

# **COMMITTEE ON THE RIGHTS OF THE CHILD**

## **REPORT OF THE 2016 DAY OF GENERAL DISCUSSION**

### **Children's Rights and the Environment**



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## 1. Introduction

The impact of environmental damage on children’s rights is not a new issue. Yet, despite data explicitly linking environmental harm to child rights violations, increased awareness of environmental crises and numerous international agreements, the understanding of the relationship between children’s rights and the environment is still in its infancy.

To foster a deeper understanding of the contents and implications of the CRC with regard to environmental issues, the Committee on the Rights of the Child (the Committee) dedicated its 2016 Day of General Discussion (DGD) to the topic of children’s rights and the environment. On 23 September 2016, over 250 experts, NGO and UN agency representatives, academics and child activists met in Geneva for the DGD. The Committee also received 49 written submissions and the event drew significant social media attention.<sup>1</sup> The day was a milestone in bringing together knowledge on the environment and children’s rights across different areas of expertise.

The day began in full plenary, followed by discussions in working groups<sup>2</sup>. The first working group focused on exposure to environmental toxicants, while the second one looked at the child rights impacts of climate change (morning) and the depletion of natural resources, degraded ecosystems, and loss of biodiversity (afternoon). In the closing session, the two Working Groups’ conclusions were presented to the plenary. This report highlights the main issues discussed during the day and in the written submissions. It also provides the

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<sup>1</sup> Using a free tracking tool 336 DGD-related tweets from 187 sources were counted. It was estimated that these tweets reached 1,802,018 people and were viewed 4,046,560 times in total.

<sup>2</sup> The list of speakers is attached as an Annex.

recommendations which came out of the day and which form the basis for taking the environmental rights of children forward.<sup>3</sup>

The Committee would like to extend its gratitude to Terre des Hommes and the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as UNICEF, Child Rights Connect and Child Rights International Network for their financial and organizational support to the 2016 Day of General Discussion. The Committee thanks the Permanent Missions to the UN in Geneva of Germany, Uruguay and the Philippines for their valuable contributions to the day.

## 2. Contextualizing Children’s Rights and the Environment

During his opening remarks the Chair of the Committee, Mr. Benyam Dawit Mezmur noted that a discussion on the topic was extremely relevant and timely. This need for comprehensive debate, analysis and urgent action in relation to the impacts of environmental harm on children was emphasised by the panellists and participants throughout the day.

### Relevance

Environmental damage is a pressing human rights challenge, which has an impact on children’s lives today and in the future. Violations of their rights resulting from environmental harm can have irreversible, lifelong and even transgenerational consequences. Children everywhere suffer violations of their rights to life, development, health, food, water, education, culture, play and other rights because governments fail to protect the natural environment. The impact of pollution in one place can be felt by children living far away and climate change is unquestionably a global problem. While environmental harm affects people at any age, children are particularly vulnerable, due to their evolving physical and mental development and status within society. Certain groups of children, including children from indigenous, low-income or other marginalized communities are often at a higher risk, which raises the question of environmental injustice.

The scientific data reflecting the global state of children’s environmental health is unequivocal. In her statement, Dr. Maria Neira<sup>4</sup> cited recent WHO estimates that emphasise the urgency of the matter: ‘Of the 5.9 million deaths of children under five each year, 26% are attributable to the environment’. Air pollution alone kills 570,000 children under five every year. But these numbers are only the ‘tip of the iceberg’ as UN Special Rapporteur Baskut Tuncak<sup>5</sup> pointed out later in the debate. ‘There is a ‘silent pandemic’ of disabilities associated with exposure to toxics and pollution during childhood, many of which will not manifest themselves for years or decades’. This assault on children’s rights remains largely invisible while decision-makers are not held to account.

Climate change poses an immediate and far-reaching threat to the enjoyment of many of the

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<sup>3</sup> All relevant conference documents may be found on the [Committee’s website](#). For a detailed account of the day, please refer to the webcast, presentations and written submissions. The DGD was also complemented by side events on the ‘The Unsound Management of Chemicals and the Rights of the Child’ and on ‘Children’s views, Play, and Urban Environments’. An exhibition of children’s paintings organized by Terre des Hommes accompanied the DGD.

<sup>4</sup> WHO Director, Department of Public Health, Environmental and Social Determinants of Health

<sup>5</sup> UN Special Rapporteur on the implications for human rights of the environmental sound management and disposal of hazardous substances and toxic wastes

rights enshrined in the CRC. Brianna Fruean<sup>6</sup> noted that ‘there is a common misconception that children will live with the consequences of climate change in the future, when the reality is that children are dealing with consequences of climate change as we speak.’ Joni Pegram<sup>7</sup> emphasised that ‘climate change threatens to roll back decades of hard-earned progress. From malnutrition and the spread of vector- and water-borne diseases, to physical and psychological trauma, children are affected in different ways, and more profoundly, than adults. They are also one of the largest groups to be affected, as many of the most vulnerable countries have a high proportion of children. Recent data suggests that over half a billion children live in areas with extremely high risk of flooding, 115 million are at high or extremely high risk from tropical cyclones, and almost 160 million are exposed to high or extremely high drought severity.’

DGD discussions further highlighted the child rights impacts related to the loss of biodiversity, ecosystem degradation and resource depletion. Losing the benefits of a healthy ecosystem such as the supply of nutrition, clean drinking water or herbal medicines, puts children’s rights to development, health, housing, water and food at risk. However, the effects of environmental degradation can go far beyond the direct impact on a child’s health and standard of living. The loss of areas for subsistence farming or access to fishery resources has implications for children’s right to education and cultural rights, when traditional ways of life closely linked to the environment are eliminated. Yet some of these issues receive limited attention because the relationship between children’s rights and the environment is insufficiently understood.

Damage to ecosystems and biodiversity and climate change can act as threat multipliers, by aggravating underlying causes of serious violations through conflict over limited resources, increasing inequalities, forced migration and even early marriage.

The threat of environmental harm affects children today and future generations, through the ‘toxic’ legacy of the past and present. Environmental challenges are likely to increase over the next decades and could even threaten children’s very future on the planet. Urbanization, a huge transformative trend, is having a major impact on children’s access to healthy environments and nature. By 2050, the world’s urban population is expected to nearly double.

Despite the gravity of all these challenges, the discussions left little doubt that harm to children is preventable if environmental risk factors are adequately addressed. As Rheka Dhillon-Richardson, a youth activist, noted solutions are available, if we are willing “to change our behaviours, our laws and our relationship to nature.” She represented the growing movement of child activists from around the world who have started providing their own responses by getting involved in nature conservation, developing ideas for sustainable lifestyles and raising their voice. Yet their concerns are not sufficiently listened to or taken into account. The DGD was also relevant in this respect as it created space for them to have their views heard.

### [A timely discussion](#)

This discussion was timely given the recent adoption of major international policy frameworks. The Sustainable Development Goals (SDGs), the Paris Agreement on climate change, the Sendai Framework for Disaster Risk Reduction and the New Urban Agenda all

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<sup>6</sup> Youth activist

<sup>7</sup> Senior Policy & Advocacy Adviser, UNICEF UK

make the link between protecting the environment and realizing human rights. As States begin implementing these frameworks, it is essential that child rights obligations guide their actions.

The relationship between children's rights and the environment is increasingly being considered in other parts of the UN human rights system. These include the report of the Special Rapporteur on Human Rights and Hazardous Substances and Wastes on the child rights implications of toxics and pollution<sup>8</sup> (September 2016); the Human Rights Council's resolution welcoming the adoption of the Paris Agreement and mandating a panel discussion and analytical study on climate change and children's rights<sup>9</sup> (2017); CEDAW's drafting of a General Comment on Gender and Climate Change; and the decision of the Special Rapporteur on Human Rights and the Environment to write a report on children's environmental rights (due in March 2018). These initiatives offer great opportunities to develop the understanding of this relationship and create momentum across the UN human rights system.

### 3. An overview of the legal framework

#### Human rights and the environment: an evolving landscape

During his presentation, UN Special Rapporteur on human rights and the environment John Knox stressed that environmental harm can and does interfere with the full enjoyment of a vast range of human rights, and human rights law requires States to take steps to protect people from such harm. He noted that human rights institutions have identified three categories of obligations in the context of environmental protection:

1. Procedural obligations (a) to assess environmental impacts and make environmental information public; (b) to facilitate public participation in environmental decision-making, including by protecting the rights of expression and association; and (c) to provide access to effective remedies for environmental harm.
2. Substantive obligations to protect against environmental harm that interferes with the enjoyment of human rights. Specifically, States have an obligation to adopt a legal framework that protects against environmental harm. This obligation includes a duty to protect against such harm when it is caused by corporations and other non-State actors, as well as by State agencies.
3. Heightened obligations owed to those who are especially vulnerable to environmental harm. States must not discriminate against groups on prohibited grounds in the application of their environmental laws and policies. And they must take additional steps to protect certain groups.

John Knox emphasized that 'in sheer numbers, no group is more vulnerable to environmental harm, as a whole, than children.' Considering the limited attention to the issue, it would be highly useful to undertake a detailed analysis of how environmental harm affects the enjoyment of children's rights and clarify the heightened obligations pertaining to children's environmental rights.

#### The CRC and the environment

The CRC is one of the few human rights instruments that explicitly require States to take steps to protect the environment. There are two articles which specifically mention the

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<sup>8</sup> A/HRC/33/41

<sup>9</sup> Human Rights Council [resolution 32/33](#)

environment, namely:

**Article 24 (2)** on the right of the child to the enjoyment of the highest attainable standard of health provides that:

“States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: [...] to combat disease and malnutrition [...] taking into consideration the dangers and risks of environmental pollution”

**Article 29 (1)** on the aims of education provides that:

“States Parties agree that the education of the child shall be directed to: [...] the development of respect for the natural environment.”

These articles provide an important leverage to clarify States’ obligations and place the Committee in a strategic position to hold States to account<sup>10</sup>. Other provisions of the CRC that implicitly relate to environmental protection include the general principles of the rights to life, survival and development (Art.6), non-discrimination (Art.2), the right to be heard (Art.12), and the best interests of the child (Art.2) as well as the rights to rest, leisure, play, recreational activities, cultural life and the arts (Art.31), freedom from exploitation (Art.32), protection from all forms of violence and physical and mental integrity (Art. 19), an adequate standard of living (Art. 37), food, water and sanitation, housing (Art. 24 and 27), education (Art. 28) an identity (Art.8), freedom of expression and information (Arts. 13 and 17), and effective remedies and reparation. A healthy environment could even be considered a sine qua non precondition for the effective implementation of the Convention as a whole, as participants pointed out<sup>11</sup>. Environmental concerns were further raised in relation to the rights of specific groups of children, including children with disabilities (Art. 23) and indigenous children (Art.30).

States have a duty to apply these environmental rights to children in their country, but the Convention also places obligations on countries to take action on upholding children’s rights internationally, with clear implications for transboundary environmental harm (Arts. 4 and 24 (4)).

