

**Comments on the draft General Comment No. 26 of the Committee on the Rights of the Child on children’s rights and the environment with a special focus on climate change**

1. The Anima Mundi Law Initiative welcomes the timely nature of specific guidance on the relationship between children’s rights and the environment, and thanks the Committee on the Rights of the Child for the opportunity to comment on its draft General Comment No. 26.
2. As set out in more detail below, the suggestions and explanatory comments in this submission focus on:

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| **A.** | **Harmony with Nature**Suggestions to provide guidance for States parties and others which emphasises the urgent need to, in parallel, address the adverse effects of environmental harm on children and to take measures to transform the root causes of decision-making practices and actions that lead to such harms.  | 2 |
| **B.** | **Disaster risk reduction** Suggestions to amend references to disaster risk reduction, in order to provide States parties and others with a clearer understanding of the multidimensional definition of disasters (i.e. arising as hazardous events interacting with conditions of exposure, vulnerability and capacity) and the relevance of taking a child rights-based approach to disaster risk reduction as a way to prevent or reduce the likelihood of hazardous events becoming disasters. | 5 |
| **C.** | **Traditional, indigenous and local knowledge and practices**Suggestion to affirm traditional, indigenous and local knowledge and practices as a significant and complementary component of “the best available science” in relation to the environment. | 7 |

**A. Harmony with Nature**

**Specific paragraph suggestions**

1. We suggest amendments to the following paragraphs, as indicated (footnotes omitted):

10. The Committee is mindful of the relevance to its interpretation efforts of … and (d) existing and evolving norms, principles, standards and obligations under international environmental law, such as the United Nations Framework Convention on Climate Change and the Paris Agreement **on climate change, the Convention on Biological Diversity and the Kunming-Montreal global biodiversity framework, the Agenda 2030 for Sustainable Development, as well as other international and regional agreements related to the atmosphere, freshwater and marine ecosystems, land-based ecosystems, hazardous substances and nuclear safety, among other topics**.

11. In the present general comment, the Committee aims to:

1. Emphasize the urgent need to**, in parallel,** address the adverse effects of environmental harm and climate change on children**, adopt a child rights-based approach to just transition measures, and take measures towards transformative approaches to ensure full realisation of children’s rights in harmony with nature.**

12. The sustainable development articulated in various international agreements as the concept premised on three interlinked ~~pillars~~**dimensions** of economic development, social development and environmental protection is inextricably linked to the realization of children’s rights **in harmony with nature**. These three ~~pillars~~**dimensions** are understood as harmonizing the priorities of both developing and developed countries and implying both an intragenerational and intergenerational equity to meet the needs of present and future generations.

13. The Committee recognizes the principle of intergenerational equity and the interests of future generations … Securing the realization of the right of each child to development to the maximum extent in the optimal environment necessarily requires States to implement their obligations under the Convention, taking into consideration short-, medium- and long-term effects of actions related to the development of the child over time **as well as the inextricable interconnections between humans and the rest of the living world**. Such effects include the foreseeable environment-related threats arising as a result of acts or omissions of States now, the full implications of which may not manifest for years or even decades.

69. … The application of novel forms of remedy is encouraged **in which children are active participants**, such as orders to establish intergenerational committees to determine and oversee the expeditious implementation of measures to mitigate and adapt to the impacts of climate change, **or to establish guardianship mechanisms** **to facilitate participatory, forward-looking approaches that encompass both human and ecological perspectives and encourage whole ecosystem regeneration and flourishing**~~in which children are active participants~~.

