**Comments to Committee on the Rights of the Child on the draft general comment on children’s rights and the environment with a special focus on climate change**

**Submitted by Habitat International Coalition – Housing and Land Rights Network**

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The Housing and Land Rights Network (HLRN), the thematic structure of Habitat International Coalition (HIC) promoting the human rights dimensions of human habitat, appreciates the Committee on the Rights of the Child’s draft General Comment (GC) on children’s rights and the environment, with a special focus on climate change. It is a welcome complement to the declaratory recognition of a human right to a clean, healthy and sustainable environment,[[1]](#endnote-1) elaborating the normative content of that right, corresponding state obligations and potential violations arising from the Convention on the Rights of the Child (CRC) as an important and influential source of law for all states. The CRC’s over-arching state party obligations in this context remain to (1) to protect the child from harm arising from environmental hazards and disasters, including those related to climate change, and (2) serve the best interests of the child in that context.

HIC-HLRN joins other inputs, acknowledging states must do more to uphold the rights of children accordingly.

We find the draft GC fulfills its three principal aims.[[2]](#endnote-2) It also acknowledges the role of children as agents of environmental protection and in:

* Combatting climate change,
* Defining current and longer-term interests of the child in that context,
* Specifying environmental-hazard and climate-change effects on child rights, and
* Contributing normative content to the newly recognized right to environment and corresponding state obligations.

We look forward to the GC further emphasizing that the scope of state parties’ obligations requires ***all organs* of the state** respect the rights of the child; protect against violation by third parties, both internal and external to the state and its territory of effective control; and fulfill those rights by promoting, facilitating and assisting their realization through concrete steps and measures.

**Extraterritorial obligations**

Some states’ commentaries to the Committee have cautioned against the GC ascribing new obligations, in particular, extraterritorial obligations, referring to the ostensibly limiting reference to “jurisdiction.”[[3]](#endnote-3) However, CRC’s Preamble also refers to a source in law for child rights in article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which instrument has no territorial limitation. Moreover, in the spirit of international cooperation[[4]](#endnote-4) and the very nature of human rights and the environment and climate-action fields, **state obligations** addressed in the GC **are** **simultaneously individual, collective, domestic and extraterritorial**. Such binding, prior and permanent territorial and extraterritorial obligations under the CRC align with those arising from other human rights and environmental treaties, as well as the voluntary, non-binding and temporary commitments assumed by states under global policies.

Accordingly, the draft clarifies that states “should cooperate to ensure that business enterprises operating transnationally comply with applicable environmental standards aimed at protecting children’s rights from climate-related harm.”[[5]](#endnote-5) This is wholly consistent with the obligation to protect, requiring the state regulate territorial and extraterritorial business activities consistent with human rights protection and interests of the child.[[6]](#endnote-6) However, the reference to extraterritoriality[[7]](#endnote-7) may need to qualify the obligation to *fulfill* the rights of the child outside the state’s territorial jurisdiction as limited to certain circumstances.

**The best-available science**

Already 50 years ago, the international community recognized the imperative that:

man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind...[[8]](#endnote-8)

The purposeful first principle of the Stockholm Declaration recognizes also that man “bears a solemn responsibility to protect and improve the environment for present and future generations.”[[9]](#endnote-9)

**Sustainable development v. resilience**

The Convention enshrines the obligation to pursue the goal of the child’s social integration and individual mental, moral, social, cultural and spiritual development.[[10]](#endnote-10) The draft recognizes also the importance of pursuing sustainable development in the interest of the child.[[11]](#endnote-11) It recognizes the need for states to “foster not only the resilience, [but] progressively the sustainable development and continuous improvement of living conditions of children and their communities.”[[12]](#endnote-12)

This **distinction between** the contemporary usage of the term **“resilience” and sustainable development is crucial**, noting, as the draft does, the sustainable-development concept’s normative content with its three interlinked pillars.[[13]](#endnote-13)