### Defining children’s environmental rights

The environmental context raises a number of questions regarding the scope of protection provided by the Convention, namely:

- (1) Certain environmental factors impact the child prior to conception, and these impacts can continue into adulthood and inter-generationally. Disability and disease associated with exposure to toxics and pollution of parents prior to having children, or of the children themselves, may not manifest themselves for years or even decades. Moreover, in many cases scientific understanding is yet to permit a full evaluation of the risks resulting from environmental harm.
- (2) Certain hazardous substances from human activity persist in water, food, air and soil for a long time and thereby expose generations of children to environmental risk factors. With the environment increasingly under pressure, there is a risk of rising

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<sup>10</sup> Baskut Tuncak and John Knox

<sup>11</sup> Center for International Environmental Law.

impacts and abrupt change and irreparable damage impacting the quality of life of all future generations.

Taking account of the nature of threats arising from environmental harm, participants emphasized the link between children's rights and the relevant principles of environmental law and policy such as prevention, precaution and sustainability.

#### The meaning of the 'environment' in a children's rights context

The meaning of the term 'environment' was discussed in depth, as both the natural and man-made environment is a precondition of life that shapes human activities. It can have positive and negative, direct or indirect influence on children's rights. One contribution outlined three ways in which the term environment can be applied in relation to children's rights:

1. Where a child lives, including: living conditions, housing, and community spaces. This environment should ensure a decent standard of living, related to shelter, play, health, etc.
2. The natural world, which includes plants, animals and people. Many indigenous religions consider their deities to be part of nature, and do not consider people as separate from the natural environment. There is ample evidence that children need to have access to the natural world as they develop, and depriving them of this can have a negative impact.
3. The duty of current populations to consider the rights of 'future generations' when exploiting natural resources, and causing environmental damage.<sup>12</sup>

A number of participants warned against the use of preconceived and homogenous notions of the environment, as the meaning differs depending on the contexts in which children grow up. Some cultural traditions do not know the word environment. Moreover, children should be asked about their own conceptions of the environment. Terms like ecosystem services or natural resources were also viewed critically as they might be understood to imply the idea that nature is a good to be consumed for the benefit of humankind rather than a global common to be cared for. Education should allow for a critical reflection of the diverse meanings of the environment.

## 4. Key elements of the relationship between children's rights and the environment

The following section addresses key elements of the relationship between children's rights and the environment which emerged from the DGD. The section examines (1) how damage to the environment negatively affects children's rights and (2) how children can participate in environmental matters, and (3) it reflects on the responsibilities of States and other actors, particularly the business sector, regarding the rights of the child in relation to a healthy and sustainable environment. If rights considerations overlap, it could be for the following reason: As regards the environment, children's rights are indeed indivisible, interlinked and interdependent.

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<sup>12</sup> Alex Tennant



## 4.1. Protecting children's rights against environmental harm

### Ensuring a *healthy* environment

Without a healthy environment a child cannot live or develop. All actions should recognize this inextricable linkage between health and the environment, as well as social and cultural well-being. As Dr Maria Neira emphasized, '(h)health is more than absence of illness'. Children should be able develop 'their full capacity, enjoy quality of life and clean environments'.

Article 24 of the Convention explicitly requires States to take into account the risk of contaminated food and water as well as pollution in the realization of the right to health. The status of children's environmental health is also closely linked to other rights. These include the rights to life, survival and development, food, water and sanitation, adequate housing, education, freedom from economic exploitation, information, and an adequate standard of living. The right to equality and non-discrimination implies that all children should have access to a healthy and safe environment.

### Obligations

Baskut Tuncak noted that State duties to protect and realize the right of the child to the highest attainable standard of health and related rights include measures to prevent disease and other health impacts resulting from environmental harm, especially in early childhood, as well as access to health care for treatment. Furthermore, States have a duty to ensure the social determinants of health that are closely linked to and mediate exposure to environmental risk factors, including the conditions in which children are born, grow up, play, eat and drink as well as work.

Preventive action, including adequately enforced laws and monitoring, should lie at the heart of governments' protection efforts, as many contributions emphasized, because environmental factors can significantly reduce the likelihood that a child will attain the highest attainable standard of health. By virtue of their evolving physical and mental development children are particularly vulnerable to risks in the environment. Health effects are often irreversible and may not manifest themselves for years. Even low levels of environmental exposure can bring considerable harm and often cumulate over time. Children are also affected differently according to age. Dr Lilian Corra<sup>13</sup> noted that adolescents may be less susceptible to exposure but they are more likely to have contact with unhealthy environments due to occupational conditions.

Children should also receive an appropriate diagnosis and treatment. According to Baskut Tuncak, for certain environmental factors, the risk of death, injury or illness can be reduced or avoided with timely medical intervention, in parallel with interventions by communities, health-care workers, government officials and other actors. Health sector professionals should be trained 'to understand the environment' and build capacity to monitor childhood exposure to environmental health risks, as Dr. Corra emphasized.

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<sup>13</sup> International Society of Doctors for the Environment

### Environmental health challenges

The multitude of impacts on health due to environmental harm was discussed at length during the day<sup>14</sup>. The latest WHO figures estimate that over 1.7 million children under the age of five die prematurely from modifiable environmental conditions each year<sup>15</sup>. This does not account for children who die after the age of five, or those who suffer from non-fatal diseases or disabilities.

The discussion examined a wide range of environmental factors that pose a threat to children's health<sup>16</sup>, including a number of emerging issues such as the rising impact of global climate and ecosystem change and certain environmental chemicals (e.g. endocrine disruptors). Mr. Nicholas Rees of UNICEF noted that many types of air pollution are projected to increase over the next 50 years and could have a profound effect on global premature deaths. Dr Neira added that while poor water, sanitation and hygiene are established risk factors, they continue to harm children. For example, an estimated 360 000 child deaths from diarrhoea could be prevented each year.

Exposure to environmental health risks is unequally distributed between countries, with a higher burden in low- and medium-income countries, as well as within the society, often related to social or economic characteristics such as income, social status, employment and education, gender, age and ethnicity.<sup>17</sup> The WHO estimates that 12 million children in developing countries suffer permanent brain damage due to lead poisoning. 85 million children are forced to work in hazardous conditions, which includes unhealthy environments. Participants considered safe working environments, including for women in child-bearing age or pregnant women, to be crucial to child health. Inequality not only creates disparate impact, but also determines the availability of resources to mitigate some of the most negative effects, particularly among children<sup>18</sup>.

### Gaps

Legislative, enforcement and other measures to prevent children from being exposed to environmental health risks are often inadequate or missing, as also the data suggests. Baskut Tuncak noted, for example, that while the child's best interests should be at the heart of all decisions affecting the child, today 'laws and policies around the world essentially permit children to be exposed to hazardous substances'. Thousands of environmental chemicals have been presumed safe and do not require evaluation and assessment for their impacts on children's health, with little to no evidence<sup>19</sup>. Moreover, according to Kinderrechtskoalitie, environmental standards often fail to consider the specific health needs of children because they are based on average adults and do not reflect real-life conditions. Participants shared

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<sup>14</sup> Environment-related health conditions include, for example, infections and parasitic diseases (e.g. respiratory infections), non-communicable diseases (e.g. cancer, mental, behavioural and neurological disorders); physical inactivity; neonatal and nutritional conditions; and acute poisoning and injuries. See also WHO report on *Preventing disease through healthy environments: a global assessment of the burden of disease from environmental risks* (2016).

<sup>15</sup> <http://www.who.int/mediacentre/news/releases/2017/pollution-child-death/en/>.

<sup>16</sup> Attention is drawn to the written submissions for the 2016 DGD that deal with many of these environmental risks in greater detail.

<sup>17</sup> The WHO European Centre for Environment and Health

<sup>18</sup> Recovery of lead from old car batteries or waste recycling, for example, often occur in the open air, in impoverished and densely populated residential areas with little pollution control. Children who live in these areas can be exposed to toxics all day long and have little to no access to adequate health care. Pure Earth/Yuyun Ismawati

<sup>19</sup> Center for the Human Rights of Children

many cases in which business activities pollute the environment because governments lack the political will to regulate and control them, with severe consequences for children's health<sup>20</sup>.

Legislation and policy must be effectively enforced to protect children from environmental health risks, including through monitoring and research, outreach and education, planning and financial support. Yet, according to the organisation Opcion, many countries lack basic institutional capacities such as environmental assessment and certification agencies, poison centres and supervisory bodies to enforce compliance with laws. Even where institutions exist, limited resources impede regular inspections of degraded sites, which can be remote. In addition, agencies dealing with child health and environmental issues do not always coordinate with each other, resulting in the absence of child-specific action.<sup>21</sup>

Several participants emphasized the lack of adequate monitoring mechanisms for exposures to environmental risk factors, even in areas with existing regulation. Nicholas Rees pointed out that air pollution remains an invisible threat in large parts of Africa, where it is a growing problem, because ground-level monitoring stations are missing. Lead presents an example where even small lapses in oversight can result in acute health issues. Dr Lilian Corra noted that deficits in surveillance are further exacerbated by the lack of common standards and indicators, definitions and age categories applied by agencies that collect data and report on childhood health and the environment.

Another problem that exists everywhere is the ability of medical practitioners within affected communities to be able to diagnose environment-related diseases and intervene early, including through testing and treatment for the ill-health caused. For example, Yuyun Ismawati of Human Rights Watch informed that health clinics in gold-mining areas often do not inform people about the risks connected with mercury use, let alone test or treat children for mercury poisoning.

### Ensuring a *sustainable* environment

Human life depends on the natural environment. Environmental degradation that affects plants, animals and the weather therefore ultimately impacts the livelihoods of families and communities in which children grow up, and their ways of living. Examples include the burning of fossil fuels, and mining activities and deforestation that damage ecosystems and their services. While all children can be affected by such harm, children from communities that retain traditional lifestyles are particularly vulnerable, as their economic, social and cultural practices are deeply rooted in the environment.

The conservation of the natural environment is essential for realizing the rights to life, survival and development, health, food, water, an adequate standard of living, and cultural participation. The long-term availability and accessibility of these rights is closely linked to the notion of sustainable development. Children's rights have a key role to play in highlighting the importance of intergenerational responsibility and prudence in protecting the environment, healthy ecosystems and managing natural resources.

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<sup>20</sup> In one country, for instance, the vast majority of artisanal and small-scale gold mines rely on mercury. Most operate without licenses. Government authorities hardly monitor conditions in the unlicensed sites and do not promote alternatives to mercury. Millions of children worldwide suffer from mercury exposures. Human Rights Watch

<sup>21</sup> E.g. related to adequate protection equipment in agriculture or artisanal mining.

## Obligations

In his presentation, Tom Weerachat of the Mekong Youth Assembly noted that States have a corresponding duty to protect children's livelihoods by ensuring sustainable environments. The use of and benefits from e.g. ecosystem services should not compromise the ability of current and future generations of children to exercise their rights.

