

OBSERVATIONS OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD

ON THE REQUEST FOR ADVISORY OPINION NO 001/2025 AT THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

*In the matter of a request by the Pan African Lawyers Union (PALU) for an Advisory
Opinion on the obligations of States with respect to climate change*

Introduction

1. The African Committee on the Rights and Welfare of the Child (the Committee/ACERWC) welcomes this opportunity to make observations in response to the request for an advisory opinion on States' obligations regarding the climate crisis (the Request) transmitted by the African Court on Human and Peoples' Rights (the Court).
2. The Committee has identified climate change as a critical priority, establishing a Working Group on Climate Change and Children's Rights in 2020¹, publishing its cornerstone study "Climate Change and Children's Rights in Africa: A Continental Overview" in 2025, and launching the "1.1 degrees too high" campaign. Under Article 42 of the African Charter on the Rights and Welfare of the Child (the African Children's Charter), the Committee is well-positioned to assist the Court in this vital task.
3. While acknowledging the important contributions of recent Advisory Opinions from the International Court of Justice (ICJ), the Inter-American Court on Human Rights (IACtHR), and the International Tribunal on the Law of the Sea (ITLOS), the Committee believes these left significant gaps regarding Africa and African children's rights. The African Court is uniquely positioned to address these gaps through African law and jurisprudence.
4. Two considerations make an African child-rights perspective essential. First, African States contribute minimally to global greenhouse gas emissions yet face

¹ ACERWC Resolution on the Establishment of a Working Group on Children's Rights and Climate Change (2020) <https://www.acerwc.africa/sites/default/files/2022-10/RESOLUTION%20ON%20THE%20ESTABLISHMENT%20OF%20A%20WORKING%20GROUP%20ON%20CHILDREN%20RIGHTS%20AND%20CLIMATE%20CHANGE.pdf>.

dire development needs and disproportionate climate impacts. This creates unique obligations regarding common but differentiated responsibilities and accountability of other states and private actors. Second, **the climate crisis is fundamentally an African Child Rights Crisis.** Two-thirds of the world's most dangerous countries for children during the climate crisis are in Africa, where most children live in communities lacking climate resilience. While children globally are disproportionately affected by climate change, these impacts are most severe for African children.

5. Existing Advisory Opinions primarily address children as victims only requiring protection, focusing on rights to life and health. This overlooks children's empowering rights—access to information, expression of views, participation in decision-making, and access to justice—that recognize them as climate leaders and duty bearers. The African Court can make its most significant contribution here, particularly given the African Children's Charter's unique recognition in Article 31 that children's dignity includes meaningful contribution to their communities.
6. These observations present the Committee's legal analysis while incorporating children's voices gathered at the 2025 "Day of the African Child" in Malawi, where children discussed African States' climate obligations.

The Climate Crisis: An African Child Rights Crisis

7. The Committee finds that the climate crisis constitutes an *African Child Rights Crisis*. Climate impacts on children are not abstract projections but present realities, with African children facing heightened vulnerability due to physiological, social, and geographic factors.²
8. Key global statistics illustrate the scope:
 - 820 million children (over one-third globally) are highly exposed to heatwaves
 - 330 million children face high riverine flooding exposure
 - 240 million children face high coastal flooding exposure
 - Over 99% of children worldwide are exposed to at least one major climate hazard
 - Approximately 2.2 billion children face two or more overlapping climate hazards

² ACERWC Study page 2 – 3, quoting UNICEF The climate crisis is a child rights crisis: Introducing the Children's Climate Risk Index (2021), <https://www.unicef.org/media/105376/file/UNICEF-climate-crisis-child-rights-crisis.pdf>

9. African children face compounded vulnerabilities. Twenty-five of the 33 'extremely high risk' countries identified by UNICEF are in Africa. African children experience the worst projected impacts from floods, droughts, extreme weather events, water scarcity, food insecurity, air pollution, vector-borne diseases, and mental health challenges, despite bearing least responsibility for greenhouse gas emissions.
10. Climate impacts intersect with existing vulnerabilities. Children with disabilities, migrant children, those living in poverty, indigenous children, and those separated from families face exacerbated harm. For example, Plan International's Sahel region study demonstrates gendered impacts: girls drop out of school to support families, face forced marriage and sex work, and struggle with menstrual health during water shortages. Boys similarly leave school prematurely to work and support families.³
11. Climate-induced migration presents particular challenges. The 7th Pan-African Forum on Migration addressed climate change as a key driver of displacement. The Kampala Convention on Internally Displaced Persons obliges States to protect those displaced by climate-related disasters. The African Union Climate Change and Resilient Development Strategy (2022-2032) recognizes migration as a natural adaptation strategy while emphasizing obligations to protect vulnerable groups, particularly girls and displaced children. Climate change also fuels armed conflict, resource scarcity, and terrorism—as seen around Lake Chad—leaving children profoundly vulnerable.
12. These disproportionate impacts create special State obligations to protect and promote children's rights. Courts must interpret and contextualize these rights within the climate crisis. This Court holds the privileged position to give meaning to African children's rights in this context.

