

15th February 2023

**Comments on Draft General Comment No. 26: “Children’s Rights and the Environment with a Special Focus on Climate Change”**

Generations Together is a group of international professionals and academics working in the fields of child rights, protection, law and social work, as well as youth engaged in climate activism. Generations Together runs a campaign “Climate destruction is child abuse” (see our declaration [here](https://climatechangeischi.wixsite.com/generations-together)) to increase accountability for climate action by concerned duty bearers. Our comments on the draft General Comment are submitted to strengthen the child-rights based approach to address the climate crisis and violations of children’s rights; in particular to strengthen accountability mechanisms.

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| We respectfully request that the General Comment is refined to address these key recommendations:  **Recommendation 1. Prioritize redressing harm to children and violations of children’s rights caused by the climate crisis.**  **Recommendation 2. Strengthen the child-rights based approach, especially to include stronger provisions to:**   * **hold States and corporations accountable for knowingly contributing to the climate crisis and thereby violations of children’s rights;** * **empower right holders and enhance protection of human rights defenders, including child human rights defenders;** * **increase resources to prevent, mitigate and adapt to climate change.**   **Recommendation 3. Emphasize the urgent need to stop the harms already being inflicted on children as a direct or indirect result of climate change.**  **Recommendation 4**. **The Comment must use assertive and precise language that makes clear the urgency of the situation and the expectations on duty bearers.**  We further endorse additional recommendations made in the submission by **Our Children’s Trust**:   1. Include an accurate definition for best available climate science that does not reference the temperature targets set forth in the Paris Agreement. 2. Incorporate thoughtful and practical recommendations calling on States to take positive steps to combat the climate crisis. 3. Thoughtfully consider areas in which recommendations may conflict and acknowledge when trade-offs and prioritizations may need to be made. |

**Recommendation 1. Prioritize redressing harm to children and violations of children’s rights caused by the climate crisis**

Rationale: According to UNICEF, “The climate crisis is the defining human and child’s rights challenge of this generation, and is already having a devastating impact on the well-being of children globally.”[[1]](#footnote-1) Yet, despite the universally agreed upon urgency of the issue, the draft General Comment does not focus on climate change until page sixteen of the twenty page document. Accumulating studies and real world experience indicate that due to physical and developmental factors, children are the most vulnerable to death, illness, and injury from direct and indirect impacts of climate change. They are its primary victims and they are aware of this fact, as their mounting protests attest. Recent research reports that young people feel abandoned and betrayed by adult disinterest and ineptness in dealing with this crisis, which is profoundly threatening their current and future well-being. This despair feeds and exacerbates the widespread mental health problems that increasingly afflict the young.

Recommended edits to the draft General Comment:

1. Prioritize Section VI by moving it to the beginning of the Draft Comment. **Move extracts from Draft GC paragraphs 98, 100 and 101 to Section 1. Introduction**. “(98) The climate crisis poses a massive risk to the enjoyment of children’s rights in the Convention. (100) Under the Convention, States have obligations, including extraterritorial obligations, to respect, protect and fulfil children’s rights. The foreseeable adverse effects of climate change on the enjoyment of children’s rights give rise to obligations of States to take actions to protect against those effects, and to mobilize the maximum available resources for the adoption of measures aimed at mitigating its cause and effect and preventing further harm. (101.) States shall respect children’s rights, including by refraining from the adoption of measures that could worsen the cause and effect of climate change; protect children’s rights, by effectively regulating non-State actors, especially business sectors, to ensure that their actions do not worsen the impacts of climate change; and fulfil children’s rights, by adopting measures that channel modes of production and consumption towards a more environmentally sustainable pathway, and foster the resilience of children and their communities.
2. Incorporate climate-specific elements and examples into every rights-focused subsection in Section III.
3. In section III, Specific rights of the Convention as they relate to the environment, include a sub-heading on children’s rights to protection from violence (article 19) and rights to special protection (articles 32-36), as there is significant evidence relating to the impact of the climate crisis on children’s rights to protection from all forms of violence and exploitation. Plus, as described below, acknowledge how government inaction to address the climate crisis is a form of systemic violence against children.