However, “resilience” has various definitions applicable to specific contexts. Some cite the ability of a social or ecological system, or community exposed to hazards to timely and efficiently resist, absorb, accommodate, and recover from disturbances and other effects of a hazard,[[14]](#endnote-14) while retaining the same basic structure and functions, capacities for self-organization, adaptation to stress and change,[[15]](#endnote-15) and reorganization while undergoing change.[[16]](#endnote-16)

Borrowing the concept from social and natural sciences, an entity or system is resilient when it prepares for disruption, recovers from shocks and learns from disruptive experiences. Building resilience enables a subject to *prevent* shocks it can predict and *respond* to those it cannot.[[17]](#endnote-17) The components of resilience[[18]](#endnote-18) align also with the related concept of “anti-fragility.”[[19]](#endnote-19) In the context of human settlements, for example, resilience refers to the capability of a person, household or community to recuperate after a shock involving loss or damage of home or landed property, and/or displacement from a habitual residence.[[20]](#endnote-20) **The onus of such adaptations cannot be expected of a child**.

Moreover, **resilience provides for only a return to the *status quo ante***, regardless of the level of wellbeing prior to the shock. However, **sustainable development aligns with the “progressive realization” of human rights** **and** the state’s obligation to ensure **“continuous improvement of living conditions”** enshrined in ICESCR[[21]](#endnote-21) and cited in the draft.[[22]](#endnote-22)

**Urbanization and adaptation**

CRC provides that states parties “provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”[[23]](#endnote-23) Regarding new and future generations, children’s sustainable development requires the fulfillment of a bundle of her/his intertwined substantive and process human rights.

Housing itself significantly impacts environmental impact and contributes to climate change, through construction, urban sprawl, sealing soil, energy consumption, water use, pollution, deforestation, desertification and biodiversity loss. For current and future children’s sake, timely and effective transformation of the housing sector is urgently needed, including improved energy efficiency and electrification, sustainability through enforceable building standards and codes, green building, low-carbon construction methods and materials, more-equitable use of existing housing stock, and integrating climate adaptation and resilience into urban planning and development.

Consequently, international cooperation, including through financial support and investment, is necessary to achieve a green transition that upholds the rights of the child. In the housing field, current and future built-environment priorities require diligence in upholding child rights, especially in cases of displacement in the context of environmental hazards, disasters and climate change.

**Environment- and climate-related displacement**

Displaced populations now exceed 100 million. With over half due to conflict,[[24]](#endnote-24) and others resulting from persecution, human rights violations or public-order upheavals, increasing numbers are climate-change victims.[[25]](#endnote-25) In 2020, weather-related events displaced over 74% of the 40.5 million newly displaced persons, over three times those displaced by conflict.[[26]](#endnote-26) By 2050, climate change may displace another 86 million Africans, and 216 million globally.[[27]](#endnote-27)

Nearly half the world’s children (approximately 1 billion) live in countries at “extremely high risk” of climate-change impacts, auguring an intersectional housing and child’s rights crisis. Women and girls are at particular risk during climate events, being more likely to have insecure tenure and exposure to discrimination, and fearing harassment and violence in shelters.[[28]](#endnote-28)

Ethnic and ‘racial’ minorities, migrants, ‘lower-caste’ communities, refugees and internally displaced persons are often segregated and confined to climate-vulnerable land and housing. They risk being denied emergency shelter and missing out on housing services for fear of arrest, detention and deportation.[[29]](#endnote-29) Additionally, occupied populations face dual risks: (1) neglect or exclusion from mitigation and adaptation efforts, and (2) exploitation of their lands and natural resources for such projects carried out. Affected children experience multiple and transversal disadvantage and require special programs to ensure their protection, as well as respect, protection and fulfillment of their rights.

“The family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and, particularly, children should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.”[[30]](#endnote-30) Therefore, it is essential that states **ensure family unification throughout displacement and resettlement operations, including climate-change-related environmental and climate-change-related displacement and refugee processing**.