For example, both the right to water and the right to food require States to adopt approaches, strategies and policies, and establish institutional arrangements, to ensure that communities have access to sufficient water and control over natural resources for long-term food production<sup>22</sup>. These measures may include action plans to reduce resource depletion through unsustainable extraction; regulations to ensure that developments do not interfere with equitable access; monitoring and assessment of how climate change, desertification, pollution, deforestation etc. affect water and food availability; as well as implementation of educational measures. These measures should consider children's specific vulnerabilities in the context of environmental degradation. States also have a duty to protect children from the adverse impact of businesses activities, including by transnational companies, affecting natural resources necessary to sustain their livelihoods.

## Challenges

DGD discussions referred to a number of human activities that disturb or exploit the environment and thereby interfere with the rights of the child. Large-scale projects like dams, mining or road construction, for example, can damage ecosystems and their services by cutting through and interrupting natural environments and destroying the balance of living organisms. Tom Weerachat reported about the adverse effects - including malnutrition among children - that damming and other development projects have had on the Mekong river, the source of subsistence and cultural identity for millions of people.

Deterioration of the environment on a 'local' level contributes to global challenges such as climate change. Climate change acts as a threat multiplier, compounding problems with food and nutrition as well as water insecurity, and making it even harder for poor households to secure their rights<sup>23</sup>. 'Water and climate variability are inextricably linked, as the effects of climate change are first felt through access to water. Flooding and storms can wash away water supplies, or leave them contaminated, putting the lives of millions of children at risk (...). Many of the regions most at risk of drought and flooding already have very low levels of access to water, and the 60 million children living in these areas are extremely vulnerable'.<sup>24</sup> Children's right to food is also under threat as climate change will significantly affect crop productivity. The WHO estimates that climate change will lead to nearly 95,000 additional deaths per year due to under-nutrition in children aged 5 years or less by 2030, and an additional 24 million undernourished children by 2050.<sup>25</sup>

Climate change has other, more indirect impacts on the ability of governments to protect children's rights. For example, 'in Bangladesh, (...) some families have rushed to marry off

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<sup>22</sup> Center for International Environmental Law / FIAN International

<sup>23</sup> Mary Robinson Foundation

<sup>24</sup> UNICEF

<sup>25</sup> A written submission for the DGD noted that in one region climate change, along with other development challenges, has limited local indigenous communities' access to basic resources: 'As a result, many children have become sick because their families are unable to provide them with sufficient food and clean water. Girls often walk extremely long distances to dig for water in dry riverbeds, exposing them to dangers along the route and leaving them with less time to attend school or rest'. Human Rights Watch

(...) girls in anticipation of losing their homes to river erosion'.<sup>26</sup> Furthermore, by aggravating existing inequalities in the use of and access to productive land and freshwater, both ecosystem and climate change can cause violent conflicts, school drop-outs, exploitation, and large-scale migration ('displacements'). Climate change poses an existential threat to indigenous children due to their close relationship with the environment.<sup>27</sup>

### Policy gaps

In response to the increasing threats to biodiversity, natural resources and ecosystems in the past decades, the global community has taken a number of important actions. The Convention on Biological Diversity recognises the different levels of significance of biological diversity: the intrinsic value of biological diversity, but also the values it has for humans. SDGs 14 and 15 of the 2030 Agenda for Sustainable Development call on States to sustain both 'Life on Land' and 'Life below water' as a precondition for human well-being. And most recently, governments have concluded the Paris Agreement to combat climate change.

But several participants highlighted that there is a gap in assessing national and international policies related to biodiversity, climate stability, ecosystems etc. from a child rights perspective, despite their relevance. A rights-based approach to protection of ecosystems and access to natural resources should further the realisation of children's rights – such as the rights to life and development, food, water, and culture, and positively impact the valuation and conservation of nature. It should also create opportunities for participation of children in environmental protection and decision-making.

The urgency of a rights-based approach to environmental degradation was most clearly expressed with regard to climate change. As Kelly Matheson<sup>28</sup> noted: 'The UNFCCC was established to ensure the widest possible cooperation from all countries to keep the atmosphere healthy for present and future generations. Yet decades on, we have failed to take the actions needed to stabilize our climate system (...)'.<sup>29</sup> When determining the level of climate protection, States should take into account the rights and best interests of the child, especially the right to life, survival and development.

### Ensuring child-friendly *play* environments

The realisation of the right to play and leisure is strongly influenced by the environment in which children live. Opportunities for play, learning and social interactions are determined by the quality of the spaces children can access, whether natural or built, provided or 'immediate'. Discussions highlighted the various benefits children derive from being able to play in natural environments and the animal world, including for their health and the development of mind, body and spirit.

Today, most children grow up in urban, often densely built areas. The quality of their play opportunities depends on human activity, design and planning. One contribution emphasized the importance of designated play and other open spaces (e.g. parks) as an important part of the mosaic of children's lives in such environments. 'Designated play spaces should be understood as having both symbolic and practical value. However, a problem arises when far from enabling play, these spaces are assumed to be the spaces in which play should take

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<sup>26</sup> Human Rights Watch

<sup>27</sup> OraTaiao

<sup>28</sup> Our Children's Trust

<sup>29</sup> Just Planet

place, allowing play to be designed out of the wider environment or as a smoke screen used to exclude children from public space’.<sup>30</sup>

A list of places provided for play does not reflect the range of environments in which children actually play. Those may include the street outside a child’s home, spaces temporarily claimed by children and spaces disregarded by adults. As one submission emphasized: ‘The vast majority of children can only play in their immediate environment and so the right to play depends on the right to be able to access the outdoor environment in which they live (...).’ When thinking about actions and policies, priority should therefore be given ‘to children ‘playing naturally’ rather than having to wait until ‘natural play’ facilities can be established (...). We are only going to be effective if we realise that play is an environmental issue’.<sup>31</sup>

While recognising the different contexts and circumstances which limit children’s right to play, participants agreed that children’s freedom to play outdoors has been diminishing in recent decades. Children growing up in cities face ‘numerous manmade obstacles that thwart their natural drive to play. In urban areas, children’s activities are increasingly regulated, access to space is limited and everyday freedoms are taken away(...)’.<sup>32</sup> With around 70 per cent of the world’s populations living in cities by 2050, children’s opportunities to play will be partly determined by how governments address children’s rights and the environment. Yet urban planning processes are often short-sighted, ineffective and weak, and result in development that is neither sustainable nor child-friendly. ‘Children’s perspectives on urban environments are all but absent’<sup>33</sup>.

### Ensuring a connection with the natural world

Children’s ability to interact with the natural world is an emerging aspect of the relationship between children’s rights and the environment. Connection with nature is an underlying determinant of the rights of the child to development, health, cultural participation, education, the rights of minorities and indigenous children, the enjoyment of family life and the right to play and leisure. Studies have shown that natural environments benefit the well-being of children in various ways. Children’s social, psychological, emotional and physical health and development are positively impacted by exposure to nature. Reduced stress, enhanced creativity, problem solving capacity and improved social relations have all been linked to outdoor learning. In her presentation, climate youth activist Rekha Dhillon-Richardson expressed the kind of joy and spiritual wonder children can experience when in nature. Indigenous or peasant children who have close cultural ties and commitment to and traditional knowledge of their territories, have a right to maintain this bond.

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<sup>30</sup> International Play Association

<sup>31</sup> Rob Wheway

<sup>32</sup> Paul Hocker. The written contribution further described how urbanisation impacts children’s opportunity to make ‘play on the way’ experiences in the city of London: ‘The walk to school is an important part of child development (...). Today, however, parents in London are unlikely to let their eight or nine-year-old make the short walk to school without evidence that the threat posed by traffic has been reduced to an acceptable level.’ A recent study found that in 2010 433 primary schools out of 1777 exceeded EU limits for NO2 pollution. Of these 82% were in deprived communities. Furthermore, play space in London is shrinking and there is little legislation to protect the spaces that children need. As a consequence of these challenges, almost a third of London’s children is not getting out to play every day.

<sup>33</sup> Tim Gill

However, children find it increasingly difficult to get access to spaces where they can come into contact with nature. Global developments such as growing urbanization, expanding human populations, land and resource consumption, deforestation, and biodiversity loss all contribute to a worldwide decline in the quality and quantity of children's direct sensory experience of the natural world and opportunities to encounter healthy and abundant ecosystems. The absence of nature in a child's life is associated with a range of health issues, including the rise of obesity, attention disorders and depression. Damage to the environment, flora and fauna, can negatively impact children's emotional health and sense of belonging and identity. It can even result in what might be called a 'nature deficit disorder'.

The following example of this condition was shared on the day: After the nuclear accident in Japan (2011), children living in Fukushima were forbidden to touch any mud, bugs or plants or eat fruits for a couple of years. Kindergartens that still operated in the area stopped farming and other outside learning experiences, and teachers were discouraged from planting activities. Several kindergartens made efforts to provide indoor activities emulating natural settings, others bussed children to areas with low contamination where they could take part in outdoor activities. However, even after being encouraged children refused to touch the soil with their hands, since up to that point in their lives they had been prohibited from handling ground soil. Children are now scared of insects. They grow up without the learning excitements of exploring nature<sup>34</sup>.

Certain participants felt that the challenges arising from the increasing alienation of children from nature are not adequately reflected in the current understanding of children's rights<sup>35</sup>.

## 4.2. Children as agents of change

### Access to environmental information

DGD discussions emphasised the importance of children's and their parents' right to know about environmental risks. Access to environmental information is essential to the protection of children's rights to health, food, water, housing etc. Furthermore, children depend on information to be able to exercise their rights to freedom of expression, to be heard and participate in environmental matters. This can range from making everyday personal choices to developments in the community. Available information, to be useful, should be understandable and appropriate to children's age and educational level and meet the needs of all children. The right to know in environmental matters has to be balanced with the right to privacy, because the disclosure of information e.g. related to environmental exposures can also cause harm to children<sup>36</sup>.

A number of contributions focused on children's participation rights in the context of environmental research. Engagement in research and civil activities of children and parents are crucial to monitor harmful exposures, raise awareness and improve environmental policies. Moreover, it was emphasized that all children, including groups in vulnerable situations, have the right to be well represented in research and monitoring as findings

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<sup>34</sup> Shoikei Gakuin University

<sup>35</sup> 'It is such an unprecedented phenomenon in the history of mankind, and the consequences are so unpredictable and comprehensive that it needs its own position in the CRC'. Annelies Henstra

<sup>36</sup> IS Global

become relevant in policy-making<sup>37</sup>. If provided with adequate pedagogical, scientific, and logistical support, children are ideally placed to identify and investigate environmental issues affecting their communities from a bottom-up perspective, grounded in an understanding of local contexts<sup>38</sup>.