**Recommendation 2. Strengthen the child-rights based approach, especially to include stronger provisions to:**

* **hold States and corporations accountable for knowingly contributing to the climate crisis causing violations of children’s rights;**
* **empower right holders and enhance protection of human rights defenders, including child human rights defenders;**
* **increase resources to prevent, mitigate and adapt to climate change.**

Rationale: Section A of the draft General Comment recognises that a child rights-based approach in the environmental context requires the full consideration of all children’s rights under the Convention on the Rights of the Child. However, there is limited focus on Article 4 of the UNCRC that, *States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.*

There is limited causal analysis in the draft General Comment of the relationship between the climate crisis and children’s rights violations. Greater attention must also be given to efforts to strengthen accountability mechanisms, including through:

* Promotion of inter-government accountability, recognising that Governments in the Global North have contributed more to the climate crisis that is disproportionately affecting children in the Global South.
* Holding governments, businesses and other relevant actors to account when they knowingly contribute to the climate crisis and violate children’s rights.
* Enhancing protection of human rights defenders, including child human rights defenders.
* Increasing provision of financial and human resources to prevent, mitigate and adapt to climate change.

Recommended edits to the draft General Comment:

i. Update I. Section A to:

1. Refer to Article 4, UNCRC and the need for increased government resources to prevent, mitigate and adapt to climate change, and for States Parties to submit evidence of the implementation of accountability mechanisms.
2. Recognise the complexity of determining causes and effects in relation to climate change and human rights, while also acknowledging that the climate crisis has primarily been caused in industrialized states, mostly by private companies, with devastating negative impacts on vulnerable societal groups, especially children, particularly in developing countries. Thus, extraterritorial obligations are integral to climate justice.
3. Add a clear statement to reflect a child-rights causal analysis: “*Ongoing extraction of fossil fuels, capitalism and influential actors’ prioritisation of profit over people are causes of climate change. Many Governments continue to support fossil fuel production despite growing evidence of harms caused to the climate and subsequent violations of children’s rights. Unjustly, the climate crisis has been driven primarily by wealthy nations’ industrialization and consumption, while its injuries fall disproportionately and most harshly on those who have least contributed to it: low-income nations and communities, Indigenous communities, communities of colour, and children”.*

ii. Update I. Section C. Objectives to:

a. Ensure an explicit objective on holding governments, businesses and other relevant duty bearers accountable for developing and implementing policies, actions and behaviours that knowingly contribute to the climate crisis.

iii. Update II. Key Concepts to:

1. Introduce the concepts of accountability and climate justice.

iv. Update IV. General obligations of States:

1. In section A (The obligation to respect, protect and fulfil), it should be clear that “*Duty bearers have responsibilities to develop and implement laws, policies and practices that reduce carbon emissions, ensure mitigation and adaptation in ways that respect the rights of all persons and provide justice and remedies to those adversely affected by climate harm. In addition to laws and policy reforms, adequate resources must be allocated to participatory governance, quality education, health, and social protection schemes to reduce inequalities that enhance climate vulnerability and to build adaptive capacities. A child- and youth-sensitive climate policy must consider the perspectives of children and youth, and the best interests of the child should be a primary consideration when developing laws, policies and multi-sectoral interventions.”*
2. Ensure stronger focus on State allocation of adequate financial and human resources to prevent, mitigate and adapt to climate change, including funding participatory governance mechanisms involving people of diverse ages, genders, race, ethnic groups, especially those from indigenous cultures.
3. There should be clear obligations to hold governments, businesses and other relevant duty bearers accountable for developing and implementing policies, actions and behaviours that knowingly contribute to the climate crisis. *It is important to focus on governments and businesses, as some governments are acting as shield to detrimental action by businesses.* Ensure that government accountability mechanisms are in place and properly implemented and monitored to hold businesses and governments to account when they invest in fossil fuel industries or other actions that contribute to the climate crisis and violations of children’s rights. For example, *States must develop national climate policies, such as intended nationally determined contributions (NDCs) through transparent processes that promote the effective participation of all affected communities, including indigenous peoples, children, youth, disabled and other vulnerable populations. Furthermore, developed countries have responsibilities to assist poorer developing countries in their efforts to respect human rights, which complement developed country obligations under the UNFCCC*.
4. Make it explicit that *“State governments should include children and young people's representatives in official delegations preparing for, attending and following up environmental and climate decision-making processes, including COP. In addition, States must strengthen protections of human right defenders, including child human right defenders (CHRD) from reprisals for their participation and activism, including provision of free legal aid to CHRDs.”*
5. Make it explicit that *“Human rights bodies and instruments including monitoring and reporting mechanisms (e.g. Universal Periodic Review, UNCRC, UNCRC, CEDAW etc.), should be applied and used as tools to advocate for and implement climate justice. Human rights analysis can be applied to critique the policies, systems and structures which are generating or exacerbating the climate crisis – such as unsustainable development models and unjust fiscal policies.”*
6. In section F (Children’s rights and the business sector), make it more explicit that States must take legal and other forms of action to hold businesses accountable for developing and implementing policies, actions and behaviours that knowingly contribute to the climate crisis. Reinforce the WHO definition of "child maltreatment" that includes "all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power." This definition implies that Governments and corporations who continue to contribute to climate change by facilitating ongoing fossil fuel production are clearly harming the health, survival, and development of children. Such actors, must, therefore, be held accountable for perpetrating systemic violence against children.