Jurisdiction and Applicable Law

13. The Request asks whether the Court has jurisdiction over African States' human rights obligations regarding climate emergency. The Court may provide advisory opinions on matters not before the Commission, raised by permitted parties, interpreting "the African Charter and any other relevant human rights instruments ratified by the States concerned" (Article 7, Protocol on the Establishment of an African Court).

³ Plan International 'A Gathering Storm' (2024) available at <https://plan-international.org/uploads/sites/53/2025/02/A-Gathering-Storm-Full-Report-Eng.pdf> (last accessed 28 November 2025).

14. Climate change profoundly impacts human rights because a sustainable climate is prerequisite for enjoying all other rights. The ICJ Climate Change Advisory Opinion confirmed human rights law's relevance to States' climate obligations.
15. All African States are party to both the African Charter on Human and Peoples' Rights and the UN Convention on the Rights of the Child (UNCRC). The Court's interpretation of these instruments regarding climate crisis falls firmly within its jurisdiction and applies to all African States. This extends to customary international human rights law, including the Universal Declaration of Human Rights, with relevant interpretations from treaty bodies including General Comments and communications decisions.
16. Fifty-one of 55 African States have ratified the African Children's Charter. It may be authoritatively applied directly to these States and through UNCRC interpretation for the remaining others, consistent with this Court's Advisory Opinion on the right to participate in government⁴, which noted that under Article 3(h) of the Constitutive Act, all AU Member States have undertaken to "promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments."
17. The ICJ confirmed the close link between human rights and environment, relying partly on this Court's jurisprudence in *LIDHO v. Côte d'Ivoire*, which recognized the interrelationship between human rights obligations and environmental protection rules. The ICJ identified core relevant treaties including the ICESCR, ICCPR, and customary international law—an open, not closed list. Given children's immense, disproportionate, long-term impacts, the UNCRC and African Children's Charter form part of core treaties most relevant to climate obligations.
18. The ICJ confirmed that climate treaties (UNFCCC, Kyoto Protocol, Paris Agreement) comprise the most directly relevant law for determining States' duties. This Court should consider these instruments, particularly regarding human rights, including their guiding principles:
 - Sustainable development
 - Common but differentiated responsibilities and respective capabilities
 - Equity
 - Intergenerational equity
 - The precautionary principle

⁴ Advisory Opinion No 001/2020, On the right to participate in the government of one's country in the context of an election held during a public health emergency or a pandemic, such as the Covid-19 crisis, requested by Pan African Lawyers Union (PALU).

19. The Court can rely on jurisprudence from African human rights bodies (the Court, Commission, and Committee) and domestic African courts. The ICJ Advisory Opinion, UN Committee on the Rights of the Child's General Comment No. 26 and complaint decisions (particularly *Sacchi v Argentina* and *MEV v Finland*), and the IACtHR Advisory Opinion provide important guidance.

20. The following principles and law apply to all African States:

- An immediately enforceable human right to a clean, healthy, and sustainable environment, including sustainable climate (recognized by the UN General Assembly, Human Rights Council, Committee on the Rights of the Child, and ICJ)
- Article 24 of the African Charter has recognized this right since inception
- Over 35 African countries constitutionally recognize environmental rights
- Commitment to Sustainable Development Goals
- Recognition in the Revised African Convention on the Conservation of Nature and Natural Resources (2003)

The Imperative for a Child Rights-Based Approach

21. The Court is asked whether African States have positive obligations to protect impacted populations, including children. The Committee unequivocally answers: yes. States owe children a special duty, distinct from that owed adults, arising from children's rights and their limited political power—they cannot vote and have minimal participation in governmental decision-making. Courts can protect their interests.

22. The African Charter requires States to recognize rights, and duties, and adopt legislative or other measures to give them effect (Article 1). Where children's rights are violated or threatened by climate change, States must act through legislation or other means to address causes and consequences. Because climate change affects children's rights, child rights law applies and a child rights approach is mandatory.

23. Children are disproportionately affected by climate change due to physical and social factors and longer exposure duration. Physically, their developing bodies—smaller lungs, growing organs—make health impacts more severe. Socially, children spend more time outdoors, exposing them to pollution and elements. They will endure climate harms longer simply by living in a worsening crisis throughout their lifetimes. A children's rights approach is therefore not merely mandatory but crucial to survival and well-being.