States are duty-bound to make environmental information available and accessible, in a form that functions to protect the rights of those most at risk including children. Child-specific disaggregated data must be available to account for differences in harm among specific groups of children<sup>39</sup>. Businesses should as part of their child-rights due diligence generate and disclose information related to environmental risk factors and communicate about the measures taken to mitigate potential harm. Parents bear a special responsibility as mediators between their children and the environment and should be made more knowledgeable and aware of environmental issues. But discussions underscored that providing children and parents with environmental information does not absolve governments of their primary responsibility to protect the environment. While certain environmental exposures are modifiable through lifestyle management others require action by states or the business sector.

### Gaps

Participants identified a number of deficits that pervade the implementation of children's right to information in environmental matters, including lack of proper legislation and monitoring of environmental harm.

Children's right to information does not always receive adequate attention in laws and policies related to the environment, whether at the international or the national level. Children's access to information is expressly taken into account in the Stockholm Convention, one of three multilateral environmental agreements regulating hazardous chemicals and wastes. It calls upon States to promote the development and implementation especially for children of educational programmes on persistent organic pollutants. However, the provision hardly recognizes access to information as an entitlement and gaps remain concerning other Conventions<sup>40</sup>. It was further emphasized that in many countries, laws to ensure freedom of information, even if simply to facilitate information for children about pollution levels in their homes and communities, or to ensure local people are informed about proposed natural resources development plans, are still lacking.<sup>41</sup>

There is no doubt about the link between environmental harm and the violation of children's rights, but often data that would specify environmental impacts on children's lives now and in the future is missing as a result of inadequate monitoring mechanisms. Some of the challenges concerning data availability include lack of robust children exposure data taking into account their vulnerabilities and real-life conditions ('actual exposure'); lack of longitudinal data that relates environmental harm and children's health and development in different life stages; lack of disaggregated data on children most at risk; lack of information about adverse impacts resulting from loss of biodiversity, resource depletion and degradation of ecosystems; and the lack of integration of environmental, health, and social data.

Other factors further compound the lack of access to environmental information. Relevant data is frequently kept confidential, especially when business activities are involved. Even if

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<sup>37</sup> IS Global

<sup>38</sup> SieNi – Education for Water Protection in Colombia

<sup>39</sup> Baskut Tuncak

<sup>40</sup> Secretariat of the BRS Conventions

<sup>41</sup> International Development Law Organization



information is available and accessible, children and parents are often unable to comprehend, assess and use the information to prevent harm. Children are not necessarily targeted by specific information programmes or materials. Furthermore, communication about environmental issues in the mass media does not currently reach young people to the extent it could. Sometimes, responsible governments or businesses even lead miscommunication campaigns to conceal environmental harm caused to children<sup>42</sup>. On the other hand, civil society organizations and other relevant actors should strengthen their efforts to make the policy case: Even where evidence of violations of children's environmental rights exists, it is not always gathered, presented and disseminated adequately. Moreover, lack of coordination leads to the non-availability of e.g. health case studies in environmental law databases.

Deficits related to the right to information were seen as a real barrier to the protection of children's rights in the environmental context and for holding duty bearers accountable. Missing data gives rise to uncertain health risk and impact assessments, which results in insufficient planning and protection measures, and exacerbates the burden of proof in judicial cases. Given the difficulties to ensure access to environmental information on and for children the focus of solutions should be geared towards preventive and precautionary measures, as some participants argued<sup>43</sup>.

#### Environmental impact assessments

As an established tool in environmental governance, environmental impacts assessments (EIA) can play a significant role in protecting children's rights from harm. This includes both impact assessments of legislative, policy, and action plans and impact assessments of individual projects<sup>44</sup>. There are many new regulations systematizing the use of EIA, yet gaps remain as there are very few examples that refer specifically to children's rights and intergenerational justice. Public participation, even where legally mandated is still often weak and patchy and rarely involves children. Furthermore, impact assessments do not always adequately address the link between social-structural issues and environmental degradation. As a result, poor children face environmental injustices which are 'frequently cases of cumulative impacts of environmental inequalities'<sup>45</sup>. It was further emphasized that impact assessments often do not work very well, because they are carried out under the control of companies that are commissioning them. Supply chains can create extra difficulties in this respect. Juliane Kippenberg<sup>46</sup> noted that such assessments rarely involve human rights experts let alone child rights experts and 'end up being a checklist that has very little to do with child rights realities'.

In his presentation, Dr. Daniel Limpitlaw<sup>47</sup> reflected on the specific challenges of environmental impact assessments in the mining sector. He stated that mostly assessments do not take explicit account of children's rights ('children are not front of mind'). Their special vulnerability relative to adults is not necessarily addressed, while vulnerable groups of children are often not adequately reflected in surveys. There is also a high risk of missing key data as children's views are not included in stakeholder participation. Dr. Limpitlaw further highlighted the negative effects of silo thinking. Social scientists would typically only look at the social impacts of a proposed project, while biophysical scientists were mainly focused on

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<sup>42</sup> Crude Accountability

<sup>43</sup> Baskut Tuncak

<sup>44</sup> Angeliki Papantoniou

<sup>45</sup> International Development Law Organization

<sup>46</sup> Human Rights Watch

<sup>47</sup> Mining Consultant

ecological aspects. This is a problem because significant impacts on children occur at the interface of social and environmental factors.

### Environmental education

The right to environmental education as enshrined in Article 29 of the CRC was a reference point in all DGD discussions. Education was seen as children's main source of gaining environmental information. It was further stressed that education plays a significant role in empowering children to become actors of change and defenders of the environment, young "eco"-citizens as it were. Conversely, a connection with nature was considered integral to a holistic education. Environmental education should be a requirement for all relevant institutions, including kindergartens, pre-schools, schools and extracurricular youth education, and should involve all relevant stakeholders such as parents, scientists, communities and the business sector.

### Elements of rights-based education in the environmental context

Several contributions described the elements that should characterise environmental rights education: 1) Education should aim towards a positive relationship of humanity with nature and those who live in it, taking into account that a healthy environment is an underlying determinant of the quality of life. 2) Sensitizing children to the value of nature's resources, and their conservation, will help them recognize and defend their environmental rights both for current and future generations. 3) Age-appropriate methods combined with localized contents grounded in everyday life should help convey the complexity of environmental issues and their linkages with socio-economic problems. 4) Involvement in e.g. conservation efforts is a crucial component of this learning process and an exercise in social practices that constitute civic participation. 5) Children who start to identify environmental issues by themselves, call for change and take part in solving problems effectively share in protecting their rights. At the same time, children should not be burdened with the responsibility to protect the environment<sup>48</sup>.

Brianna Fruean focused her statement on what education should look like in the climate context: 'All curriculums should include a clear, comprehensive and frequently updated climate change education. As weather patterns changes so should our curriculum to match the new challenges our climate faces. This education must be altered in different countries so information is relevant to every child's situation. Also keeping in mind the inclusion of traditional knowledge and teachings, as it is of great importance to many traditional societies in rural areas as they have little to no financial means or informative resources to adapt to the effects of climate change (...). We must also remember normal 'classroom and teacher' formal education is not the only form of education. Children must be given means of educational tools such as practical activities and field trips to spark interest and ideas. Government and stakeholders can give children the platform to start environmental groups, publish books for children by children, be involved in big Conference of Parties (COPs) giving their opinions, translate formal UN documents to child friendly language (...)'.

To varying degrees, governments, schools and other relevant actors already address environmental issues through a variety of educational measures, sometimes even as an important priority. Some educational programmes are designed as an explicit response to local

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<sup>48</sup> Instituto de Promocion Economico y Social del Uruguay

or national environmental problems or grow out of a concern for environmental stewardship<sup>49</sup>. The inclusion of environment-related topics in school curriculums is a very common route to inform about the environment. Other typical measures include practical activities such as school gardening or participation in “eco-clubs”.

At the international level, the 2030 Agenda for Sustainable Development creates a new reference point for environmental education. SDG 4, Target 7, calls upon States to ensure by 2030 that all learners acquire the knowledge and skills needed to promote sustainable development, including through education for human rights.

### Gaps

Discussions revealed a number of serious deficits that keep children from receiving environmental education as a right. Children growing up in heavily polluted or otherwise degraded environments too often lack even basic awareness of risks involved as curricula are not responsive to the local context. There is limited scope for reflection and exploration of problems, skill development and involvement in potential solutions. Similar challenges concern children everywhere. Furthermore, it is not clear, as some participants pointed out, what role Article 29(1)(e) plays in States’ efforts to promote environmental education. Measures are not necessarily ‘articulated (...) in human rights terms and not promoted as an entitlement for every child as critical agents of change.’<sup>50</sup> Multilateral environmental agreements such as the Paris Climate Agreement mention educational measures but without specific reference to children’s rights.

Throughout discussions it was stressed that the development of respect for the natural world begins with children enjoying and experiencing nature. Knowing and understanding the environment as well as having a connection with it are prerequisites for children to be able to and have the wish to protect nature. The significant decline in the quality and quantity of time children spent in the environment was seen as a major obstacle to the realisation of Article 29(1)(e) of the CRC.

### Participation in environmental matters

Children are often extremely passionate about the need to protect the environment and can be effective environmental champions. Several child and youth activists spoke on the day about their actions and shared their views on the environment. Getting involved in nature conservation is one of the foremost ways for children to protect and realise their rights in the context of the environment. The right to participation includes having the right to be heard and taken seriously by governments on different levels in regard to environmental laws, policies and practices. For example, when balancing economic, environmental and social interests before, during and after development projects governments have a duty to include the views of those children affected by them.

Certain participants raised concern regarding the involvement of children in decision-making and environmental protection as it was not right to expect them to address the damage that has been done by adults. Rather than increasing their participation, adults should act and ensure

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<sup>49</sup> World Future Council

<sup>50</sup> Alex Tennant

that they leave for their children a planet, on which they and their children can live<sup>51</sup>. Sometimes children are in situations where it is not possible to hear their views on the environmental matters in question. Baskut Tuncak pointed out that children ‘are exposed to harmful substances before they are capable of forming their own opinions, and this is in the period in their lives when they are most at risk from toxic exposures that can lead to the development of associated diseases, disorders and illnesses’.

#### Lack of access to decision-making opportunities

Although there have been a number of good local and national examples of children’s engagement in environmental decisions-making, in most parts of the world children’s voices are completely disregarded. There is also a knowledge gap regarding systematic efforts by governments to allow children access to decision-making at the local and national level, with few best practices available. Children’s participation on environmental matters has been formally recognized in different fora at the international level. As was pointed out on the day, Sustainable Development Goal (13) target 13(b) on climate change looks to ‘*(p)romote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries*’, including by focusing on youth. In 2012, States Parties to the Convention on Biological Diversity recognized the importance of youth participation in decision-making processes. However, despite the rhetoric from world leaders, children’s concern for the environment is not reflected in the degree to which they are able to participate meaningfully in decision-making on a wide range of global environmental issues that matter to them now and the future.