Contemporary crisis-intervention standards also recognize the indispensability of **policy coherence, aligning short-term emergency relief with longer-term and institutional-building development, within the overarching framework of preventive and remedial human rights obligations**.[[31]](#endnote-31)

**Climate finance**[[32]](#endnote-32)

Green-transition, especially large-scale projects, may generate misunderstandings, resistance and even conflicts. Involving all stakeholders in such projects would enable greater social acceptance of the transition’s outcomes. Organized civil society, children and youth have central roles to play, raising public awareness of energy issues, climate finance and inspiring citizen engagement during all phases of climate action and finance. To reinforce local communities’ participation, particularly to fulfill existing obligations, commitments and regulations, states and their constituent organs should **promote children’s roles as local climate-action drivers in the context of climate finance**.[[33]](#endnote-33)

Funding private actors to implement green-transition projects portends privatizing public goods and services. **All spheres of states’ successive governments should sufficiently regulate such enterprises**, ensuring they do not result in unduly user-fee increases, a decline in public utility quality, or deprive new and future generations of their civil, economic, political, social and cultural rights.

Most climate finance is currently via loans or non-grant instruments,[[34]](#endnote-34) plunging already-indebted countries deeper into debt. States should **ensure climate finance accompany suspension or cancellation of sovereign debt and economic sanctions, especially during and after climate events**. That underscores CRC obligations to “ground their commitments under the international climate change regime”[[35]](#endnote-35) while ensuring “maximum available financial, natural, human, technological, institutional and informational resources.”[[36]](#endnote-36)

**Loss and damage** (L&D)

In principle,[[37]](#endnote-37) the CoP27 decision to establish a fund to remedy climate-change associated L&D is welcome, promising progress toward realizing children’s rights in that context, especially in developing countries.[[38]](#endnote-38) That fund must be relevant to, and align with human-centered climate action. **Human rights-based (HRB) methodologies are still needed** to: (1) identify causal human factors of consequent costs, L&D, where possible; (2) support accountability for resulting human rights—particularly housing rights—violations; and (3) ensure remedies be sufficient, properly targeted, transparent and sustainable.[[39]](#endnote-39)

The HRB focus on victims compels all states to pursue remedies for those affected, **applying the UN’s reparation framework in cases of gross violations**.[[40]](#endnote-40) Moreover, as noted, contemporary standards recognize the indispensability of policy coherence, aligning short-term emergency relief with longer-term and institutional-building development, within the overarching framework of preventive and remedial human rights obligations.[[41]](#endnote-41)

Duty-holder failures to take timely and adequate adaptation measures often exacerbate destructive and displacing climate events, forcing marginalized persons, groups and communities to assume the greatest risks.[[42]](#endnote-42) Such shortcomings cause housing rights violations by omission. Maladaptation[[43]](#endnote-43) invite adverse climate-related impacts or entrench inequalities.[[44]](#endnote-44) Additionally, destructive actions by individuals, institutions or corporations may expose their liability for violations by commission.[[45]](#endnote-45) When such violations amount to **forced eviction, that gross violation[[46]](#endnote-46) triggers victims’ entitlements to full reparation**.[[47]](#endnote-47)

Post-disaster reconstruction often favors elite interests, arbitrarily discriminates, and promotes privatization or land grabs, flouting building-back-better principles.[[48]](#endnote-48) A high proportion of climate-change mitigation and adaptation funding already favors the private sector.[[49]](#endnote-49) The 2004 Asian tsunami resettlement and reconstruction have delivered lessons of ostensible relief works by private parties, including external NGOs and charities, actually having violated adequate-housing criteria[[50]](#endnote-50) and other human-rights principles.[[51]](#endnote-51)

So far, a state-to-state approach dominates L&D discourse.[[52]](#endnote-52) However, **administrative, government-driven compensation schemes can lack relevance and coherence with the affected people’s values at stake**.[[53]](#endnote-53)

The UN’s recognition of a clean, healthy and sustainable environment as a human right casts environment and climate action in the new light of corresponding state obligations vis-à-vis that human right of each child, and the **alignment of SDG progress and human rights norms and obligations is still needed**.

**Endnotes**

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