraph. Inter-American Democratic Charter, adopted at the first plenary session of the OAS General Assembly held on September 11, 2001, during the twenty-eighth period of sessions, art. 15. See also, Protocol of San Salvador, Article 11; and “Climate Emergency: Scope of the Inter-American Human Rights Obligations”, Resolution 3/2021, twenty-first operative paragraph. The African Charter on Human and Peoples’ Rights, the ASEAN Human Rights Declaration, and the Arab Charter on Human Rights also make the connection between the environment and human rights.

At the domestic level, the principle of intergenerational equity is contained, for example, in Article 225 of the Brazilian Federal Constitution, establishing for the State and the community a duty to defend and preserve the ecologically balanced environment as a public good essential to a healthy life for present and future generations. Another example is Article 33 of the Constitution of Bolivia. Further, Article 71 of the Constitution of Ecuador refers to the right of nature to “comprehensive respect for its existence, and the continuity and regeneration of its vital cycles, structure, functions and evolutionary processes”, which denotes the temporality of environmental protection, and a duty of respect and protection imposed on the States, as well as the encouragement of individuals, legal persons and collectivities, to protect nature. Rights of nature in connection with human rights and climate change have been brought up in different regions, with examples being the following cases: Colorado River Ecosystem v. State of Colorado in the United States; Future Generations v. Ministry of the Environment (Colombia); G. Khan Cement Company v. Government of Pakistan (Pakistan). The emerging jurisprudence on the rights of nature is informed by the idea of legal personhood held by ecosystems, and the notion of trusteeships for environmental protection. In this sense, the latter also informs the theoretical approach conceived by Brown Weiss. But the principle of intergenerational equity has to grapple with the challenge of dealing with theoretical and practical issues of lack of reciprocity, definition of obligations, the problem of non-identity that rejects the acceptance of historical responsibilities, the anthropocentrism of its underpinnings, the absence of injured parties and standing, and the understanding of legal relationships as involving correlative rights and obligations.

**13. How would you best define intergenerational justice in the context of climate change and human rights?**

Intergenerational justice, or intergenerational equity, as the notion is most commonly known, has been drawn from intergenerational ethics and considered in environmental protection in the narrower scope of hazardous substances and conservation of species, which have quantifiable consequences and calculable risks. The theory of intergenerational equity applied to climate change has been developed by Edith Brown Weiss. It is a principle of intertemporal character that includes future generations as right-holders. The term generations is nonetheless ambiguous, but covering different typologies, in a horizontal and vertical sense, and, thus, intergenerational equity is inherently vague. Brown Weiss does not distinguishes generations in the future, considering a human partnership of generations. As she puts it, “[e]ach generation is thus both a trustee for the planet with obligations to care for it and a beneficiary with rights to use it” (Brown Weiss, Intergenerational Equity: A Legal Framework for Global Environmental Change, 397). Trusteeships, guardianships, would rely on institutional approaches to be exercised.

“Every generation needs to pass the Earth and our natural and cultural resources on in at least as good condition as we received them. In the context of global climate change, implementation of [the] principles of intergenerational equity calls for measures to prevent rapid changes in climate, measures to prevent or mitigate damage from climate change, and measures to assist countries in adapting to climate change” (Edith Brown Weiss), thus “contributing to and promoting human well-being and the full enjoyment of all human rights, for present and future generations” (UN GA Resolution 76/300).

In addition, to quote two respective phrases of the German Federal Constitutional Court's climate-related Order or 24 March 2021, the “protection [of the natural foundations of life] … encompasses the necessity to treat the natural foundations of life with such care and to leave them in such condition that future generations who wish to carry on preserving these foundations are not forced to engage in radical abstinence” (paragraph 193). And, “in view of the considerable risks that increasingly severe climate change may also entail for the legal interests protected under Art. 2(2) first sentence GG [protection of life and physical integrity] – for example through heat waves, floods or hurricanes (...) – the state is obliged to afford this protection to the current population and also, in light of objective legal requirements, to future generations” (paragraph 148).

**14. Has the concept of intergenerational justice been incorporated into climate change litigation?**

In the German Federal Constitutional Court's climate-related Order of 24 March 2021, explicit references are made, among others, to “an objective duty to protect future generations” and to afford “intergenerational protection”, to “responsibility towards future generations”, to the requirement that “the natural foundations of life also be protected for future generations” and to a “special duty of care ... also for the benefit of future generations” (paragraphs 146, 148, 193, 197, 200, 206, 229).

In its Views adopted on 21 July 2022, the Human Rights Committee considered “that the information made available to it indicates that the State party’s failure to adopt timely adequate adaptation measures to protect the authors’ collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources discloses a violation of the State party’s positive obligation to protect the authors’ right to enjoy their minority culture. Accordingly, the Committee considers that the facts before it amount to a violation of the authors’ rights under article 27 of the Covenant”. The Committee also considered, that “such threats [to life] may include adverse climate change impacts, and recalls that environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life”.