#### Obstacles

The DGD highlighted some of the key obstacles and challenges which children face in becoming more involved. Children’s capacities, competencies and experiences in responding to environmental issues are rarely recognized as being relevant. Both children and the environment are perceived as objects of protection, which significantly limits children’s influence on decision-making. In many cases, there are formal requirements and legal restrictions that prevent children from participation in decisions on environmental matters. Sometimes children are heard on environmental matters, but not taken seriously. Companies often use child and youth consultation to ‘greenwash’ their activities. And while the ‘youth’ is increasingly included as a stakeholder group in environmental matters, younger children are often left out.

It was emphasized that current institutional frameworks discourage children from taking part in environmental policy-making because they are complex, technical and expert-based and do not address environmental issues relevant to them<sup>52</sup>. There is a general lack of platforms to support children’s full and meaningful participation in environmental affairs such as climate dialogue and initiatives. Children also often lack knowledge about specific opportunities for voluntary work and relevant points of contact.

Further problems arise because consultation processes addressing controversial issues such as development projects affecting communities’ access to natural resources often take place in child-unfriendly settings. Children activists can even be threatened or harassed. Tom Weerachat shared the case of a girl that was sued for defamation by a mining company after she had expressed her concerns over water pollution due to extractive activities on TV.

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<sup>51</sup> Rob Wheway

<sup>52</sup> Ivana Savic

## Access to justice

Access to justice in environmental matters is extremely relevant as climate change, pollution and resource depletion will profoundly affect the quality of life of current and future generations of children. Moreover, children's voices and interests are systematically disregarded in environmental decision-making meaning that going to court can be the only option to defend their rights. Veronica Yates<sup>53</sup> stated that 'ensuring children's access to justice is not only crucial to address the harm already caused, but also for preventing the recurrence of rights violations and ensuring future laws and policies are rights respecting'. On the other hand, children are often left without access to justice in environmental matters, which is why prevention may be the best and often only means of ensuring access to an effective remedy for them<sup>54</sup>.

An effective remedy has several components, including the right to equal and effective access to justice, prompt reparation and access to information concerning violations and reparation mechanisms. In the context of human rights violations resulting from environmental harm, reparation includes adequate compensation, rehabilitation of those affected including through access to adequate care, guarantees of non-repetition through the implementation of preventative and precautionary measures, remediation of affected areas and cessation of harmful actions. General Comment No. 16 on children's rights and the business sector<sup>55</sup> emphasizes the relevance of timely reparation for environmental rights violations given the risk of irreversible and life-long damage.

Access to justice remains a huge challenge for children in any setting, including in the context of environmental litigation. Some of the multiple barriers to access justice were discussed on the day:

## Standing

Environmental damage often results from complex structural challenges affecting whole communities and may take decades to manifest. Requirements that individuals must be directly affected or have a sufficient interest along with the lack of collective complaints mechanisms mean that often children have practically no means of asserting their rights in the environmental context. There have been a few examples where courts have recognized 'intergenerational justice'.<sup>56</sup> Our Children's Trust has pursued legal actions against US government agencies in all fifty states over insufficient action to secure a stable climate for all generations and protect public trust resources. In November 2016, a judge at the U.S. District Court ruled, over the objections of government and energy-industry lawyers that the Oregon suit could proceed granting standing to youth aged between 9 and 20 because their rights to life, liberty, and property were at stake<sup>57</sup>.

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<sup>53</sup> Child Rights International Network

<sup>54</sup> Baskut Tuncak

<sup>55</sup> CRC/C/GC/16

<sup>56</sup> In 1992, 43 children appealed to the constitutional court of the Philippines against their own government on behalf of future generations to stop the clearing of the rain forest. The court allowed the petition because it found 'no difficulty in ruling that they [the petitioners] can, for themselves, for others of their generation and for the succeeding generations, file a class suit [...]', in order to protect the rain forest. See *Minors Oposa vs. Secretary of the Department of Environmental and Natural Resources* (<http://hrlibrary.umn.edu/research/Philippines/Oposa%20v%20Factoran,%20GR%20No.%20101083,%20July%2030,%201993,%20on%20the%20State's%20Responsibility%20To%20Protect%20the%20Right%20To%20Live%20in%20a%20Healthy%20Environment.pdf>).

<sup>57</sup> <https://www.ourchildrenstrust.org/us/federal-lawsuit>

### Burden of proof

Environmental suits place an often ‘insurmountable burden of proof’ on children and not on the actors whose activities cause them harm. It can be very difficult to establish direct causes of harm as the consequences are not always quantifiable in every individual case or have to be separated from other factors. Given that relevant information is often either not available or accessible victims may lack awareness of their exposure to environmental risks or provide insufficient evidence. Even if information is available, the complexity of e.g. environmental impact assessments makes it difficult for child victims and their representatives to comprehend the facts. In addition, justice sector professionals can lack adequate knowledge about children’s rights and their relationship with the environment.

### Limitation periods

Strict time limits on when a case must be submitted can present a serious barrier to children accessing remedies, particularly for young children who may not be able to approach the courts until they have reached the age of majority. With regard to environmental litigation, gathering evidence that can incriminate a perpetrator or which establishes causation of a given illness may no longer be possible after any substantial amount of time has passed. Indeed, this is near impossible in cases where adverse health effects of an environmental problem manifest many years after exposure, and more so when a health problem becomes hereditary.

### Financial Burden

Legal aid is practically non-existent for the kinds of civil or public interest administrative cases that are likely to be used to bring environmental cases. From the onset, certain groups of children face this financial burden in particular, especially when they oppose large corporations with financial clout. In some cases, States have been accused of attempting to deter organisations and individuals from bringing environmental suits by increasing the cost of litigation<sup>58</sup>. Additionally, complainants who lose an environmental case deemed to be in the public interest can incur considerable costs<sup>59</sup>.

Even if environmental litigation is successful, years may have passed and the impact of environmental harm may have become irreversible or resulted in lifelong damage. Sometimes remedial measures are not effectively implemented due to a lack of political will or resources and weak rule of law. Lower- and middle-income countries are frequently not equipped with the institutional capacity and funding to effectively remediate contaminated areas resulting in continued exposure of children living in surrounding areas. Baskut Tuncak noted that ‘inability to ensure a child’s views are heard before they are exposed to hazardous substances, and the impossibility to realize a truly effective remedy after exposure, strongly imply that States prevent exposure.’

## 4.3. Vulnerability and discrimination as cross-cutting issues

The specific vulnerabilities of children - by virtue of their evolving physical and mental development and their status within society – were consistently raised during the DGD. Yet

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<sup>58</sup> Priscila Bribiesca-Rodriguez, Earth Defenders, presented the case of 113 children who filled a complaint against the clearance of a mangrove forest for a real estate project claiming a violation of their right to a healthy environment. A judge ruled that the children should pay a bond of USD 1.2 million to guarantee the potential damage caused to the investors if the project stopped.

<sup>59</sup> Child Rights International Network

while all children are vulnerable to environmental harm, some face additional risk factors. For instance, indigenous children may face a double vulnerability due to their close relationship with the environment. Other particularly vulnerable groups include children working in hazardous conditions and those living in contaminated environments.

Age, biology and behaviour are among the factors that determine children's vulnerability to environmental risks and should be given special consideration. The physiological features that distinguish children from adults and explain their unique vulnerability to environmental harm include the need for more food and water per unit of body weight; the immaturity of the blood-brain barrier and nervous system; a different rate of organ systems growth; a larger surface area relative to body weight; a faster breathing and higher heart rate; and a different metabolic capacity. If a child is exposed to environmental toxicants during a period of rapid growth and development, this may put the child at a greater risk of developing disease.

Children are also impacted in ways in which adults are not. This includes involuntary exposures during foetal development and breastfeeding, child-specific behaviours (outdoor activity, hand-/object-to-mouth behaviour), and movement in different exposure zones (e.g. nearer to the ground). Children are at increased risk from environmental hazards because they cannot control their exposures, especially in the most vulnerable periods of their life, when they depend on their parents or caregivers' awareness, knowledge and capacity to protect them.

Besides their heightened behavioural, developmental and physical vulnerabilities, children are the least empowered to exercise their rights to information, free expression and be heard as well as justice when their rights have been violated. Marginalized groups of children bear a disproportionate burden of the inaction on the environment, implicating the principle of non-discrimination.

Children's differential risks and discrimination are not always duly considered in policy-relevant assessments, standard setting and the identification of priority concerns related to the environment. Environmental laws typically describe children as a vulnerable group, not as rights holders, while vulnerability is primarily understood as a biological condition. Children do face additional vulnerabilities relative to adults, but they should not be defined by them. The 'protective paradigm' will do little to achieve recognition of their competencies and experiences, nor will it increase children's resilience and capacity to protect themselves from harm and participate in environmental matters in line with the Convention. Involving children will also help define vulnerabilities and ways to address them.

## 5. Roles and responsibilities

### Government

States have a heightened duty to protect children against environmental harm. This requires comprehensive steps, as described above, but unfortunately concern for children's rights remains largely absent from environmental protection efforts - often due to lack of political will or resources - resulting in inaction or problematic responses in the face of risks. The lack of integration between environmental and human rights law and policy adds to this failure.

### The lack of a child rights approach

The neglect of children's rights is reflected in a double deficit in legislation and policy: The Convention on the Rights of the Child is overlooked in setting and implementing environment-related policies and standards, while laws, policies and actions relevant to children's rights do not take adequate account of environmental factors. 'This gap hinders

rights-based approaches to environmental problems affecting children<sup>60</sup>. In his recent report, UN Special Rapporteur Baskut Tuncak points out that ‘(t)he best interests of the child are best served by preventing exposure to toxic chemicals and pollution, and taking precautionary measures with respect to those substances whose risks are not well understood. Unfortunately, industrial competitiveness, risk management options and cost-benefit considerations are prioritized over the best interests of the child’.

National laws, policies and standards on the environment infrequently address the rights of children. There seems to be a gap, for example, in assessing policies related biodiversity, natural resources and ecosystems from a child rights perspective. On the other hand, policies that are designed to address children’s rights do not take adequate account of environmental issues. For example, national and local ombudspersons for children’s rights or child protection officials typically have a very narrow mandate that does not include environmental issues<sup>61</sup>.

Multilateral environmental agreements (MEA) have also long ignored a human rights approach. Chemical and waste treaties like the BRS Conventions do not reference human rights obligations at all, including children’s rights, despite their relevance. MEAs essentially follow a state-centred approach and often lack mandatory provisions and the language of entitlement in relation to health, informational or participatory measures. However, a greater integration of child rights and environmental issues is possible. A step in this direction is the 2013 Minamata Convention on Mercury, which requires treaty parties to develop strategies to prevent children’s mercury exposure in the context of artisanal gold mining and provide access to information. The Minamata Convention also calls upon governments to monitor children’s exposure, and provide testing and treatment.

