

**15 February 2023**

**To:** **Committee on the Rights of the Child**

**ohchr-crc@un.org**

**From:** **Equal Education Law Centre**

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**Submission by Equal Education Law Centre**

**Committee on the Rights of the Child**

**Draft General** **Comment on Children’s Rights and the Environment with a Special Focus on Climate Change**

**No 26 (202x)**

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**Introduction**

Climate change is one of the most pressing and serious global concerns of our time. It is of significantly more concern to children and their rights as opposed to adults, as it disproportionately affects and alters the course of their lives. As a result, Equal Education Law Centre welcomes the Draft General Comment on Children’s Rights and the Environment with a Special Focus on Climate Change (Draft General Comment) as necessary and timely.

Equal Education Law Centre has noted and appreciates the broad inclusivity in the way the Draft General Comment was drafted, for instance through consideration of the specific ways in which climate change affects certain groups of children such as children living in poverty, refugee and migrant children, children with disabilities and children living in rural communities, all of whom form part of Equal Education Law Centre’s client-base. In addition to the above, we also note and appreciate the Draft Comment’s acknowledgement of the multiple and intersecting forms of discrimination such as those experienced by some groups of children, for instance, girl children, children with disabilities and the children of minority groups.

**Who we are**

This submission is made by the Equal Education Law Centre (EELC). Founded in 2012, the EELC is registered as a law clinic with the Cape Law Society and its staff of social justice lawyers specialise in education policy, legal advocacy, community lawyering and public interest litigation.

The EELC engages in strategic litigation regarding major issues surrounding long-term educational reform, as well as working on individual cases arising from the experiences of learners, parents and teachers. This includes issues relating to expulsions, disciplinary matters and access to school. The EELC provides legal services and representation free of charge to persons who would not otherwise be able to afford them. The legal processes pursued by the EELC seek to create systemic change in the education sector.

The EELC also engages in non-legal processes to advocate for legal and policy development in the education sector, including submissions to relevant government institutions, conducting legal and policy research related to our objectives and where possible, assisting communities, community-based organisations and other institutions in formulating their own policy and legal perspectives.

In working to ensure that all children in South Africa are able to realise their right to an equitable and adequate basic education, the EELC also focuses its efforts on improving accountability mechanisms in existence throughout the public education system.

Its overriding goal is to ensure the realisation of every child’s right to an equitable, safe and adequate basic education by employing the law and the Constitution.

As EELC is a registered law clinic that focuses on the right to education, this submission will be tailored to commenting on access to justice and the impact of climate change on the right to education. We make specific comments on certain paragraphs, as well as general comments, which are contained last.

**Context**

It is common cause that Southern Africa is particularly vulnerable to climate change, with the number of extreme weather events in these parts increasing at a rapid rate and in South Africa in particular the EELC notes how these have had a dire impact on children and education provisioning.

South Africa is currently experiencing severe flooding and high temperatures, both of which impact the ability to access and provide education, and a suitable environment for children to learn. As a result of flooding, schools, particularly in rural parts of South Africa, are either being totally destroyed or vital school infrastructure is being damaged. The cost of rebuilding or repairing couples with the systemic failures in the supply and construction of schools, result in learners being out of school for long periods of time. Alternatively, they return to be taught ‘under trees’, in overcrowded neighbouring schools or in inadequate temporary classrooms. In addition to this, roads are being washed away preventing children and teachers from getting to schools and making the walk to school for many learners particularly hazardous and in some instances life threatening.

Aside from environmental disasters such as flooding, uncharacteristically high temperatures are also having a negative impact on the ability of children to concentrate and participate in learning. Extreme temperatures are also negatively impacting the ability of schools to grow food, which has a knock-on effect on the quality and variety of food available to feed the children attending these schools. High temperatures are also exacerbating drought conditions, already a problem for South Africa. Droughts result in reduced access to safe and sufficient water for children, increased dehydration, poor sanitation and devastation for school food gardens.

Children living in urban townships - some of South Africa’s poorest, under resourced and most overcrowded communities – lack access to adequate play facilities, sporting or recreational areas. Litter, pollution and inadequate sanitation impacts not only their physical development but also their mental and emotional wellbeing.

In South Africa, as is the case throughout the globe, our young people are not responsible for creating the problems that we are facing as a direct result of climate change, but all of them will be impacted by it. Despite this, in South Africa, children’s voices are starkly absent from dialogue on climate change and climate change interventions.

**Our submission**

Paragraph 33

Paragraph 33 concerns the Convention’s requirement that the education of a child should be directed to the development of respect for the natural environment (Article 29(1)(e)) and ensuring that every child has the right to receive an education which reflects environmental values (Article 28). In this respect the Draft General Comment provides some detail on what school curricula ought to contain. It states “School curricula should be tailored to children’s specific environmental, social, economic, and cultural contexts and promote understanding of the contexts of other children affected by environmental impacts”. It is important to ensure that school curricula are tailored to children’s own context. It may be implicit in this that school curricula should provide children with a broad and global understanding of climate change. EELC submits that this should be made clearer, as climate change cannot be fully understood without an understanding of the impact on the planet as a whole and the manner in which actions which have an impact on climate change affect the global population, including animals and biodiversity.

Paragraph 33 contains the following sentence: “Curricula should reflect changing environments and new environmental science”. This is somewhat unclear. The following revision is suggested: “Curricula should be updated to take into account changes in the environment and new environmental science”.