**15. What options are available for enshrining the principle of intergenerational justice in international law?**

As an expression of the principle of solidarity, the development of the principle of intergenerational justice requires the strengthening of the normative status of the former in international law. Solidarity has evolved in international law from the idea of coexistence to that of cooperation between States, which entails the sharing of burdens and efforts for reciprocal benefits. As reciprocity and interdependence have been the rationale for relationships in the international plane, intra-generational issues, such as poverty or access to vaccines, have not been adequately addressed. Intra- and intergenerational development of justice for guaranteeing a healthy environment for future generations depends on the understanding of the notion of solidarity as a duty of assistance. The focus on ancestor and present generations’ responsibilities and distributive justice toward the future. The development of the idea of vertical justice between generations calls for stringent rules in decision-making processes, such as environmental assessments, and the normative strengthening of the precautionary principle in domestic and international systems. Specifically, climate assessments, with binding norms informed by the interests of future generations need to be recognized internationally. Balancing exercises for a reconciliatory approach need to be conducted on the basis of different interests with the same normative force.

A first option is to follow the approach of the Global Biodiversity Framework. Goal B of the GBF reads as follows: “Biodiversity is sustainably used and managed and nature’s contributions to people, including ecosystem functions and services, are valued, maintained and enhanced, with those currently in decline being restored, supporting the achievement of sustainable development for the benefit of present and future generations by 2050”. As regards the implementation of the Framework, paragraph 21 of the GBF states that “the implementation of the framework should be guided by the principle of intergenerational equity which aims to meet the needs of the present without compromising the ability of future generations to meet their own needs and to ensure meaningful participation of younger generations in decision making processes at all levels”.

Another option is to adopt the approach followed by the drafters of the BBNJ Agreement. Future generations are explicitly mentioned in recital 11 of the Preamble, as well as in the definition of the term “sustainable use”, contained in Article 1 (point 16) of the Agreement (“maintaining [the] potential [of biological diversity] to meet the needs and aspirations of present and future generations”.

**16. How can States incorporate the concept of intergenerational justice in their national constitutions and legislation? What are some good practices in that respect?**

Through overarching constitutional provisions, and specific legislation, particularly of a procedural character, that determines climate assessments for projects, taking into account a legal duty to observe future impacts, the need for coordination, integrative procedures, and synergies to be explored.

Specifically, through the increase of public participation, especially of indigenous communities voicing traditional knowledge of balanced consumption and conservation practices in policymaking and legal decision-making processes. Development of the concept of legal personhood, borrowing from the nascent doctrine of rights of nature, to allow groups to represent the interests of future generations before adjudicatory proceedings and ensure procedural equity so that these interests with prospective character can be safeguarded at the same level of respect and protection required for present generations through negative and positive obligations. See, e.g., The Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Judgment of August 31, 2001, Inter-Am. Ct. H.R., (Ser. C) No. 79 (2001).

According to Art. 24 para. 1 of the Greek Constitution, “protection of the natural and cultural environment constitutes … a right of every person. The State is bound to adopt special preventive … measures for the preservation of the environment in the context of the principle of [sustainability]”. Furthermore, according to Art. 25 paras. 1 and 2, “[t]he rights of the human being as an individual and as a member of the society and the principle of the welfare state rule of law are guaranteed by the State”; “[t]he recognition and protection of the fundamental and inalienable rights of man by the State aims at the achievement of social progress in freedom and justice”. Moreover, according to Art. 25 para. 4, “[t]he State has the right to claim [that] all citizens fulfil the duty of social ... solidarity”. A systematic and teleological interpretation suggests that “intergenerational solidarity” and “intergenerational justice/equity” are already implied in these paragraphs. Nevertheless, an amendment introducing *expressis verbis* the term “intergenerational” would be welcome.

**17. 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?**

In the case *Duarte Agostinho and others v. Portugal* *and others,* six Portuguese youths filed a complaint to the ECtHR in September 2020, alleging that their rights to life, privacy, and protection from discrimination have been violated by the 33 respondent States due to their collective failure to adopt emissions reductions consistent with the Paris Agreement 1.5°C target. They are requesting that the Court order the respondent countries to take more ambitious and urgent action. On 30 June 2022, the Chamber of the ECtHR relinquished jurisdiction in favour of the Grand Chamber. The case will be heard on 27 September 2023.

Expert briefs from children organizations and NGOs, joint efforts for representation, legal support, and advocacy for children. Refinement of the notion of guardianship in international law. Refinement of the trusteeship in international law. Collective claims and understanding of jurisdictional limitations to be overcome for effective remedies.

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