Participants further emphasized the potential for better reflection of rights considerations in existing environmental agreements: ‘Although this (vulnerable groups) may not explicitly be referred to in the convention texts themselves, it may be addressed in the way Parties implement the Conventions, as well as the decisions adopted by their governing bodies’<sup>62</sup>. The common implications for states in terms of their duty to protect the rights of children under the CRC and MEAs should be made more explicit. This should include rights such as the right to play, which protect interests beyond the immediate health impact. For the environmentally sound management of chemicals and wastes to be in line with the best interests of the child, there is still a long way to go: Less than 30 environmental chemicals out of thousands of hazardous substances are managed through their life cycle - from manufacturing to final disposal - under existing treaties<sup>63</sup>.

The Paris Agreement on climate change and the 2030 Agenda for Sustainable development take a more integrated approach to human rights and environmental issues. Even though certain participants felt that the Paris Agreement neither resolves nor ameliorates the unfolding crisis, others saw it as a significant advance in addressing climate change and for taking into account children’s rights in the framework of global climate action. All voices agreed that more needs to be done to enhance the role of children’s rights in this context. Joni Pegram noted: ‘Consideration of the Convention on the Rights of the Child remains largely absent from climate-related policies, action, investments and dialogue (e.g. intended nationally determined contributions). There is an urgent need for the best interests of the child

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<sup>60</sup> Human Rights Watch

<sup>61</sup> Crude Accountability

<sup>62</sup> Secretariat of the BRS Conventions

<sup>63</sup> Baskut Tuncak



to be systematically applied in shaping national and international responses to climate change. A key challenge remains environmental decision makers' lack of awareness and expertise in relation to child rights'. More robust guidance is needed to define the elements of a child-rights-based approach to climate change as governments seek to implement action which pertains to tackling climate change under the Sustainable Development Goals, the Paris Agreement and the Sendai Framework for Disaster Risk Reduction.

#### Lack of cooperation and coordination

The parallel development of environmental law and human rights law has contributed to a lack of coordination between institutions dealing with child rights and environmental issues within both governments and the United Nations. This coordination gap is one of the reasons for inadequate monitoring and accountability for child rights violations that relate to the environment. As Juliane Kippenberg<sup>64</sup> stressed: 'United Nations agencies such as the United Nations Environment Programme, the United Nations Development Programme, and the United Nations Framework Convention on Climate Change have not made environment-related child rights central to their agenda, and infrequently coordinate with UN agencies with expertise on child rights. Children's rights are therefore absent from the policy frameworks and actions that UNEP, UNDP, and UNFCCC use to guide and inform government laws and policies'. Conversely, the UNICEF but also the Committee on the Rights of the Child have only just begun to address environmental issues more comprehensively.

At the national level, government ministries for the environment or other ministries taking environment-related decisions often do not coordinate with ministries responsible for children's rights<sup>65</sup>. The Committee's own work is negatively affected by this lack of coordination: States Parties scarcely mention environmental issues in their periodic reports. Systematic reporting duties on national experiences linking children's rights and the environment were seen as a way to promote greater collaboration and coordination between the different actors at the national level.

There are also negative forms of cooperation. Baskut Tuncak noted that in one country that highly depends on extractive industries the government decided to abolish the ministry for the environment and assigned all matters related to environmental health to the ministries for energy and the economy. Corruption is another form of bad cooperation. This particularly affects children as they rely on the authority and integrity of their parents, the community, teachers, doctors and government<sup>66</sup>.

#### Funding, Capacity-Building and Training

Environmental agencies, especially in lower- and middle-income countries, often have limited capacity and inadequate funding to provide adequate protection against environmental harm (e.g. to monitor pollution or mobilize resources for climate adaptation). This includes the implementation of obligations under multilateral environmental agreements. When environmental regulation is carried out at the state or local level of government, the situation can be more difficult. Participants emphasized that 'organizing and developing technical

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<sup>64</sup> Human Rights Watch

<sup>65</sup> Baskut Tuncak shared an illustrative example: In one country he had visited the government had not set standards for the level of heavy metals allowed to be contained in artificial grass that was widely used in schools. Soccer players reported illnesses, after they had played on artificial surfaces for years. There was no clarity on whether the ministries for education, environment or health were responsible for the case. In the end, no one looked at the issue properly.

<sup>66</sup> Crude Accountability

assistance and capacity building tools and events, which focus on children's specific conditions' may effectively contribute to better protection of their rights<sup>67</sup>. International agreements can play a positive role in this context because they are implemented at the national level and action is taken because a particular treaty sets out obligations and funding, and promotes international cooperation and assistance.

### The role of the business sector

Business activity is the source of significant environmental damage that contributes to child rights abuses. Nearly every business sector is directly or indirectly involved in the production, use, release and disposal of hazardous substances, the extraction of resources or other types of environmental impact. Abuses of children's rights are linked to present business operations but also the legacy of environmental degradation from past activities and potential future harm. Business impacts on children's environmental rights can be local, national or global, as in the case of the major carbon polluters. Furthermore, businesses have economic, social and cultural impacts on children's lives. 'If such impact is negative, it can lead to further degradation of the environment'<sup>68</sup>. The communities affected by corporate abuses often belong to marginalized groups of society and find it hard to get their voices heard. On the other hand, industries can contribute greatly to the improvement of environmental conditions and work towards strong sustainability. The business sector therefore plays a key role in addressing environmental harm that interferes with the enjoyment of children's rights.

### Regulation of the business sector

The duty of States to protect children's rights against environmental harm extends to the impact of the business sector. The Committee's General Comment No.16 provides a framework to ensure that businesses respect the right of the child, including effective legislation, regulation and enforcement, as well as policy, remedial, monitoring, coordination, collaboration and awareness-raising measures. States should require businesses to undertake child-rights due diligence and identify, prevent and mitigate their impact on the environment and children's rights including across their business relationships and within global operations. GC16 sets out clear and immediate steps to be taken by all parties in the event that children are identified as victims of environmental pollution to prevent further harm to their health and development, and to repair damage done in a timely manner.

There was wide agreement among DGD participants that child-rights due diligence should be mandatory given that voluntary actions by the private sector have not been as satisfactory as they should have been. Powerful business interests continue to hamper the development of sustainable and child-sensitive policies. As one written contribution emphasized: 'Agrochemical corporations profit from the production and sale of pesticides that are inherently poisonous while the world's rural populations and children face the daily hazard of pesticide poisoning'<sup>69</sup>. Law and enforcement could lead to more effective and sustainable solutions. However, governments often avoid regulating business, because it can be costly and is sometimes opposed by industries<sup>70</sup>. Sometimes governments even drive unsustainable

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<sup>67</sup> Secretariat for the BRS Conventions

<sup>68</sup> Ivana Savic

<sup>69</sup> Pesticides Action Network

<sup>70</sup> One example are concession agreements between states and transnational companies in the mining sector that are overly generous on the amounts of effluents allowed into the water and air. Another example are legal frameworks that do not provide for judicial or administrative mechanisms that can effectively sanction severe cases of pollution and lack mechanisms to protect affected children and repair damage.

policies, e.g. by investing in or subsidising fossil fuel development, specific agricultural practices and extreme energy infrastructure projects that negatively impact children's rights and the environment.

Polluting industries such as those responsible for waste recycling often exist in the informal sector and typically operate hidden from government oversight and with little awareness of the exposure risks and the hazards to public health, as acute health effects are generally not present. While their activities may be at times unsafe and polluting, such businesses are often the main employers in a given community. 'Closing informal operations without viable alternative livelihood options will drive them into other areas, where they will likely continue to pollute'. Rather, governments should ensure that 'urban redevelopment plans aim to support both the growth of small and medium-sized enterprises and their transition to cleaner, more environmentally friendly practices'<sup>71</sup>.

Participants generally recommended that States 'need to be supported and strengthened, so that they develop laws to properly regulate private sector activities with relation to the environment and children's rights, and they need to be strengthened, so that they hold private sector actors accountable. Some private actors under their Corporate Social Responsibility policies, conduct 'green-washing' initiatives, in which seemingly consultation with the affected population, including children, is conducted, but without any effect of their opinions and recommendations. Private sector actors need to be better informed about children's rights, the relation between children's human rights and the environment (...)'. Participants further recommended the development of an international legally binding instrument on human rights and the business sector. Such a treaty should ensure that all states adopt measures to ensure that companies respect human rights and undertake due diligence in their operations at home and abroad, and take adequate account of children's rights and the environment.

#### Child-rights due diligence in the environmental context

The basic elements of child rights due diligence in the environmental context were also discussed. Business enterprises should be required to prioritize the identification of child rights impacts from their operations and take adequate measures to prevent harm, given that children are particularly vulnerable to environmental harm and have great difficulties to realize their right to access justice.

Participants pointed out, however, that current risk assessment practice in the business sector does not adequately reflect children's rights. It was recommended that the Committee, by building on existing tools, could support the development of a methodology that integrates children's rights and environmental impact assessments. Such a standard could be mainstreamed in corporate activities<sup>72</sup>.

Companies should further take all necessary steps to avoid causing or contributing to impacts on the rights of the child through environmental harm, and address such impacts when they occur. This can require the modification, cessation or relocation of certain activities that present unmanageable or simply unknown risks to children<sup>73</sup>. A potential source of pollution, for example, should not be built next to schools or clinics. A stricter process of due diligence is required where there is a high risk that certain groups of children such as those working in hazardous conditions are exposed to environmental risks through business activities across

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<sup>71</sup> Pure Earth

<sup>72</sup> Ivana Savic

<sup>73</sup> Baskut Tuncak

supply chains. Preventive policies are not always standard in corporate child rights due diligence as numerous contributions to the DGD showed<sup>74</sup>.

### The role of the Committee

While it was acknowledged that the Committee has recognized a variety of environmental issues as relevant factors to ensure the implementation of the Convention, participants also emphasized that ‘additional steps are needed to secure the full realization of children's rights, particularly in the face of the growing environmental crises facing the planet’. The Committee could help bridge the current gap between the child rights and the environmental sector by providing clear and coherent guidance to States on how to apply children’s rights in the context of the environment. Such guidance would provide NGOs and other relevant actors with a common standard to hold governments accountable. It would also facilitate the submission of environmental information to the Committee.

Discussions further raised some of the options available for further developing the interpretation of the Convention in relation to environmental matters. It was suggested, for example, that the Committee articulate the right of the child to a healthy environment as implied in the Convention on the Rights of the Child<sup>75</sup>. The articulation of such a right would help address aspects that are not adequately covered in the Convention such as climate change and children’s ability to connect with nature.

Numerous voices proposed the drafting of a General Comment on children’s rights and the environment as the most effective way to provide robust and harmonized guidance endowed with “longevity, visibility and the appropriate level of authority”<sup>76</sup>. A General Comment could, *inter alia*, serve to: highlight the threat of environmental harm to the rights of the world’s current and future generations of children; define the elements of a child-rights-based approach to environmental issues, including by further clarifying state and business responsibilities required to uphold children’s substantive and procedural rights; convey the relevance of the Convention to a wide range of actors working on child rights and the environment; and help strengthen their linkages. While participants agreed that the Committee should take further steps to guide on the relationship between children’s rights and the environment, there was some concern that the body could be overburdened with responsibility given the severity and extent of the global environmental crises. To confront these challenges, a high level of ambition and the inclusion of a wide range of relevant actors is required. The Committee could play a key role in this regard by reaching out to relevant environmental organizations and experts.