Principles of a Child Rights Approach

24. The four pillars of children's rights, similar in the African Children's Charter and UNCRC, function both as rights themselves and interpretive principles:

- The primacy of the best interests of the child (ACRWC Art 4)
- Non-discrimination (ACRWC Art 3)
- Survival and development (ACRWC Art 5)
- Child participation (ACRWC Art 4(2) & 7)

2 States must apply these four pillars individually and alongside other rights, such as the right to a healthy environment, in all climate governance matters. Failure renders decisions unlawful under international and potentially domestic law, as demonstrated in *African Climate Alliance v Minister of Mineral Resources*, where South Africa's High Court set aside a coal procurement decision because the Minister failed to consult with and consider children's interests despite potential disproportionate effects on their survival and well-being.⁵ This Court has similarly found a violation of Article 4 of the Children's Charter because a public authority did not take into account the best interests of children in its decision.⁶

The Primacy of the Best Interests of the Child

26. Article 4 of the African Children's Charter requires that "in all actions concerning the child undertaken by any person or authority, the best interests of the child shall be *the primary consideration*" (emphasis added). The UNCRC contains a similar provision. States must consider children's best interests both as a group and individually in climate-related decisions. The CRC Committee confirms that environmental harms, including climate change, concern children as a group for this principle's purposes.

27. "Actions concerning the child" extend beyond personal matters into public governance. In *Centre for Human Rights v Tanzania*, this Court applied the best interests principle to a group of children in a public matter, adopting the African Committee's finding that "any person" is broadly interpreted to include all actions affecting children, whether by private or public entities.

28. Children's rights and interests encompass not only present concerns but also long-term interests protected by law. The African Committee, in its General Comment on article 1 of the African Children's Charter on State Party obligation, noted the

⁵ *African Climate Alliance and Others v Minister of Mineral Resources and Energy and Others* (56907/2021) [2024] ZAGPPHC 1271 (4 December 2024).

⁶ *Centre for Human Rights v Tanzania* para 301.

following in interpreting the most important principle of children's rights, the best interest of the child:

"The child's best interests include short term, medium term and long term best interests. For this reason, State actions which imperil the enjoyment of the rights of future generations of children (eg allowing environmental degradation to take place, or inappropriate exploitation of natural resources) are regarded as violating the best interests of the child standard."

29. In *Groundwork v The Minister*, South Africa's High Court found that persistent air pollution violates the right to a healthy environment, infringing other rights including the child's right to have their best interests considered paramount. The court ruled that States must make efforts to reduce air pollution and legislate implementation plans; failure constitutes children's rights violations. The court also found that future generations' interests must be considered in today's environmental decisions.

30. States must determine children's best interests through child rights impact assessments (CRC/C/GC/14 para 32-35). The CRC Committee confirms that

"environmental decisions generally concern children, and the best interests of the child shall be a primary consideration in the adoption and implementation of environmental decisions, including laws, regulations, policies, standards, guidelines, plans, strategies, budgets, international agreements and the provision of development assistance."

31. Where environmental decisions may significantly impact children, detailed assessment procedures providing meaningful participation opportunities are appropriate, complementing ongoing monitoring and evaluation. States must

"explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations" (CRC/C/GC/14 para 6c). The African Charter establishes a particularly high standard by requiring States to consider children's best interests as *the* primary consideration—above all others.

Survival and Development

32. Children's rights to survival and development encompass life and health but also education, play, and other rights. The ICJ Advisory Opinion recognizes children's survival and development rights, citing UNCRC Articles 6 (right to life) and 24 (right to health) and affirming States' duties to protect and promote these rights in the climate crisis context.
33. General Comment 26 confirms that environmental degradation—including climate change, pollution, and biodiversity loss—threatens the right to life, closely linked to poverty, inequality, and conflict. States should take positive measures ensuring children are protected from foreseeable premature or unnatural death and threats from acts, omissions, and business activities. Measures include adopting and effectively implementing environmental standards for air and water quality, food safety, lead exposure, greenhouse gas emissions, and all necessary protections for children's right to life.
34. This obligation applies to structural and long-term environmental challenges potentially threatening life, requiring appropriate measures such as sustainable resource use for basic needs and protecting healthy ecosystems and biodiversity. Special protections are needed to prevent and reduce child mortality from environmental conditions, particularly for vulnerable groups.
35. African States must ensure children enjoy the right to live with dignity, not merely prevent death. This includes dignified life elements like cultural practice, which climate change may threaten. In the Ogiek case (*African Commission v Kenya*), this Court established connections between States' environmental duties and culture and dignity, finding Article 24 violations alongside cultural and development rights violations. The CRC Committee made similar connections in *MEV v Finland*, brought by three Indigenous Finnish children arguing climate change threatens their cultural way of life.
36. The ICESCR Committee's General Comment on development states: "Climate change, biodiversity loss and pollution significantly affect children's rights and well-being. Younger children are especially susceptible to environmental harm from pollution and toxic chemicals, which can have long-term impacts on their health and development." The Comment addresses food and water insecurity, malnutrition, child labor, education disruption, mental health impacts, violence exposure, and exploitation, noting disproportionate effects on vulnerable children while recognizing children as environmental action leaders. States must adopt child-sensitive environmental measures grounded in science and international standards, adequately protect children from toxic substances and pollution, conduct long-term risk assessments considering specific impacts on children, respect children's participation rights, and protect child rights defenders.

