

Input by the Law and Society Trust (LST), Sri Lanka to the
Report on the Right to Development of Children and Future Generations
by the UN Special Rapporteur on Right to Development

The Law and Society Trust (LST) presents the following input on the effects of human rights of future generations due to development-related decisions, and its proposals to protect the rights of future generations, using 3 examples of proposed development projects, which are being approved and implemented by the Sri Lankan government recently. They are:

01. Two floating solar power projects in Hambanthota District in Southern Province under the agreement between the Ministry of Power and Energy and the Korea Institute for Advancement of Technology.

On 4th March 2024, Cabinet approval was granted for these 2 projects, which were proposed to be constructed on the water surface of 2 tanks (*Chandrika wewa* and *Kiri Ibban wewa*), the drinking water source of the respective areas. Further, hundreds of fishermen depend on these 2 tanks for their livelihood. There are serious concerns about the adverse effects that can be caused to the water due to the chemicals created by the solar panels under harsh weather conditions.

02. The Limonite sand mining project on Mannar Island in Northern Province undertaken by Australian drilling company Titanium Sands Ltd.

The Australian company has already completed a scoping study of Mannar island, which has an extent of 130 km², drilling over 4000 exploratory holes, some as deep as 12 meters. 63% of Mannar Island's land area is below sea level, and if the mining of fine soil continues, there is a risk of complete submergence of Mannar Island, with a population of over 66,000.

03. The wind power project on Mannar Island in the Northern Province is to be implemented by the Indian company Adani Green.

Under this project, over 50 turbines will be set up along the island, a main entry point to one of the eight global migratory highways in the world, the Central Asian Flyway.

This will seriously threaten millions of birds flying on this route yearly and cause irreversible ecological damage.

These 3 projects will add to the long list of past projects that have been implemented without proper environmental impact assessment, social impact assessment, or consulting the communities affected by the projects. Development projects in Hambanthota District in Southern Province (ex, Mattala Mahinda Rajapakse International Air Port, Suriyawewa Mahinda Rajapakse International Cricket Stadium, Hambanthota International Port) and Colombo Port City are a few such projects that were implemented in the last 2 decades. They have caused serious damage to the environment, livelihoods of the local communities, and the existence of humans and non-humans and their future generations. Amidst witnessing the irreversible adverse damage to the communities, their livelihoods, and the country's ecosystems, consecutive governments continue implementing projects without serious studies and consultations with the affected communities. Regarding the aforementioned 3 proposed projects, the Sri Lankan government is determined to implement them amidst resistance from the respective communities in those areas, including public protests. The government excluded them from the decision-making process and suppressed their voices by state power.

Three main arguments are often presented in favor of these arbitrary decisions, bypassing the country's legal framework and avoiding conducting proper studies and consultations. First is the dire need to utilize the country's natural resources in the context of the severe economic crisis that Sri Lanka is undergoing. The second argument is the lack of resources, expertise, and financial capability to conduct extensive scientific studies and public consultations. Finally, the argument is not to discourage investors by lengthy and time-consuming procedures. None of these arguments can be justified under the inter-generational rights framework and the concept of the right to development, which is internationally recognized. Human beings should be able to participate, contribute, and enjoy the right to development. However, in none of these cases have the communities affected by the projects been heard, and they and their future generations will have to suffer the negative consequences of the projects. Self-determination and intergenerational equity, two key overarching principles derived from the Declaration on the Right to Development, have been violated. Principle 15 of the Rio Declaration of Environment and Development is also breached here as the lack of full scientific certainty is being put as the reason for not adopting cost-effective measures to prevent environmental degradation while these projects have a threat of serious irreversible damage. Thus, the

precautionary approach has not been adopted in these projects. The key elements of precautionary principles identified in the Wingspread Statement, including taking anticipatory action to prevent harm in the face of scientific uncertainty and increasing public participation in decision-making, have been totally neglected. The Sri Lankan government has undermined the rights of future generations by authorizing the utilization of natural resources unsustainably and destruction of nature which is a clear violation of principle 7 C of the Maastricht Principles on The Human Rights of Future Generations.

To avoid unsustainable use of natural resources which negatively affect the present and future generations of humans and non-human animals, it is important to adopt a land use policy that is based on the principles of self-determination, intersectionality, intergenerational equity, and fair distribution, which are the key principles of the Declaration of Right to Development. Amid the civil society's constructive suggestions and advocacy efforts for such national land use policy, Sri Lankan governments have adopted ad-hoc decisions on utilizing its environmentally sensitive lands for the 'development projects'. In the context of the non-existence of fundamentals which is laid out by a policy framework, even the limited environmental and social impact assessments that are carried out have become merely a strategy to justify the damage as they are unable to consider the diverse aspects of development. Further, it has allowed the government to pitch its arguments based on immediateness, lack of resources, and encouraging investors. Therefore, pushing governments to adopt a land use policy based on the principles of self-determination, intersectionality, intergenerational equity, and fair distribution is paramount. Corrupt and short-sighted governments can make use of the non-existence of the fundamental framework laid out by such state policy to propagate unsustainable ad-hoc projects that can be devastating to the rights of future generations.

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