**Rationale**

1. The focus in the draft General Comment on the extent and magnitude of environmental harm as an urgent and systemic threat to children’s rights is welcomed, as is the focus on the climate crisis. It is important that close attention be paid to all causes of environmental harm,[[1]](#footnote-1) and that explicit reference is made to other international environmental agreements and the breadth of topics relevant to a full consideration of children’s rights and the environment [see suggestion to paragraph 10].
2. Further, it is becoming increasingly clear that full realisation of the human right to a healthy environment, among other human rights, requires – somewhat paradoxically – consideration of more than the human experience in order to address the root causes of current practices of unsustainable extraction, use and waste of the living world, and environmental degradation. In this regard, the concept of “harmony with nature” reflects the worldview held by many indigenous and other communities around the world (based on thousands of years of close observation of, and relationship with, the living world) that acknowledges that humans are only one of many Earth communities which are all inextricably interconnected with each other, and that the well-being of each of these depends on and influences the well-being of the whole.
3. The suggested additional wording [paragraph 12] reiterates wording used explicitly in the 2030 Agenda for Sustainable Development (2030 Agenda).[[2]](#footnote-2) Rather than reference to “three interlinked pillars”, which is not actually a term used in the 2030 Agenda itself, we suggest that it may be more helpful in light of our evolving understanding of the world to refer to “dimensions”[[3]](#footnote-3) and to emphasise sustainable development as an embedded process, i.e. economies are embedded in societies, which in turn are embedded in ecological contexts. This framing is reflected in the 2030 Agenda acknowledgment that “[w]e recognize that social and economic development depends on the sustainable management of our planet’s natural resources.”[[4]](#footnote-4) In the context of escalating global ecological crises, it is essential to highlight that – whilst it is open to States to follow diverse paths in relation to economic and social development – it is not possible to alter the inherent laws of the planet and planetary boundaries, and human laws or policies cannot ignore this reality.
4. As well as being referenced in the 2030 Agenda, the “harmony with nature” concept is grounded and reiterated in the following sources, among others:
5. UN Harmony with Nature program:[[5]](#footnote-5) in 2009, the UN General Assembly adopted its first resolution on Harmony with Nature and since that time has hosted annual interdisciplinary dialogues, issued further resolutions, and collected and shared international and comparative material to advance harmony with nature as an essential guiding principle.
6. Rights of Nature/Earth jurisprudence: In the legal sphere, rivers, mountains, forests and other ecological entities are increasingly being recognised as rights-bearers or legal persons in different jurisdictions around the world.[[6]](#footnote-6) These developments offer a contrast to the anthropocentric framing of these entities as mere resources or objects to be owned, extracted or exploited by humans. Whilst relatively novel to the dominant legal systems, this is an escalating global movement which acknowledges a diversity of worldviews and offers compelling examples of new laws, policies and practices which have relevance for, and can support, the full realisation of children’s rights. These include participatory, forward-looking guardianship and other mechanisms which: identify, and provide space for, a broader diversity of perspectives in environmental decision-making; reveal different forms of knowledge by connecting analytical processes with practical nature connection experiences; and support nuanced discussions of intergenerational equity and future generations through consideration of the different ‘lifespans’ of humans and ecological entities and what mutual flourishing requires.[[7]](#footnote-7)
7. Western science is also contributing to a shared understanding of the inherent interconnections between humans and the rest of the living world, across multiple disciplines including but not limited to physics, biology, ecology, linguistics and psychology,[[8]](#footnote-8) and as reflected through the World Health Organization’s ‘One Health’ framework.[[9]](#footnote-9)
8. An explicit acknowledgment of the interconnectedness between humans and the rest of the living world is complementary to the call to protect children from the adverse effects of environmental harm, and will be a fundamental step in: directing the education of children to “the development of respect for the natural environment” [article 29(1)(e) of the Convention]; the evolution of international human rights law and the environment; a dynamic interpretation of the Convention; and developing a holistic understanding of what will be required in practice for the realisation of the human right to a clean, health and sustainable environment in the coming years and decades.

**B. Disaster risk reduction**

**Specific paragraph suggestions**

1. We suggest a new paragraph under ‘II. Key Concepts’, as follows:

**E. Disaster risk reduction**

**[15bis] The Committee highlights that disaster risk reduction must be based on an understanding of disaster risk as arising from hazardous events interacting with conditions of exposure, vulnerability and capacity. While hazardous events cannot be fully avoided, disasters can be averted or reduced in impact by, among other measures, taking a child rights-based approach to minimise exposure, reduce vulnerabilities, and strengthen capacities for resilience. States should adopt coherent approaches, measures and investment across the disaster risk reduction, climate change, biodiversity, sustainable development and related frameworks, by highlighting the human rights framework as a common set of standards to connect and inform relevant political commitments, shared analysis and collective action in these areas.**

1. We suggest amendments to the following paragraphs, as indicated:

48. States should introduce legislation, regulations and guidelines, together with the necessary budgetary allocation and effective monitoring and enforcement mechanisms, to ensure that third parties comply with article 31 of the Convention, including by establishing safety standards for all toys, play and recreational facilities, particularly concerning toxic substances, in urban and rural development projects. In situations of ~~climate-related disasters~~ **disruptions and displacement due to sudden or slow-onset adverse effects of climate change**, active measures should be taken …