37. Regarding play, General Comment 26 requires States to ensure all children can play and engage in recreational activities in safe, clean, healthy environments including natural spaces, parks, and playgrounds. Public planning should give children's views due weight and prioritize well-being, considering: (a) accessible transportation to green areas and nature; (b) safe local environments free from pollution and hazardous materials; and (c) road traffic measures reducing pollution near households, schools, and playgrounds.

Participation and the Right to Be Heard

38. Children are climate justice movement leaders, globally recognized as human rights defenders contributing to environmental protection for themselves and others. The ACERWC states their leadership should be recognized and demands for urgent, decisive measures addressed.

39. Recognition of children's societal contributions is a prominent African Children's Charter feature. Article 31 recognizes children not merely as victims or beneficiaries but as full human beings forming part of their whole community and natural world; a principle inherent in African traditions. It states a child has responsibilities towards his/her family and society, the State and other legally recognised communities and the international community, including duties to serve his/her national community by placing his physical and intellectual abilities at its service and to preserve and strengthen social and national solidarity. These duties don't condition other rights; they demonstrate that children's societal participation is healthy, useful to their development and society.

40. The African Committee's General Comment on Article 31 explains that African childhood conceptions aren't limited to total dependence; children progressively assume household responsibilities from an early age. Children are embedded within communities where rights enjoyment depends on others exercising duties. By placing responsibilities upon children, the Charter reinforces rights protection by enabling children to promote environments conducive to respecting their individual and collective rights.

41. If children are to fulfill environmental duties, they need empowerment to participate and contribute. At the 2025 Day of the African Child, all 23 child participants unequivocally stated governments should consult children about decisions. One participant said:

"It would be nice for the government to ask for our views, but it would be better if they create more room for children at the higher tables, they should get children to represent themselves at the high tables."

42. Children's participation right arises from African Children's Charter Articles 4 and 7 and UNCRC Article 12. Article 7 states "every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws." Under both instruments, child participation forms a key part of best interest determination, applying to children as a group.
43. The ACERWC General Comment on Article 31 states: "The right of the child to be heard (child participation) is an important principle which places value on the contributions of children to matters affecting them, including the handling of responsibilities. It enables and equips even the youngest members of society to contribute to shaping their own lives, families, communities and the wider society at large. By recognising the capacity of children to understand their own environment and world, child participation projects children as active participants in the promotion and protection of their rights and the fulfilment of their responsibilities."
44. The Committee interprets children's participation as beneficial to both children and society: "The Charter, through Article 31, thus opens the space for children to participate in decision making and life processes of their respective families, communities, and other spaces. This is in keeping with children's participation rights as contained in Article 7 of the Charter, among others. Child participation entails the involvement of the child at various stages and through various means ranging from verbal and non-verbal expression to physical engagement or involvement in the life processes of their various spaces."
45. Children's participation rights, closely related to their duties to preserve and strengthen national solidarity, connect to freedom of expression and association. States must intentionally seek children's voices on climate issues and facilitate their participation in public decision-making as part of best interest determination.
46. General Comment No. 26 requires States to "ensure that age-appropriate, safe and accessible mechanisms are in place for children's views to be heard regularly and at all stages of environmental decision-making processes for legislation, policies, regulations, projects and activities that may affect them, at the local, national and international levels."
47. Children's right to be heard is both separate and part of general State consultation obligations. As this Court found in the Ogiek case, there exists an obligation to consult "in an 'active and informed manner', respecting their customs and traditions... in good faith... fair and equitable as specified in Article 40 of the UN Declaration on Indigenous Peoples." The CRC Committee in *MEV v Finland* finds

"States must promote Indigenous children's consultation on all matters affecting them, including issues concerning their traditional territories and environment."