**Recommendation 3. Emphasize the need to stop the harms already being inflicted on children as a direct or indirect result of climate change.**

Rationale: The climate crisis is harming children now, and greater efforts are required by state governments and other duty bearers to prevent, mitigate and alleviate current violations of children’s human rights. Given that all States have played a role in causing the climate crisis, albeit in differing ways and to varying extents, State action to combat the climate crisis must go beyond simply preventing climate harms from worsening; rather, it must aim to reduce harms from climate change by taking immediate and uncompromising steps to follow technologically feasible and economically beneficial pathways to address the climate crisis and prevent further human rights violations now and into the future. The Draft Comment should make this distinction clearly and emphatically.

Recommended edits to the draft General Comment:

1. In keeping with State Parties’ obligation to “ensure the child such protection and care as is necessary for his or her well-being” (CRC Art. 3(1)) and to “ensure to the maximum extent possible the survival and development of the child[]” (CRC Art. 6(1)), incorporate requirements for States to take proactive steps to urgently mitigate and prevent ongoing violations to children’s rights induced by climate change *(for example in the draft paragraph 100*).
2. Ensure recommendations, oriented to practical action, calling on States to take positive steps to combat the climate crisis. Critically analyse all suggestions and indicated obligations for States in the draft General Comment and reframe them to be well-targeted, effectual, and actionable for the protection of children’s rights in the face of the climate crisis.

**Recommendation 4**. **The Comment must use assertive and precise language that makes clear the urgency of the situation and the expectations on duty bearers.**

Rationale: The Comment should use strong, exact word choice to assertively convey its guidance. As currently written, the Comment incorporates too many passive verbs and tepid suggestions that may fail to command adequate attention.

Recommended edits to the draft General Comment:

1. Incorporate active language into declarations regarding State obligations, particularly replacing statements that States “should” take action with directives that States “must” take action in keeping with State Parties’ numerous *mandatory* duties under the CRC.
2. Replace ambiguous statements in the Comment with more concrete and clear assertions. In particular, references to the right to information and education and ‘modes of…consumption’ should explicitly acknowledge the importance of respect for vegan children as agents of change, and of accommodating the needs of vegan children on the grounds that their beliefs, protected under Article 14 CRC, support a healthy environment and climate, and that educational institutions should provide healthy vegan food and education on the health and environmental benefits of a plant-based diet.

*Note: For further information about Generations Together, and our submission of feedback on the draft General Comment 26 please send an email to* [*climatechangeischildabuse@gmail.com*](mailto:climatechangeischildabuse@gmail.com)

1. *The Climate Crisis is a Child Rights Crisis: Introducing the Children’s Climate Risk Index.* New York: United Nations Children’s Fund (UNICEF), 2021. [↑](#footnote-ref-1)