### The role of other relevant actors, including NGOs, professionals and academia

Human rights, environmental and other non-governmental organisations should more actively and systematically address the relationship between children’s rights and the environment. Child rights organisations, for example, could integrate environmental issues in their own programmes, attend environment-related meetings like the Conferences of Parties of MEAs or

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<sup>74</sup> An example of this is the existence of double standards in the international trade of hazardous pesticides from developed countries to developing countries. On the day, Baskut Tuncak referred to a highly hazardous pesticide that killed 24 school children and injured many more. It was allegedly sold by a company based in one country where that pesticide had already been banned because of health risks.

<sup>75</sup> Center for International Environmental Law

<sup>76</sup> UNICEF

reach out to relevant environmental institutions such as the UNFCCC secretariat or the UNEP. When future agreements on the environment will be negotiated, child rights advocates should be present. The same approach can be followed at the national level. Conversely, environmental organisations should become more aware of the child rights approach.

Dr. Lilian Corra emphasized that the coalition of relevant actors should also include research institutes and academia, the sector of health professionals, lawyers, engineers, economists etc. working on the environment. Their capacity and influence is essential to move this important agenda forward. The exchange of good examples of cooperation, outreach and capacity-building could inspire learning processes in this respect.<sup>77</sup> Members of the Committee encouraged all relevant actors to submit more information on issues related to children's rights and the environment for the State review process under the Convention.

## 6. Recommendations

In light of the DGD objective of being a forum for raising awareness about and discussing children's rights in order to identify issues for States to take account of in their policies and programmes, as well as to provide guidance to other relevant actors on the protection of children's rights in the context of the environment, the Committee endorses the following recommendations. The recommendations, while mainly addressed to the primary duty bearers, States, also consider the role of other stakeholders, including the business sector, international organizations, civil society and the Committee itself.

### States

#### General Recommendations

- States must protect children against environmental harm that interferes with the enjoyment of their rights. Children's specific vulnerability and social status within society imposes a heightened duty on governments and policy-makers to make sustained efforts to effectively protect children from such harm, strengthen their capacities, take their views and competences into account and provide access to effective and timely remedies.
- States should ensure children's environment-related rights by realizing them in a sustainable manner such that they can be enjoyed by all current and future generations of children.
- States must ensure that all children have equal access to healthy and sustainable environments and nature. States must pay specific attention to the rights of children exposed to multiple factors of vulnerability as a result of environmental injustices, including girls, children with disabilities, poor children, and children belonging to indigenous or minority groups.

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<sup>77</sup> One DGD participant mentioned a good example from Belgium, where scientists, child rights NGO and doctors working have created a platform (Childproof) to facilitate more exchange on environmental matters.

- States should take steps to prevent causing or contributing to transboundary environmental harm that affect the rights of children abroad.

#### Legislation and policy

- States should develop an enabling legal and institutional environment for adopting a sustainable development pathway that adequately reflects the rights of the current and future generations of children. National laws, policies and actions as well as international agreements on the environment (e.g. Nationally Determined Contributions/National Mitigation and Adaptation Plans) should explicitly include measures relating to children's rights. In turn, laws, policies, and actions on children's rights should explicitly consider environmental risk factors.
- States should consider the best interests of the child as a matter of primary consideration when designing, implementing and monitoring relevant environmental laws and policies related to e.g. climate change, prevention of early life exposures, or safeguards for large-scale development projects.

#### Regulation of the business sector

- States' obligation to adopt adequate legal and institutional frameworks to protect children's rights extends to harm caused by businesses. In particular, States should require businesses to undertake due diligence in their operations and across supply chains with regard to the harmful effects of environmental degradation on children's rights.
- Children's rights should be integrated into national action plans on business and human rights, taking into account the business impact in the environmental context.
- States are encouraged to develop policies and plans (e.g. urban redevelopment plans) that support the transition to cleaner, more environmentally friendly business practices in line with children's rights.
- States are encouraged to lead by example and require enterprises bidding for large public sector contracts to disclose the steps they are taking to ensure that their activities and those in their supply chain do not negatively affect children's rights with regard to their impact on the environment.

#### Implementation and accountability

- States should strictly implement, enforce and monitor regulations designed to protect children from environmental harm and strengthen supervisory bodies in this respect. National human rights monitoring mechanisms should take into account the rights of the child in relation to a healthy and sustainable environment.
- States should take multisectoral action to protect children's rights from environmental harm and enhance cooperation and coordination among relevant actors including

health professionals, the environmental, education, labour, urban planning, transport, extractive, energy, and agricultural sectors.

- States should incorporate their child rights obligations when implementing relevant multilateral environmental agreements and policy frameworks. This should include the development of child-specific operational programmes, tools, technical assistance and capacity-building materials.
- States should set aside sufficient resources for the protection of children's rights in the environmental context.

#### Reporting

- States should incorporate the implications of environmental harm on the full enjoyment of the rights of the child in their Periodic Reports to the Committee, as well as the steps they are taking to ensure that children's rights are protected against such harm. This should extend to reporting on their efforts to consider child rights in the context of their action under relevant international environmental frameworks.
- States should also consider children's rights in their environmental reporting to the UNFCCC (e.g. national communications, Adaptation Communications), international agreements on chemicals and wastes and in reporting on implementation of environmental targets under the Convention on Biological Diversity and the SDGs.

#### Ensuring a healthy environment

- States should take effective measures to prevent childhood exposure to environmental harm, including through development of specific legislation and effective business regulation, and ensure access to health care for treatment. State Parties should adopt the precautionary approach in the face of uncertainty regarding children's environmental health risks. It is recommended that States cooperate internationally on regulating all toxic chemicals that are potentially harmful to children.
- States should take more active measures - guided by the rights and best interests of the child - to implement environmental health standards, indicators, definitions and age categories set by the WHO and other relevant international bodies.
- States should develop a national plan to monitor children's environmental health, conduct an assessment of risks, identify priority concerns, including children in vulnerable situations, and develop and implement measures to address those priority concerns (e.g. timely clean-up of contaminated sites). States should ensure that health professionals receive training in diagnosis and treatment of health impacts related to environmental harm.
- States should prohibit and eliminate hazardous labour practices where child workers are exposed to environmental risk factors, promote safer alternatives and ensure monitoring of children affected. States should ensure that children receive necessary treatment and compensation for any harm incurred. States should also protect the rights of parents to safe work, especially women and girls of reproductive age.

### Ensuring a sustainable environment

- States should adopt and implement approaches and strategies, and establish legal frameworks for the protection of biodiversity, ecosystems services and natural resources that accord with international standards and plans and ensure the ability of current and future generations of children to exercise their rights to life, survival and development, to be heard, to health, food, water, participation in cultural life, an adequate standard of living, information and education. In particular, States should understand their obligations to respect and protect children's rights against global climate change. Such protection requires urgent and aggressive reductions in greenhouse gases, guided by the best available science.
- States should ensure that all children and their families and communities have equitable access to the benefits of natural resources and healthy environments, and ecosystems. States must do more to protect the rights of children from communities that have close material and cultural ties to their territories and are most vulnerable to environmental degradation.

### Ensuring child-friendly play environments

- Municipal planning should place a priority on enabling access to environments which increase all children's freedom to play, be active and independent within their community. This can include creating zones with priority for pedestrians or cyclists over motorized traffic in roads of family housing or play streets outside schools; inclusive parks and playgrounds; access to landscaped green areas, open spaces, "wildlands" or nature; and overall greater "walkability". Furthermore, States should consider the need to orientate planning and regulations in areas that are not generally recognised as relevant for children towards ensuring the play- and child-friendliness of all environments.

### Ensuring a connection with the natural world

- States should take steps to ensure through policies, strategies and actions in the area of environmental protection, urban planning, health, education etc. the ability of children to interact with nature as an underlying determinant of their rights to health and development, including the development of respect for the natural environment.

### Environmental information and research

- States should recognize children's and their parents' right to know about environmental risks as central to the enjoyment of their human rights and freedoms,



and ensure the availability of and access to adequate and age-appropriate information on matters related to children's rights and the environment.

- States should strengthen efforts to research and monitor childhood exposure to environmental harm in all countries, and particularly for those in developing countries and high-risk situations. In this context, States should inter alia
  - ensure that all children are equally represented in monitoring and policy-relevant research, in particular vulnerable groups of children. It is recommended that States design inclusive programmes for actively involving children and parents in research and monitoring;
  - collect robust exposure data taking into account children's vulnerabilities and rights, and real-life conditions ('actual exposure');
  - undertake longitudinal studies that explore linkages between environmental harm and child rights impacts over time (e.g. disease that may set in later on in children's lives), and other studies of pregnant women, infants, and children that capture exposures at critical windows of development;
  - generate and collect information on underexplored issues such as the links between children's rights and biodiversity, ecosystems or access to nature;
  - promote the integration of information related to environmental and social determinants of children's health and development throughout time, while ensuring data protection.

#### Impact assessments

- States should take explicit account of children's rights in assessments of laws, policies, action plans (strategic environmental assessments) and projects (environmental impact assessments), which are likely to have an impact on the environment. This includes recognizing children as a stakeholder group, adequately considering their rights, risks and vulnerabilities and addressing actual and potential impacts.

#### Environmental education

- States have a duty to promote the development of respect for the natural environment as enshrined in Art.29(1)(e) of the CRC. To this end, States should elaborate specific policies that include the views and proposals of children with a view to promoting their rights and educating young citizens. Teachers' training programs should adequately reflect the implications of rights-based environmental education.
- States should work on meaningful implementation of Art. 29(1)(e) of the CRC at every education level from early on. In this respect, States should consider non-formal educational tools such as outdoor activities and field trips, and where relevant, include traditional knowledge. Curriculums should be frequently updated to be responsive to rapidly changing environments. States are encouraged to promote direct involvement of children in environmental protection as a crucial component of their learning process and an exercise in social practices that constitute civic participation.

- States should consider Art. 29(1)(e) of the CRC when implementing and reporting on SDG 4 (Target 7), SDG 13 (Target b) of the 2030 Agenda for Sustainable Development, Article 6 of the UNFCCC/Article 12 of the Paris Agreement (Action for Climate Empowerment) and educational measures under other MEAs (e.g. Aichi Biodiversity Target 1).
- States Parties should inform the Committee during their Periodic Reviews about what specific steps they take to give effect to Article 29(1)(e) of the CRC within their national education systems. In doing so States should specify how these measures raise children's awareness of their rights and responsibilities with regard to the environment, instil an environmental stewardship ethic, impart the skills children need to become environmental agents and promote equal opportunities for all students to become actively involved.