48. Participation is interrelated with children's rights to information and freedom of speech. General Comment 26 states "the exercise by children of their rights to freedom of expression, peaceful assembly and association, to information and education, to participate and be heard and to effective remedies can result in more rights-compliant, and therefore more ambitious and effective, environmental policies. In this way, children's rights and environmental protection form a virtuous circle."
49. States must make environmental information available using methods appropriate to children's ages and capacities, overcoming obstacles like illiteracy, disability, language barriers, distance, and limited technology access.
50. The UN Committee proposes child rights impact assessments (CRIA) as part of environmental assessments: "All proposed environment-related legislation, policies, projects, regulations, budgets and decisions, and those already in force, require vigorous children's rights impact assessments, in accordance with article 3 (1) of the Convention. States should require the assessment, both before and after implementation, of the possible direct and indirect impact on the environment and climate, including the transboundary, cumulative, and both production and consumption effects, on the enjoyment of children's rights."
51. The ICESCR Committee conducted in-depth child consultations while drafting its general comment on development, finding climate change is crucial to children and that children raise different concerns than adults, illustrating the importance of separately consulting children. Parents are not necessarily efficient transmitters of children's views.
52. The IACtHR Advisory Opinion states: "States also have the obligation to promote and facilitate children's climate action, as well as to refrain from taking any substantive or formal decision that hinders the activities of child environmental human rights defenders. In particular, States must progressively adopt measures to facilitate a safe environment for child defenders of environmental rights, highlight the positive impacts of their work, and guarantee their protection against intimidation, harassment and violence."

Non-Discrimination and Intergenerational Equity

56. Child participants at the 2025 Day of the African Child unanimously agreed some people suffer more from climate effects than others, mentioning those with disabilities and varying privilege levels. Adults possess vastly more privileges and

powers than children. African States must ensure children and future generations don't bear heavier climate responsibility and harm burdens compared to current and previous adult generations. This is intergenerational equity, universally recognized in international climate and human rights law.

57. Article 3 of the African Children's Charter requires States to ensure children's equality, including intergenerational equity between current older, young, and child generations and future generations, so no generation carries disproportionate climate burdens. South African court in the *Deadly Air* judgment confirmed future generations' interests must inform climate-related governmental decision-making, aligning with African human rights law and solidarity traditions spanning all generations; current, past, and future.
58. Future generations are those yet to be born. Children alive today are not future generations; they are current, full human beings with independent rights deserving implementation today. States must implement rights of children alive today and interests of children to be born imminently and in the future, as other courts globally have found.
59. The ICJ references UNCRC Article 2 (non-discrimination) regarding equality between children in different circumstances rather than children as a group. Closely related is the right to access remedies, as children face significant barriers to courts and justice generally. General Comment 26 states States must "establish non-judicial and judicial mechanisms to provide access to effective remedies for abuses of children's rights. States should also ensure the availability of regulatory agencies, monitor abuses and provide adequate remedies for violations of children's rights related to environmental harm."
60. The IACtHR dedicates significant attention to children's procedural rights: "Furthermore, taking into account the significant effects of climate change on children, States should adopt the necessary measures to guarantee their procedural rights. Consequently, they should ensure their effective access to accurate and reliable information based on the best available science about the causes and effects of the climate emergency on children, and the steps taken to address these."
61. Children globally face significant barriers accessing courts on climate issues. Regarding effective remedies, the IACtHR finds States must: "(i) facilitate pathways to justice for children by developing child-friendly and effective judicial, quasi-judicial and/or non-judicial complaint mechanisms; (ii) identify and eliminate legislative or operational barriers preventing children from filing complaints or initiating proceedings by themselves; (iii) adopt necessary measures guaranteeing children can access effective judicial remedies for human rights protection; (iv)

reinforce special mechanisms protecting children's rights, such as ombudspersons, ensuring they are independent with necessary competence and human, technical and financial resources to exercise mandates effectively, including authority to initiate proceedings defending children's rights; (v) establish mechanisms for children to access free, effective legal aid to file actions safeguarding human rights against environmental or climate harm, and (vi) eliminate adverse cost orders in actions filed by children."

62. The CRC Committee confirms States must effectively prevent, protect against, and provide remedies for both direct and indirect environmental discrimination, collect disaggregated data identifying differential effects on children to understand intersectionalities, pay special attention to most at-risk groups, implement special measures and policies, and ensure all environmental legislation, policies, and programmes are neither intentionally nor unintentionally discriminatory toward children in content or implementation.
63. Children comprise approximately half of Africa's population; with young people under 25, they form a strong majority. Their issues affect the majority, not a minority. Where intersection with minority issues occurs, such as disability, that must be additionally considered.
64. The ICJ identifies intergenerational equity as a key interpretive principle for States' climate obligations. The CRC Committee also recognizes intergenerational equity and future generations' interests. States bear responsibility for foreseeable environment-related threats from current acts or omissions whose full implications may not manifest for years or decades. The ICJ finds States must consider future generations' interests and long-term implications when making climate policies. While views differ on intergenerational equity's precise concept, "its relevance for the obligations in respect of climate change is undisputable."

