Helena Kennedy Centre for International Justice

Sheffield Hallam University

Heart of the Campus

Collegiate Crescent

Sheffield

S10 2BP

**Committee on the Rights of the Child**

**United Nations**

**Geneva**

**Switzerland**

**15 February 2023**

Dear Committee Members,

We welcome the opportunity to comment on draft General Comment No. 26 on children’s rights and the environment with a special focus on climate change.

The initiative taken by the Committee in this regard offers an excellent opportunity to clarify the scope and applicability of international children’s rights in the context of the climate crisis. Children are particularly vulnerable to the impact of climate change. A closer look, however, reveals that millions of children are disproportionately more exposed to vulnerable situations than others, namely girls and pregnant women, indigenous children, children with disabilities and children on the move.[[1]](#footnote-2)

Against this background, the developmental and life-course perspective taken by the Committee regarding the child’s right to development is of critical importance.[[2]](#footnote-3)

Environmental harms and climate-related harms “during developmental windows of increased vulnerability can easily disrupt maturational processes” and cause permanent disease well into adulthood. For disabled children living in poverty are already at risk of not enjoying the nurturing care and environment they need to develop their capacities. Climate-related harms such as droughts, floods and wildfire amplify the associated risks considerably. As the Committee on the Rights of Persons with Disabilities noted in its General Comment No. 6 on equality and non-discrimination:

*“As stated in paragraph 59 of the Committee’s General Comment No. 3, poverty is both a compounding factor and the result of multiple discrimination. Failure to implement the right of persons with disabilities to an adequate standard of living for themselves and their families is contrary to the objectives of the Convention. This failure is particularly worrying with regard to persons with disabilities living in extreme poverty or destitution. To reach an adequate standard of living comparable to others, persons with disabilities typically have additional expenses. This represents a particular disadvantage for children or older women with disabilities who live in extreme poverty and destitution. States parties should take effective measures to enable persons with disabilities to cover the additional expenses linked to disability. States parties are required to take immediate steps to provide persons with disabilities living in extreme poverty and destitution with a core minimum in terms of adequate food, clothing and housing*.”

Without these steps in a changing climate, the development of poor children with disabilities would be severely compromised. And as the present draft General Comment No. 26 indicates, “violations of [children’s] rights arising from environmental harm [and from climate-related harm] may have a severe and long-lasting impact on their development.” (Para. 82).

**Comments and suggestions:**

**Note: Highlighted headings indicate amendments in the text that follows. Suggested text inserted is in red.**

 Draft General comment No. 26 Children’s rights and the environment with a special focus on climate change

 I. Introduction

 B. The evolution of international human rights law as it relates to the environment and climate change

 II. Key concepts

 A. Sustainable development

1. The sustainable development articulated in various international agreements as the concept premised on three interlinked pillars of economic development, social development and environmental protection is inextricably linked to the realization of children’s rights. These three pillars are understood as harmonizing the priorities of both developing and developed countries and implying both an intragenerational and intergenerational equity to meet the needs of present and future generations. Implementing the 2030 Agenda for Sustainable Development that established the 17 Sustainable Development Goals – among them SDG 13 on climate action – will contribute to transforming societies and create ecosystems and social contexts that enable the realisation of children’s rights while facing the climate crisis.[[3]](#footnote-4)

 B. Intergenerational equity and future generations

13. […] Securing the realization of the right of each child to development to the maximum extent in the optimal environment necessarily requires States to implement their obligations under the Convention, taking into consideration short-, medium- and long-term effects of actions and omissions related to the development of the child over time. Such effects include the foreseeable environment-related and climate related harms arising as a result of acts or omissions of States now. While the full implications of the acts or omissions concerning climate change may not become manifest for years or even decades to come,[[4]](#footnote-5) children are aware now that they and future generations will be having to bear two additional burdens, namely the physical and psychological impact of climate change as well as the financial costs to repair climate-related harms. Consequently, these two burdens compromise present lives of children, as they affect their life plans and interfere with their right to life. The best interest of the child and intergenerational equity demand that States take climate action to avert these future violations that have an interference-like advance effect in the present by designing pathways to Carbon Zero. Thus, children are enabled to live a life not affected by the bleak outlook on a future where their freedoms are bounded by the impacts of unmitigated climate change.