75. States should ensure a clean, healthy and sustainable environment in order to respect, protect and fulfil children’s rights ... States parties are also under the obligation to prevent and mitigate the impacts of environment**al hazards**~~-related disasters~~ which might be life-threatening to children, ~~even where they are beyond human control,~~ for example by establishing early warning systems **and adopting a child rights-based approach to disaster risk reduction measures that seeks, as relevant to local contexts, to minimise exposure, reduce vulnerabilities, and strengthen capacities for resilience before hazardous events occur**. As for the obligation to fulfil, States should take effective steps to facilitate, promote and provide for the enjoyment of children’s rights related to the environment, for example by investing in infrastructure to ensure the availability of safe and sufficient water for all.

86. Information should be disseminated in a way appropriate to the age and capacities of children, overcoming obstacles such as illiteracy, disability, language, distance and limited access to information technology. States should encourage the mass media to disseminate information and materials regarding the environment, for example, measures that children and their families can take to manage risks in the context of **sudden or slow-onset adverse effects of** climate **change**~~-related disasters~~.

**Rationale**

1. Under the Sendai Framework on Disaster Risk Reduction 2015-2030 (Sendai Framework), “disaster” is defined in multidimensional terms as:[[10]](#footnote-10)

A serious disruption of the functioning of the community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts.

1. These dimensions of “disaster” are defined as follows:[[11]](#footnote-11)

**Hazard:** A process, phenomenon or human activity that may cause loss of life, injury or other health impacts, property damage, social and economic disruption or environmental degradation.

**Exposure:** The situation of people, infrastructure, housing, production capacities and other tangible human assets located in hazard-prone areas.

**Vulnerability:** The conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards

**Capacity:** The combination of all the strengths, attributes and resources available within an organization, community or society to manage and reduce disaster risks and strengthen resilience.

1. This framing highlights the fact that actions taken by States and other stakeholders can influence how people experience disasters, by modifying one or more of the dimensions of “exposure”, “vulnerability” and “capacity”, and even “hazard” where the latter is caused or exacerbated by human activity. That is, while hazardous events cannot be fully avoided, disasters can be averted or reduced in impact by minimising exposure, reducing vulnerabilities, and strengthening capacities for resilience. A child rights-based approach to the prevention of disasters, including but not limited to disaster risk related to sudden or slow-onset adverse effects of climate change, provides States parties with a framework to influence these dimensions and therefore address risks, as based on their obligations under the Convention.
2. In May 2023, States parties will conclude a mid-term review of the global implementation of the Sendai Framework. As part of this process, UNDRR and OHCHR, among others, have been preparing reports to assess progress to date and provide additional guidance for States parties and other stakeholders on implementation going forward, including a report focused on a human rights-based approach to disaster risk reduction.[[12]](#footnote-12) We encourage the Committee to review this report as it finalises the draft General Comment and to consider the suggested paragraph amendments and all references to “disaster” in close consultation with UNDRR to ensure coherent use of relevant terms.

**C. Traditional, indigenous and local knowledge and practices**

**Specific paragraph suggestions**

1. We suggest amendments to the following paragraphs, as indicated (footnotes omitted):

14. The present general comment draws on the best available and accepted science to describe the ways in which climate-related and other environmental harm interferes with children’s rights, to set out environmental protectionstandards required by international children’s rights law, and to assess the adequacy of response measures. As scientific knowledge about the environment evolves, the precautionary principle is required for the most advanced risk management. **States should ensure the use of traditional, indigenous and local knowledge and practices, as appropriate and as tailored to localities and contexts, to complement other forms of scientific knowledge.**

**Rationale**

1. Traditional, indigenous and local knowledge and practices must be recognised as a significant component of a comprehensive science-based approach to the relationship between children’s rights and the environment. Taking such knowledge and practices into account facilitates a diversity of perspectives in environmental contexts, acknowledges local capacities and integrates these into environmental protection and guardianship measures, and encourages locally relevant and durable solutions.[[13]](#footnote-13)
2. Similar emphasis and acknowledgement is already included in other international agreements related to human rights and the environment. For example, the Sendai Framework provides that in seeking to achieve an understanding of disaster risk, it is important (among other measures):[[14]](#footnote-14)