Third parties accountability

- 3 African States should anchor private-sector climate accountability in binding legal obligations rather than voluntary commitments, beginning with mandatory climate and sustainability disclosure. States must also regulate emissions directly by imposing enforceable limits and legal and financial consequences on major emitters. South Africa's Climate Change Act provides an instructive example of how carbon budgets can be used to cap emissions at the company and sectoral levels, converting climate mitigation into a legal duty rather than a policy aspiration. While weaknesses remain, particularly regarding penalties for excess emissions; the ongoing reform of South Africa's carbon tax regime demonstrates how States can progressively strengthen accountability by increasing tax rates, reducing exemptions and penalizing non-

compliance through fines, criminal liability or license withdrawal. The broader obligation for African States is to design carbon pricing systems that change corporate behavior, not merely generate revenue, and to publicly expose persistent violators.

- 4 Strategic child-rights based climate litigation should be treated as a legitimate and necessary accountability mechanism rather than a last resort. Courts across jurisdictions are increasingly willing to frame climate harm as a violation of rights, including the rights to life, health, dignity and a safe environment. African States have an obligation under international children's rights law to regulate private actors whose activities contribute to climate harm, and failure to do so may itself trigger State responsibility. By supporting rights-based litigation and recognizing a duty to consider climate impacts in corporate and project decision-making, States can reinforce regulatory frameworks and deter environmentally harmful conduct.
- 5 Effective accountability further requires coherent governance across institutions and levels of government. Fragmentation, weak coordination and siloed mandates continue to undermine climate regulation in many African countries, despite the existence of robust laws and policies. States should therefore establish integrated climate governance systems that align national, provincial and local authorities, ensure consistent regulatory oversight of private actors and enable information-sharing across institutions. Without such coordination, even the most progressive climate laws risk remaining symbolic.
- 6 African States should also require transparent tracking of private-sector contributions to climate mitigation and adaptation, particularly where companies claim alignment with national climate commitments. Preventing greenwashing must form part of the climate accountability architecture. Consumer protection and competition laws across the continent already provide a legal basis for challenging misleading environmental claims, including the imposition of significant financial penalties. States should actively enforce these provisions to ensure that sustainability narratives do not obscure continued environmental harm. Treating greenwashing as a legal violation rather than a reputational issue reinforces the integrity of climate governance and protects public trust.
- 7 Finally, African States should leverage international and transnational accountability mechanisms to regulate multinational corporations operating within their jurisdictions. Developments such as France's Duty of Vigilance Law and emerging European supply-chain due diligence regimes expand the legal exposure of companies for environmental harm occurring abroad. African governments can align domestic enforcement with these external obligations, cooperate with foreign regulators and support cross-border litigation to ensure that multinational enterprises respect climate

and human rights standards. At the same time, States should continue to pursue diplomatic and legal strategies to hold major historical emitters accountable for their fair share of climate finance and reparative action.

Mitigation and Adaptation

68. Under international law, States have individual responsibility to mitigate climate change to fulfill obligations under the Convention and international environmental law, including Paris Agreement commitments to hold global average temperature increases to 1.5°C above pre-industrial levels by 2030. Mitigation measures should reflect each State's fair share of global mitigation efforts, considering total reductions necessary to protect against continuing and worsening children's rights violations.
69. This position aligns with the ICJ's findings in the Advisory Opinion which establishes that the legal threshold is 1.5 degrees, not 2. This aligns with the Committee's campaign '1.1°C too high', highlighting the current level of warming is already catastrophic to millions of children in Africa and requires urgent action, while efforts continue to limit warming to 1.5 degrees. It should be noted that the 1.5 degree goal is not considered safe for most communities, as noted by the IPCC and confirmed in the ICJ ruling. Considering the disproportional impact of climate change on African children, African states must recognize special measures that are required to protect vulnerable communities who are already gravely affected and act proportionally.
70. General Comment 26 highlights that as climate impacts on children's rights intensify, sharp and urgent increases in child-sensitive, gender-responsive, and disability-inclusive adaptation measures and resources are necessary. States must identify climate-related vulnerabilities among children concerning availability, quality, equity, and sustainability of essential services like water, sanitation, healthcare, protection, nutrition, and education. States should enhance climate resilience of legal and institutional frameworks, ensuring national adaptation plans and existing social, environmental, and budgetary policies address climate-related risk factors by assisting children to adapt to unavoidable climate effects. Measures include strengthening child protection systems in risk-prone contexts, providing adequate access to water, sanitation, healthcare, and safe schools, strengthening social safety nets and protection frameworks, and prioritizing children's right to life, survival, and development. Healthy ecosystems and biodiversity also support resilience and disaster risk reduction.