 C. The best available science

1. The present general comment draws on the best available and accepted science to describe the ways in which climate-related and other environmental harm interferes with children’s rights, to set out environmental protection standards required by international children’s rights law, and to assess the adequacy of response measures.[[5]](#footnote-6) [xx] *[reference should be made to the most recent IPCC reports, namely the reports of the three WGs*.] As scientific knowledge about the environment evolves, the precautionary principle is required for the most advanced risk management.

 D. Precautionary principle

1. […] The gravity and probability of environmental harm and climate harm to children are often complex, unpredictable and irreversible. […].

 III. Specific rights of the Convention as they relate to the environment and climate change

 A. The right to life, survival and development (art. 6)

 2. Right to survival and development

[xx] About 43% of all children, around 250 million children younger than five years of age in low- and middle-income countries are estimated to be at risk of not reaching their developmental potential because of poverty or stunting.[[6]](#footnote-7) Projections suggest that stunting will rise as climate change increases with over 1 million additional children stunted under a poverty/high climate change scenario. Estimates suggests that the potential impact of climate change on stunting would be greater in rural areas compared to urban areas.[[7]](#footnote-8)

 B. The right to the highest attainable standard of health (art. 24)

1. […] In addition to data collected through routine health information systems, more research is required, for example, for longitudinal cohort studies and studies of pregnant women,[[8]](#footnote-9) infants and children that capture risks at critical windows and sensitive health endpoints.

 D. The right to adequate standard of living (art. 27)

1. Exposure to environmental harms represent both direct and structural causes and effects of multi-dimensional child poverty. Child poverty, socioeconomic inequalities and disability compound to increase climate risks among rural and urban poor children with health’s impacts on their development.[[9]](#footnote-10) In the environmental context, social security as guaranteed under article 26 of the Convention is particularly relevant. States parties are urged to introduce features into social security policies and social protection floors that provide children and their families with protection against climate and environmental shocks and slow-onset harm. States should strengthen child-centred poverty alleviation programmes in areas that are most vulnerable to climate and environmental risks.

 F. The rights of children in vulnerable situations

 1. The rights of girls and pregnant women

[xx]. Girls are more likely to be pulled from school to perform household chores, such as eldercare, fetching water and cooking, when households are affected by climate change stresses. To counteract the effects of climate change on livelihoods, girls may sometimes be sold into child marriage, trafficked or forced to work, with resulting impacts on their education, health, liberty and security. Evidence also suggests that food insecurity associated with climate change disproportionately affects girls.[[10]](#footnote-11)

[xx]. Situations of crisis can exacerbate gender inequalities, affecting girls more and differently. Gender inequalities have been linked to higher rates of mortality from natural disasters among women and girls. In post-disaster settings, pregnant women, with their distinct needs for maternal health care, food, water, sanitation and hygiene, face unique health risks. Exposure to extreme temperatures, infection with water- and vector-borne diseases and post-disaster emotional distress during pregnancy have been associated with negative impacts on pregnancy outcomes, including miscarriage, premature birth and anaemia. Girls’ security and bodily integrity can also be threatened by climate change-related displacement. Evacuation to shelters lacking safe facilities for girls has been documented to heighten risks of all forms of sexual harassment and violence, including human trafficking. This can result in higher rates of forced girl pregnancies and forced marriages.[[11]](#footnote-12)

 2. The rights of Indigenous children (art. 30)

[xx]. Many indigenous peoples rely upon climate-sensitive ecosystems for livelihoods as well as spiritual and cultural practices. Therefore, they are particularly threatened by the degradation of land, water and biodiversity. For example, the traditional livelihoods of indigenous peoples in the Arctic have been adversely affected by rising temperatures. Many indigenous children live in impoverished communities which affects their capacity for climate adaptation. Indigenous peoples constitute approximately 15 per cent of the world’s poor and one third of the 900 million people living in extreme poverty in rural areas. Indigenous children may also be negatively affected by actions taken to mitigate climate change, such as projects related to the production of biofuel or hydroelectric power, which have sometimes resulted in the displacement of entire indigenous communities without their free, prior and informed consent.[[12]](#footnote-13)

1. Indigenous children are disproportionately affected as a result of environmental

degradation, pollution and climate change. States parties should closely consider the impact of environmental harm and climate harm for the significance of traditional land and the quality of the natural environment while ensuring the right to life, survival and development of Indigenous children.[[13]](#footnote-14) States should also undertake measures to engage with Indigenous children and their families in responding to climate change by integrating, as appropriate, Indigenous cultures and knowledge in mitigation and adaptation measures.