To ensure the use of traditional, indigenous and local knowledge and practices, as appropriate, to complement scientific knowledge in disaster risk assessment and the development and implementation of policies, strategies, plans and programmes of specific sectors, with a cross-sectoral approach, which should be tailored to localities and to the context;

1. Similarly, the Kunming-Montreal global biodiversity framework highlights the contribution and rights of indigenous peoples and local communities as follows:[[15]](#footnote-15)

The framework acknowledges the important roles and contributions of indigenous peoples and local communities as custodians of biodiversity and partners in the conservation, restoration and sustainable use. Its implementation must ensure their rights, knowledge, including traditional knowledge associated with biodiversity, innovations, worldviews, values and practices of indigenous peoples and local communities are respected, documented, preserved with their free, prior and informed consent, including through their full and effective participation in decision-making, in accordance with relevant national legislation, international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples, and human rights law. In this regard, nothing in this framework may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future.

**About the Anima Mundi Law Initiative**

The Anima Mundi Law Initiative is a space for collective exploration of ‘a new legal story for an ecological age’. It holds a vision for legal frameworks grounded in the recognition of interconnection between all planetary life, creates practical materials to support the weaving together of human rights and ecology, and takes strategic action to transform the purpose, content and practice of law to better support people and planet. For more information, see [www.animamundilaw.org](http://www.animamundilaw.org).

1. See, for example: [Christopher Ketcham](https://theintercept.com/staff/christopher-ketcham/), ‘Addressing Climate Change Will Not “Save the Planet”’ (3 December 2022) *The Intercept*, available at: <https://theintercept.com/2022/12/03/climate-biodiversity-green-energy/>; and Tim Caro et al, ‘An inconvenient misconception: Climate change is not the principal driver of biodiversity loss’ (2022) *Conservation Letters* 15, available at: <https://conbio.onlinelibrary.wiley.com/doi/pdf/10.1111/conl.12868>. [↑](#footnote-ref-1)
2. Agenda 2030, Preamble, para. 9 and Goal 12. [↑](#footnote-ref-2)
3. Agenda 2030, paras. 2 and 5. [↑](#footnote-ref-3)
4. Agenda 2030, para. 33. See also para. 59. [↑](#footnote-ref-4)
5. See <http://www.harmonywithnatureun.org/>. [↑](#footnote-ref-5)
6. For a global mapping and detailed case studies on key rights of nature legal developments, see <https://www.animamundilaw.org/rights-of-nature-in-practice>, and for a comprehensive global mapping on laws that transcend anthropocentrism, see the Eco Jurisprudence Monitor, available at: <https://ecojurisprudence.org/>. [↑](#footnote-ref-6)
7. See, for example, guardianship mechanisms arising through new legislation in New Zealand (<https://tinyurl.com/3a8z6vvy>) and through litigation in Colombia (<https://tinyurl.com/54dxwvvy>). [↑](#footnote-ref-7)
8. See, for example, <https://research.reading.ac.uk/social-and-applied-ecology/the-self-delusion/>; and <https://www.nobelprize.org/prizes/physics/2022/press-release/>. [↑](#footnote-ref-8)
9. See <https://www.who.int/news-room/questions-and-answers/item/one-health>.   [↑](#footnote-ref-9)
10. See <https://www.preventionweb.net/understanding-disaster-risk/terminology>. [↑](#footnote-ref-10)
11. Ibid. [↑](#footnote-ref-11)
12. This report is expected to be posted on the UNDRR mid-term review webpage (<https://sendaiframework-mtr.undrr.org/>) in March or April 2023. For transparency, the author of this submission was also the consultant author for this report and can provide a draft version or further explanation as helpful to the Committee. [↑](#footnote-ref-12)
13. See, for example, UNDRR, *Words into Action guidelines: Using traditional and indigenous knowledges for disaster risk reduction* (2022), available at: <https://www.undrr.org/publication/words-action-guidelines-using-traditional-and-indigenous-knowledges-disaster-risk>, pp.20-21; and UNESCO's Local and Indigenous Knowledge Systems programme (LINKS) (which promotes local and indigenous knowledge and its inclusion in global climate science and policy processes), available at: <https://en.unesco.org/links>. [↑](#footnote-ref-13)
14. Sendai Framework, para. 24(i). See also para. 36(a)(v). [↑](#footnote-ref-14)
15. Kunming-Montreal global biodiversity framework, para. 8 (footnotes omitted). See also Target 21. [↑](#footnote-ref-15)