Loss and Damage

71. The CRC Committee encourages States to recognize that from a human rights perspective, loss and damage closely relate to remedy rights and reparation principles, including restitution, compensation, and rehabilitation. States should undertake measures, including through international cooperation, to provide financial and technical assistance addressing loss and damage impacting Convention rights enjoyment.
72. In both Ogiek and LIDHO cases, the Court granted remedy through compensation funds. In LIDHO, the Court ordered the State to establish a compensation fund (drawing on sums paid by the responsible company) and implement regulatory reforms, remediation, health services, and other measures addressing harm to victims and environment. Where States are not responsible for compensation, they still have duties to facilitate compensation and hold third parties accountable.

Children's Voices on Specific Questions

73. The Committee urges the Court to allow children to submit evidence or testimony and consider holding open hearings for children to address the Court.
74. Child participants at the 2025 Day of the African Child provided views on specific Request questions as summarized below:

On loss and damage: Children agreed those suffering climate harm should receive compensation and aid, such as assistance rebuilding homes and returning to school. One participant stated: "Yes, because if they may not be given help they can't go to school because they can't have enough materials for learning." Without compensation, children's rights to safety and education will be violated. African States must ensure these rights through compensation for climate crisis loss and damage.

On States' duty to protect the environment: Children agreed States must take specific environmental protection steps while educating the public and providing contribution opportunities. One said: "As children, we need to take part in dealing with climate change."

On most important principles for climate decisions: Children identified the best interests of the child, equality, climate effects on children, people with disabilities, people living in poverty, and unborn children.

On inter-State cooperation: "Yes, African countries should work together to make sure that climate change does not get worse." The ICJ Advisory Opinion confirms States must cooperate to protect the environment because uncoordinated action "may not lead to a

meaningful result," including through technical cooperation, knowledge-sharing, financial assistance, and helping vulnerable countries adapt.

On State responsibilities: The ICJ states a State's failure to take appropriate action protecting the climate system from greenhouse gas emissions, including through fossil fuel production and consumption, granting exploration licenses, or providing subsidies, "may constitute an international wrongful act which is attributable to that state."

Ideas and opinions: "Supporting youth led initiatives through financial support and bringing them to large platforms."

Understanding of climate change: Children demonstrate good understanding and expertise on their experiences: "Climate change to me means the sudden changes of weather conditions over time that is caused by greenhouse gas emissions. With droughts we have very little food produced by farmers."

State Obligations

Based on the analysis given so far, the ACERWC believes that the obligation of African states towards children in the context of climate change, emanating from the African Children's Charter and other relevant international legal frameworks, includes the following;

General Framework Obligations

- I. Adopt a child rights approach to climate governance by applying the four pillars of children's rights in all climate-related matters:
 - The best interests of the child
 - Non-discrimination
 - Survival and development
 - Child participation
- II. Recognize and give effect to the right to a clean, healthy and sustainable environment, including a sustainable climate, in legislation and policy, as required by Article 24 of the African Charter.
- III. Adopt legislative or other measures to address the causes and consequences of the climate crisis where children's rights are violated or threatened.

Best Interests of the Child

- IV. Consider children's best interests as THE primary consideration in all climate-related actions by any person or authority.
- V. Consider children's short-term, medium-term and long-term best interests, recognizing that State actions imperiling future generations violate the best interest standard.
- VI. Conduct Child Rights Impact Assessments (CRIA) for all proposed and existing environment-related legislation, policies, projects, regulations, budgets and decisions, assessing both before and after implementation the direct and indirect impacts on children's rights.
- VII. Ensure the availability of transparent information on how children's rights have been respected in environmental decisions, including criteria used and how children's interests were weighed against other considerations.

Survival and Development

- VIII. Protect the right to life through environmental standards for air, water and emissions; addressing structural and long-term challenges through sustainable resource use and ecosystem protection; and preventing child morbidity and mortality from environmental conditions.
- IX. Integrate environmental health protections into national frameworks, establishing and enforcing standards consistent with best available science and international guidelines, recognizing children's heightened vulnerability.
- X. Ensure safe environments for play and recreation through accessible green spaces, pollution-free local environments, and traffic measures reducing pollution near households, schools and playgrounds.
- XI. Address environmental degradation's effects on children's education, particularly gender-specific impacts.
- XII. Ensure children live with dignity, protecting cultural practices threatened by climate change, particularly for Indigenous children.

Child Participation

- XIII. Proactively seek children's voices on climate issues, recognizing them as climate leaders and bearers of social responsibility in accordance with their evolving capacity, and enable them to fulfill their Article 31 responsibilities.
- XIV. Ensure age-appropriate, safe and accessible mechanisms for children's views to be heard regularly at all environmental decision-making stages, providing environmental education, accessible information, adequate resources and supportive environments.

- XV. Provide feedback on consultation outcomes, how views were considered, and access to child-sensitive remedies when the right to be heard is disregarded.
- XVI. Make climate information available using methods appropriate to children's capacities, inducing incorporation in education curriculums.
- XVII. Facilitate children's associations and child-led organizations' involvement in environmental decision-making at all levels.
- XVIII. Recognize and protect child rights defenders, promoting children's climate action, refraining from hindering their activities, and guaranteeing protection against intimidation, harassment and violence.