 3. The rights of children with disabilities (art. 23)

[xx]. There are nearly 240 million children with disabilities around the world.[[14]](#footnote-15) Most children with disabilities live in poverty as the majority of persons with disabilities live in poverty, a fact recognised in the Convention on the Rights of Persons with Disabilities, Preamble (t). Climate change affects the poorest disproportionately. Being a child, being disabled and living in poverty, children with disabilities experience multiple vulnerabilities. The Intergovernmental Panel on Climate Change foresees that the poorest people will continue to experience the worst effects of climate change through lost income and livelihood opportunities, displacement, hunger and adverse impacts on their health.[[15]](#footnote-16) Multiple and intersecting factors of discrimination related to gender, age, displacement, indigenous origin or minority status can further heighten the risks of persons with disabilities experiencing negative impacts of climate change.[[16]](#footnote-17)

[xx]. Children with disabilities are often among those most adversely affected in an emergency, sustaining disproportionately higher rates of morbidity and mortality, and are among those least able to access emergency support. Natural disasters can seriously affect the access of children with disabilities to food and nutrition, safe drinking water and sanitation, health-care services and medicines, education and training, adequate housing and access to apprenticeship opportunities.

[xx]. Due to these multiple vulnerabilities, disabled children are exposed to an increased risk of the violation of their rights if States fail to protect them from environmental harm and the impact of climate change. Because they are disproportionately affected by climate change, persons with disabilities must be included in climate action.[[17]](#footnote-18) In order to meet the requirements of article 23 CRC it is necessary that States parties develop and effectively implement a comprehensive climate policy by means of a plan of action which not only aims at the full enjoyment of the rights enshrined in the Convention without discrimination but which also ensures that a child with disability and her or his parents and/or others caring for the child do receive the special care and assistance they are entitled to under the Convention.[[18]](#footnote-19) To that end, it will be crucial that disability indicators and disaggregated data are collected for the development of disability-inclusive climate policies, aimed at protecting the rights of children with disabilities and at enhancing their adaptive capacity and that of their communities.

 4. The rights of children on the move (art. 22)

[xx]. Climate change is increasingly recognized as a key driver of human movement. In the most extreme cases, all inhabitants of some small island States and low-lying coastal areas may need to be relocated. An estimated 22.5 million people per year for the seven years leading up to 2015 have already been displaced by climate- or weather-related disasters. These disasters are expected to increase in both frequency and intensity with further climate change.[[19]](#footnote-20)

[xx]. When sudden or slow-onset disasters result in large-scale human movement, children may be separated from their cultural heritage and face barriers in access to schools, adequate health-care facilities and other necessary goods and services. Overcrowded shelters with inadequate sanitation and access to clean water can increase the transmission of diarrhoea and malnutrition rates, both leading causes of child mortality.46 Inadequate security and protection in some shelters can expose children to abuse and violence. Children travelling alone or separated from their parents can be particularly at risk of emotional, physical and sexual violence.[[20]](#footnote-21)

 K. Access to justice and remedies (art. 4)

1. Effective remedies should be available to protect from environmental harm and climate harm and to redress violations.[[21]](#footnote-22) This requires States to provide pathways for children to access justice. Although children have been at the vanguard of several environmental and climate change cases, their status creates difficulties for them to pursue remedies. An initial barrier is legal standing, and restrictive requirements that individual children must be directly affected by or have a sufficient interest in the environmental harm. As a result, children often have limited means of asserting their rights in the environmental context.[[22]](#footnote-23)

 V. General obligations of States

 B. Heightened obligations

1. There is a heightened duty of care on the State in view of the special status of children, including recognition that violations of their rights arising from environmental harm may have a severe and long-lasting impact on their development. Multidimensional child poverty, socioeconomic inequalities and disability compound to increase the risk of developmental climate harm among children living in rural and urban poor areas, on smallholder farms and in coastal settlements.[[23]](#footnote-24)

 VI. Climate change

 B. Adaptation

1. Since climate-related impacts are intensifying, a sharp and urgent increase in the design and implementation of child-sensitive adaptation measures and associated resources is necessary. Adaptation measures aim at adjusting to actual or expected effects of climate change in order to moderate harm or exploit beneficial opportunities.[[24]](#footnote-25)

 C. Mitigation

1. The Committee calls for collective accelerated actions to use the narrow temporal window of opportunities to mitigate the effects of climate change. In particular, historical and current major emitters have heightened obligations to take effective measures to contribute to mitigation efforts.