#### Freedom of expression and participation in environmental decision-making

- States should ensure that all children, including younger children, are given opportunities to participate in discussions on the impacts of environmental issues and should build children's meaningful participation into environmental policy-making at all levels.
- States should consider establishing specific child-friendly platforms for environmental participation and peer sharing and learning. For example, States should develop innovative mechanisms to allow children to be recognised as stakeholders with a right to be heard in decision making in the UNFCCC, CBD COPs etc., and to be involved in the design and delivery of projects related to climate change adaptation and mitigation, disaster risk reduction, or nature conservation.
- States should provide a safe and enabling environment for activists defending environmental rights, and owe a heightened duty of care to activists below the age of 18.

#### Access to justice in environmental matters

- States are encouraged to enshrine a justiciable right to a healthy environment and the principle of intergenerational equity in domestic law.
- States should ensure that children have access to justice and an effective remedy for violations due to environmental harm, including remediation of contaminated sites, preventative and precautionary measures, access to necessary medical and psychological care, and adequate compensation. In this context, States should rebalance the burden of proof and rules of evidence to remove barriers to bringing complaints of environmental harm involving children.
- States should establish collective and public interest action mechanisms, including for environmental cases, that can provide remedies to all children affected by large scale

environmental damage but do not require all affected children to be directly involved in proceedings.

- States should ensure NGOs and children have standing to file and intervene in legal proceedings in the interests of children affected by violations of their environmental rights and on behalf of future generations.
- States should support specialised and responsive justice sector professionals, civil society groups and legal mechanisms to provide legal representation to safeguard the rights and interests of children in relation to the environment. States should consider establishing environmental courts to facilitate better access to justice.
- States should enable access to effective judicial and nonjudicial mechanisms to provide remedies for children and their families whose rights have been violated by environmental impacts abroad, including private enterprises extraterritorially when there is a reasonable link between the State and the conduct concerned.
- States should mandate national human rights institutions and/or ombudspersons for children to receive complaints on environmental issues that interfere with children's rights.

#### International organizations

- International organizations working on environmental matters should mainstream children's rights in their policies and technical assistance throughout the UN system, including at UNEP, ILO, WHO, UNFCCC, HLPF and UNDP, and enhance cooperation and coordination among relevant actors.
- UNICEF is encouraged to build on its efforts to mainstream environmental considerations into its own programmes and activities, to assist States at the national, regional and international level to form appropriate policies that mainstream a child rights perspective into their environmental programmes and activities, to support and highlight good practices, and to submit information regarding the child rights impacts of environmental harm in its national reports to the Committee.

#### Committee on the Rights of the Child

- The Committee should provide robust guidance to State Parties to define the elements of a child-rights-based approach to environmental issues, and consider developing a General Comment on the relationship between children's rights and the environment. In doing so, the Committee should inter alia
  - Articulate the right of the child to a healthy and sustainable environment as implied in the Convention on the Rights of the Child, and recognize the importance of children's ability to connect with nature;
  - Clarify the extent of States' obligations relating to climate change and children's rights, including with regard to mitigation, adaptation, and the rights of children displaced as a result of climate change, taking into account the explicit reference to children's rights and intergenerational equity in the Paris Climate Agreement.

- Provide more specific guidance to States Parties on how to implement Art. 29(1)(e) of the CRC on the development of respect for the natural environment as an aim of education and entitlement;
- Clarify the relationship between children's rights and the protection of ecosystems, biodiversity and management of and access to natural resources, and States' child rights obligations pertaining to policies on these matters;
- Provide clear guidance on how to ensure prevention and monitoring of childhood exposure to toxics and pollution as well as diagnosis and treatment, effective regulation of the business sector, including in the full supply chain, and accountability for past violations;
- Explain how children should be able to exercise their rights of information, participation, and remedy to protect against environmental harm.
- The Committee should consider initiating a study on the impacts of toxics and pollution on the rights of the child, recognizing States' obligation to prevent exposure to such hazardous substances and wastes, and building on its general comment No. 16.
- The Committee should examine the role of impact assessments as a tool to strengthen children's rights in the context of the environment and share good practices in this respect.
- The Committee should systematically call for governments to implement child-focused environmental protection measures during dialogues with States Parties, and include a specific section on children's rights and the environment in the Concluding Observations.
- The Committee should recommend to States Parties that research is undertaken into the daily lives of children and their caregivers and the impact of housing and neighbourhood conditions in order to understand how they use local environments, with consideration to Article 31 of the CRC.
- The Committee should share with States Parties more good practices on how to integrate children's rights in law, policy and action related to the environment. For example, the Committee should share lessons learned on best practices in realising Article 12 of the CRC in context of environmental protection.
- The Committee should consistently link Concluding Observations on environmental issues to the SDGs and States' commitments under the UNFCCC, the Minamata Convention and other international agreements for chemicals and wastes, the Sendai Framework for Disaster Risk Reduction 2015–2030, and the Convention on Biodiversity, in order to anchor these frameworks in States' CRC obligations and reporting. The Committee should strengthen the coherence between the CRC and these global frameworks to raise States' awareness and capacity to monitor, act and report on the impacts and measures required to fulfil children's rights in the context of environmental protection, as well as on progress made.
- The Committee should supervise relevant legal decisions related to children's rights and the environment. Furthermore, the Committee should encourage investigations by human rights bodies and mandate holders, such as UN human rights mechanisms, special procedures of the Human Rights Council and NHRIs, into children's rights

violations in the context of environmental harm. The Committee should also promote the use of available international complaint mechanisms to ensure child victims of environmental harm have access to effective remedies.

- The Committee should reach out to the UNEP, UNFCCC, UNDP and WHO amongst others, and offer its assistance to ensure better integration of children's rights and the environment, and seek their input on environmental concerns in its own actions. The Committee should provide input to debates and negotiations on environmental and sustainable development issues at the international level, including through written submissions to relevant bodies and technical briefings for the countries participating in these processes.
- The Committee should raise public awareness of the relationship between children's rights and the environment, including by addressing the impacts of large-scale disasters and the responsibility of the business sector.

### Civil Society Organizations

- Civil society, including NGOs, researchers and academic institutions, should gather and disseminate evidence to promote a better understanding and protection of children's rights in the environmental context, including compelling case studies, and raise public awareness about children's environmental rights. Furthermore, CSOs are encouraged to assist in collecting information regarding gaps in legal and policy frameworks, as well as examples of best practice regarding child rights and the environment.
- Civil society should submit more information to the Committee and other human rights mechanisms regarding the child rights impacts of environmental harm, and include children's views on these matters.
- Civil society should increase collaboration to strengthen recognition of the children's rights dimension of environmental issues within the human rights, environmental, public health, urban planning, business and other relevant communities. Good examples of cooperation between relevant actors working on children's rights and the environment should be shared to inspire learning processes.
- Children's rights organisations are encouraged to integrate environmental issues in their policies, programmes and activities, including participation in negotiations on future environmental agreements, laws and policies. Environmental organisations should take adequate account of children's rights in their work.

## 7. Conclusion

The Committee appreciates the valuable inputs provided by all participants of its 2016 Day of General Discussion, whether by taking part in the discussions during the meeting or providing written submissions for the DGD. The Day was a real success in terms of bringing the often separate discourses on children's rights and the environment together. The Committee was delighted to hear about all the inspiring and promising initiatives already undertaken with a

view to strengthening children's rights in the face of current environmental crises, including by children themselves. The Committee was impressed by the knowledge, commitment and passion of the children present. Children, who are the future generation, are already here today, and their rights ought to be looked after today.

In its future work on the topic, the Committee will strive to heed the spirit of the 2016 DGD. It will consider adequate steps to provide more robust guidance on children's rights in the environmental context, including in due course the drafting of a General Comment. At the same time, the Committee wishes to emphasize that the international law on children's rights sets out fairly clear obligations requiring States and other relevant actors, including the business sector, to take steps to protect children from environmental harm, including through preventive and precautionary measures. When governments fail to protect children from environmental risk factors, this constitutes a violation of children's rights.

The success of the DGD will have to prove itself on the ground by how it influences the lived reality of children to the better. The debates among experts are important, but what happens "outside the room" matters most. For this purpose, it is critical to build momentum and partnerships. The DGD was the beginning of a conversation and the Committee hopes that all stakeholders will stay connected and join efforts to form a global movement for children's rights and the environment.

## **ANNEX- List of DGD speakers**

The day began in full plenary. Benyam Dawit Mezmur, Chair of the Committee on the Rights of the Child provided the opening remarks. Introductory statements were delivered by experts and representatives from supporting organizations:

- *Dr. Maria Neira, Director of the Department of Public Health, Environmental and Social Determinants of Health at the World Health Organization;*
- *H.E. Cecilia Rebong, Ambassador and Permanent Representative of the Philippines to the United Nations Office at Geneva;*
- *Ms. Ritu, Caleb Mulenga and Gina Maria Parra Chiquillo as child representatives;*
- *Ignacio Packer, Secretary-General of Terre des Hommes International Federation;*
- *John Knox, United Nations Special Rapporteur on Human Rights and the Environment.*

Following the opening plenary, the 2016 DGD discussions proceeded along two main lines in corresponding Working Groups. The first Working Group examined the role of children's rights in addressing the impact of environmental exposure. Speakers included:

- *Mr. Baskut Tuncak, UN Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes*
- *Dr. Lilian Corra, International Society of Doctors for the Environment*
- *Ms. Juliane Kippenberg, Human Rights Watch*
- *Ms Ritu, Child Representative, and Ms. Sharmila Bhagat, Ankur Society for Alternatives in Education*
- *Mr. Nicolas Rees, UNICEF*
- *Mr. Caleb Mulenga, Child Representative, and Mr Namu Chuma, Environment Africa*

- *Dr. Daniel Limpitlaw, Mining Consultant*

The second Working Group examined the role of children's rights in addressing climate change (morning) and the degradation of the environment through depletion of resources, the destruction of ecosystems, and loss of biodiversity (afternoon). Speakers included:

- *Ms. Joni Pegram, UNICEF UK*
- *Ms. Brianna Fruean, Climate Youth Activist*
- *Ms. Rekha Dhillon-Richardson, Climate Youth Activist and Ms. Kelly Matheson, Our Children's Trust*
- *Ms. Priscila Bribiesca-Rodriguez, Earth Defenders*
- *Mr. Tom Weerachat, Mekong Youth Assembly*
- *Ms. Gina Marcela Parra Chiquillo, Child Representative, and Ms. Maria Andrea Gomez Gomez, Pensamiento Y Acción Social*

In the closing session, the two Working Groups' conclusions were presented to the plenary by Committee on the Rights of the Child Members Olga Khazova, Gehad Madi and Clarence Nelson. Kirsten Sandberg, Vice-Chair of the Committee on the Rights of the Child and Chair of the Committee's Working Group on Children's Rights and the Environment, delivered concluding remarks.