In addition to this, the importance of states’ **urgently** prioritizing climate change interventions needs to be made clearer. As such, the obligations on the state to ensure the timeous development of an environmentally conscious curriculum and monitor its implementation needs to be emphasized.

Paragraph 36

In South Africa, the historic lack of environmental considerations is now resulting in school infrastructure becoming particularly vulnerable to extreme weather events. Paragraph 36 discusses the obligation of States when building school infrastructure in light of climate change (for example hot or cold classrooms or the destruction of school buildings and ensuring that construction that takes place is environmentally-friendly and sustainable). In an effort to promote the importance of ensuring that existing infrastructure is environmentally compliant, the Committee should consider whether, in addition to the construction of new schools, States ought to review existing buildings for climate-change related safety, as well as ensuring that any new construction undertaken on existing buildings is environmentally-friendly and sustainable.

The sentence “Environmentally-friendly school facilities, such as lighting and heating sourced from rooftop photovoltaic systems, can benefit children and ensure compliance by States with their environmental obligations” could be strengthened through the use of the word “encouraged”. A revision could look like “States are encouraged to use environmentally-friendly school facilities, such as lighting and heating sourced from rooftop photovoltaic systems as they benefit children and ensure compliance by States with their environmental obligations”.

Paragraph 37

This paragraph urges States to ensure physical access to schools during severe weather events or to consider alternative teaching methods. The exact text is as follows: “States should ensure physical access to schools during severe weather events, especially for children in remote or rural communities, or consider alternative teaching methods, such as mobile educational facilities and distance learning, and prioritize underserved communities for climate-proofing and renovation of schools”.

First, the text should include the words “and after” so that the text reads as follows: “States should ensure physical access to schools during and after severe weather events, especially for children in remote or rural communities, or consider alternative teaching methods, such as mobile educational facilities and distance learning, and prioritize underserved communities for climate-proofing and renovation of schools”.

Second, the text should also explicitly state that physical attendance is preferred. Lessons learned from the pandemic in South Africa supports the conclusion that physical attendance is critical to effective teaching and learning. This is especially so in respect of the foundation phase of learning.[[1]](#footnote-2) A lack of physical attendance, especially for prolonged periods of time, also deepens the risk of learner drop-out for a number of reasons which marginalised groups of children are especially vulnerable to. However, it may not always be possible and safe to insist on physical attendance. The Draft General Comment should specify this in the text, with the caveat that only where it has been deemed unsafe to physically attend school, that States should consider alternative teaching methods. In the event that mobile classrooms are the chosen alternative, the text should add that they should be environmentally-friendly and as physically safe as is the case of permanent school infrastructure. The text should additionally include reference to the importance of concrete plans being formulated by the state and communicated to effected communities about the use of mobile classrooms, for how long these will be utilized, and steps the state are taking to return to permanent school infrastructure.

Third and last, States must be encouraged to ensure that full-time physical attendance is returned to as fast as possible after a severe weather event related to climate change for the reasons listed above, including that when children are not physically in school for protracted periods of time, and sometimes even for short periods of time, the risk of learner drop-out increases, particularly for certain marginalized groups like girl children, learners who are parents, learners with disabilities and children living in or heading child-headed households.

Paragraph 38

The paragraph currently reads “States should also address the knock-on effects resulting from environmental impacts on children, such as the need for girls to leave school due to the additional domestic and economic burdens in households facing environment-related shocks and stress”. It should be revised to ensure that States do not only address, but also plan for the knock-on effects resulting from climate change. This places an obligation not only to address the impacts as they happen but to plan for them in mitigation. This could include putting measures in place to ensure that girl-children do not need to leave school due to additional domestic and economic burdens resulting from environmental-related shocks and stress. Lastly, listing more knock-on effects resulting from environmental impacts will encourage States to take broader responsibility and provide a sharper tool for civil society to hold States accountable. As an example this could include the removal from school due to parents being unable to pay fees due to loss of income, mental health challenges resulting from severe weather events, loss of access to nutrition and water both inside and outside the school environment (as climate change and hunger/drought are inter-related) and the identification and provision of support for these effects.

General comments

*Climate migration and admission*

The Draft General Comment should include content on climate migration and the effect that this has on schooling, in particular, ensuring ease of access/admission to school in the context of climate migration. This includes ensuring that States plan in advance through the use of data so that schools are capacitated for climate migration as well as ensuring that admission laws and practices are reviewed to ensure ease of access/admission for children into schools which will minimize learning losses resulting from being out of school.

*Climate anxiety*

Recent studies have demonstrated that children experience severe to moderate climate anxiety with serious effects on their daily life and functioning.[[2]](#footnote-3) This ought to be addressed in the Draft General Comment, by placing an obligation on States to ensure that schools can provide psycho social support to children who experience this form of anxiety (and bearing in mind that this is compounded by other forms of anxiety, including anxieties unique to the global south such as anxiety related to crime, poverty and hunger).

*Budgetary allocation, data-gathering, legislation*

States should be encouraged to budget for the effects of climate change on education, to gather data in respect of climate change and education (at least in respect of who is affected and how) to use early-warning systems to plan for climate-related effects on education, to consistently monitor climate change in relation to its effect on education (in addition to other rights) and to put in place enforcement mechanisms to hold States accountable.

1. <https://zerodropout.co.za/wp-content/uploads/2021/02/ZERO-DROPOUT-PUBLICATION-2020-final-DIGITAL.pdf> page 22 [↑](#footnote-ref-2)
2. [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(21)00278-3/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196%2821%2900278-3/fulltext) [↑](#footnote-ref-3)