Non-Discrimination

- XIX. Protect children at intersections of vulnerabilities (disability, migration, poverty, Indigenous identity, family separation, gender), collecting disaggregated data and implementing special measures.
- XX. Ensure climate related laws, policies and programmes are non-discriminatory in content and implementation.
- XXI. Meaningfully engage Indigenous children in responding to environmental harm, integrating Indigenous knowledge in mitigation and adaptation.
- XXII. Adopt targeted special measures for children with disabilities whose vulnerability to climate harm is heightened due to their specific type of disabilities, such as children with albinism.

Access to Justice

- XXIII. Establish mechanisms providing effective remedies for children's rights violations caused or exacerbated by climate change, including by business enterprises and through extraterritorial emissions.
- XXIV. Facilitate pathways to justice by developing child-friendly complaint mechanisms and enabling public interest litigation; eliminating barriers to children filing complaints; guaranteeing access to effective remedies; reinforcing independent ombudspersons; providing free legal aid; and eliminating adverse cost orders.

Third Party Accountability

- XXV. Anchor private-sector accountability for climate change in national law, including mandatory disclosure, enforceable emission limits, carbon budgets, and progressive carbon pricing that changes corporate behavior, specifically targeting multinational corporations associated with high emitting countries.
- XXVI. Require transparent tracking of private-sector contributions and prevent greenwashing by enforcing consumer protection and competition laws.

- XXVII. Require businesses to undertake child rights due diligence and provide frameworks ensuring businesses respect children's rights.
- XXVIII. Take all possible measures to hold other States and private actors accountable for actions affecting children in their jurisdictions, facilitating compensation and establishing compensation funds where appropriate.
- XXIX. Leverage international accountability mechanisms to regulate multinationals, cooperating with foreign regulators and supporting cross-border litigation.

Mitigation and Adaptation

- XXX. Prioritize child-sensitive, gender-responsive, disability-inclusive adaptation, identifying children's vulnerabilities regarding essential services and enhancing climate resilience of legal and institutional frameworks.
- XXXI. Enact child sensitive National Adaptation Policy.
- XXXII. Strengthen child protection systems, provide adequate access to water, sanitation, healthcare and safe schools, and establish inclusive early warning systems.
- XXXIII. Mitigate climate change consistent with Paris Agreement commitments to 1.5°C (and in line with the principle of common but differentiated responsibilities), reflecting each State's fair share considering common but differentiated responsibilities, recognizing 1.5°C is unsafe for most communities and current warming is already catastrophic to African children.

Displacement, Loss and Damage

- XXXIV. Ensure that all children in internal and cross-border displacement and migration situations enjoy all the rights recognized in the African children's charter, with additional humanitarian measures to guarantee their wellbeing.
- XXXV. Protect internally displaced children and their families consistent with the Kampala Convention; recognize migration as adaptation strategy.
- XXXVI. Recognize that loss and damage relate to remedy and reparation, providing financial and technical assistance, compensation and aid to children suffering climate harm.

Cross-Cutting Obligations

- XXXVII. Exercise due diligence applying the precautionary principle: assess impacts; identify and prevent foreseeable harm; mitigate unavoidable harm; provide timely remedies.
- XXXVIII. Devote maximum available resources to realize children's environment-related rights, including through international cooperation.
- XXXIX. Collect reliable, disaggregated data on climate harm impacts on children's rights.

- XL. Cooperate internationally to respect, protect and fulfill children's rights through technical cooperation, knowledge-sharing, financial assistance and adaptation support.
- XLI. Anchor international climate negotiations on child rights obligations, noting the mandatory application of the principle best interest of the child in all actions and decisions that affect children.
- XLII. Act on extraterritorial duties to pursue strategies holding major emitters accountable for climate finance and reparative action.

Conclusion

The African Committee concludes that African States have special duties to children in the climate crisis context, flowing from the African Children's Charter, UNCRC, customary international law and climate treaties, among others. These obligations represent minimum standards required to protect African children's rights. The Court is urged to affirm that the climate crisis is an African Child Rights Crisis requiring urgent, child centered State action; that children are climate leaders and duty bearers deserving recognition and empowerment; that children's best interests must be THE primary consideration in all climate actions and decisions; that future generations' interests must be protected while recognizing children alive today have independent, immediately enforceable rights; and that African States must hold themselves, other States and private actors accountable for climate harm affecting children.

By delivering an Advisory Opinion grounded in African human rights law and jurisprudence that centers children's rights, this Court has the unique opportunity to make a transformative contribution to international climate law and the protection of African children, who bear the least responsibility yet suffer the greatest harm from the climate crisis.