[xx]. The mitigation of climate change refers to human interventions that reduce emissions or enhance the sinks of greenhouse gases. Mitigation measures are technologies, processes or practices that contribute to mitigation.[[25]](#footnote-26)

1. Insufficient progress in achieving international commitments to limit global warming to pre-industrial levels exposes children to the significant threats to their rights associated with greater concentrations of greenhouse gas emissions and correlative temperature increases. Greater risk in relation to children’s rights and climate change represents the passing through so-called “tipping points”, or thresholds beyond which certain impacts can no longer be avoided.

[xx]. States have duty to protect futures generations from climate harm. Mitigation measures reflect that intertemporal duty which accords with the principle of intergenerational equity.[[26]](#footnote-27)

1. Analytical Study on the relationship between climate change and the full and effective enjoyment of the rights of the child (A/HRC/35/13, section F.) [↑](#footnote-ref-2)
2. Black, M. M., Walker, S. P., et al. (2016). Early childhood development coming of age: science through the life course. *The Lancet*, 389(10064), 77–90. [https://doi.org/10.1016/S0140-6736(16)31389-7](https://doi.org/10.1016/S0140-6736%2816%2931389-7) [↑](#footnote-ref-3)
3. <https://sdgs.un.org/goals> [↑](#footnote-ref-4)
4. CRC/C/GC/14, paras. 16 (e), 74; *Saachi et al v. Argentina et al*, CRC/C/88/D/104/2019, para. 10.13. [↑](#footnote-ref-5)
5. E/C.12/GC/25, para. 18. [↑](#footnote-ref-6)
6. Black, M. M., Walker, S. P., et al. (2016). Early childhood development coming of age: science through the life course. *The Lancet (British Edition)*, *389*(10064), 77–90. [https://doi.org/10.1016/S0140-6736(16)31389-7](https://doi.org/10.1016/S0140-6736%2816%2931389-7) [↑](#footnote-ref-7)
7. Lloyd, S. J., et al. (2018). A Global-Level Model of the Potential Impacts of Climate Change on Child Stunting via Income and Food Price in 2030, *Environmental Health Perspectives* 126(9) CID: 097007, <https://doi.org/10.1289/EHP2916> [↑](#footnote-ref-8)
8. Bundschuh (2022), Countering the impact of discrimination against pregnant women exposed to high temperatures with human rights, <https://www.openglobalrights.org/countering-discrimination-against-pregnant-women-exposed-high-temperature/> [↑](#footnote-ref-9)
9. IPCC, AR6, WG II, 8.4.5. [↑](#footnote-ref-10)
10. A/HRC/35/13, para. 21 [↑](#footnote-ref-11)
11. A/HRC/35/13, para. 22 [↑](#footnote-ref-12)
12. A/HRC/35/13, para. 22 [↑](#footnote-ref-13)
13. *Daniel Billy et al, v. Australia*, CCPR/C/135/D/3624/2019 [↑](#footnote-ref-14)
14. UNICEF, <https://www.unicef.org/press-releases/nearly-240-million-children-disabilities-around-world> unicefs-most-comprehensive [↑](#footnote-ref-15)
15. Intergovernmental Panel on Climate Change IPCC), Global Warming of 1.5ºC. An IPCC Special Report on the Impacts of Global Warming of 1.5°C above Pre-industrial levels and Related Global Greenhouse Gas Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty, ch. 5, p. 479 (2018). [↑](#footnote-ref-16)
16. A/HRC/44/30 [↑](#footnote-ref-17)
17. A/HRC/44/30 [↑](#footnote-ref-18)
18. CRC/C/GC/9, para. 13 [↑](#footnote-ref-19)
19. A/HRC/35/13, para. 26 [↑](#footnote-ref-20)
20. A/HRC/35/13, para. 27 [↑](#footnote-ref-21)
21. CRC/C/GC/2003/5, para. 24. [↑](#footnote-ref-22)
22. [Report of the Committee’s 2016 Day of General Discussion](https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/2016/DGDoutcomereport-May2017.pdf), p. 21. [↑](#footnote-ref-23)
23. IPCC, AR6, WG II, 8.4.5. [↑](#footnote-ref-24)
24. IPCC, AR6, WG III, Glossary, Adaptation. [↑](#footnote-ref-25)
25. IPCC, AR6, WG III, Glossary. [↑](#footnote-ref-26)
26. See this General Comment, above, section B. para. 13. [↑](#footnote-ref-27)