**Submission by the One Ocean Hub**

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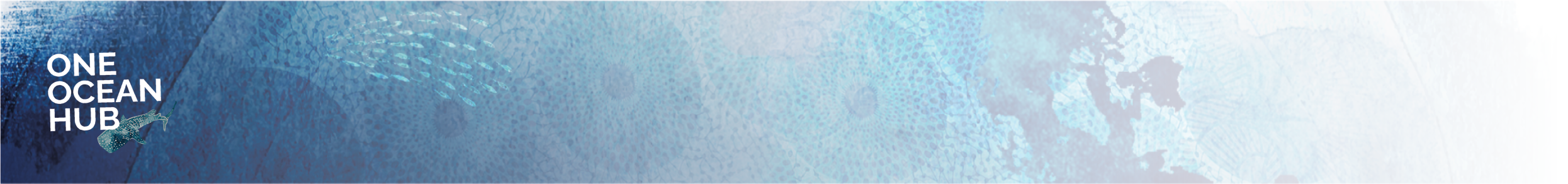
**Draft General Comment 26:**

**Children’s rights and the environment,**

**with a special focus on climate change**

**(15 February 2023)**

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**Background information on the One Ocean Hub**

The [One Ocean Hub](https://oneoceanhub.org/) ([oneocean-hub@strath.ac.uk](mailto:oneocean-hub@strath.ac.uk)) is an international programme of research for sustainable development, working to promote fair and inclusive decision-making for a healthy ocean whereby people and planet flourish. The Hub brings together coastal people, researchers, decision-makers, civil society, and international organisations to value, and learn from, different knowledge systems and voices. The Hub is a member of the Children’s Environmental Rights Initiative and contributed to the submission on the draft GC 26 made by Child Rights Connect Working Group on child rights and environment.

**Comments on the draft General Comment**

1. ***Intertwined Global Environmental Challenges***

We recommend references across the draft to:

* the “three intertwined global environmental crises (climate change, biodiversity loss and toxic pollution)” or “triple planetary crises” (A/HRC/52/33), rather than generically “environmental harm” or singling out climate change when it is not absolutely necessary (eg**, para 91**);
* “terrestrial, marine and other aquatic” ecosystems as they are all concerned by these crises and are also interconnected (to prevent overlooking water and the ocean), relying on the agreed language of Art. 2 of the Convention on Biological Diversity (CBD) – **para 23**

1. **Sustainable Development (para 12)**

We support the recommendation of the Child Rights Connect Working Group on defining sustainable development as ‘development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs,’ as coined in the Brundtland Report.

We further suggest:

* indicating from the outset that integrating consideration of children’s rights in sustainable development requires a long-term perspective on environmental threats and their impacts on human well-being, taking into account the different stages of development of children and ‘the child’s present and future [as…] intertwined and equally important’ (Peleg, 2013; Strand et al., in review); and
* adding reference to evidence that sustainable development tends to favour economic development, at the expense of the environment, culture and human rights (A/77/290, paras 20-26), as “prevailing development practices are lacking consideration of cultural rights, different values and worldviews, due to inequalities and stereotypes that prevent transformative change and are based on colonial legacies that have shaped dominant conceptions of development.”

12. The sustainable development articulated in various international agreements as the **development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs** is inextricably linked to the realization of children’s rights. **Sustainable development is** understood as implying both an intragenerational and intergenerational equity, **and needs to take a long-term approach to consider potential impacts on the different stages of childhood development and on children’s future, as well as different cultures, values and worldviews.**

1. **The ocean**

We welcome the inclusion of references to “marine pollution” and “marine biodiversity” in the draft GC, and note that “marine pollution” term is interpreted broadly under the UN Convention on the Law of the Sea to include ocean plastics, underwater noise, ocean acidification, sewage inputs and run-off from land (urban and agricultural).

That said, we recommend more explicit references to the ocean, and the full water cycle, in the extensive section on climate change (mitigation, adaptation, finance, states’ obligations and business responsibility), so as to include [sea-level rise and](https://oneoceanhub.org/Users/alana/Downloads/sea%20level%20rise) subsidence, salt-water intrusion and storms which result from climate change and can have combined effects which severely threaten children’s rights (*Torres Strait Islanders* decision by the UN Human Rights Committee). In addition, water shortages, which may be worsened by loss of marine ecosystem services that contribute to the global water cycle as a result of climate change,affect children most and for the longest time (Morgera and Lennan, [2022](https://doi.org/10.3233/epl-219052)).

**para 73(f)** (f) Prevent marine pollution **and other harm to the marine environment**, by banning the direct or indirect introduction of substances into the marine environment, **and prevent other impacts t**hat are hazardous to children’s health and marine ecosystems.

1. **Biodiversity**

We welcome the inclusion of references to biodiversity and ecosystems across the draft, and would recommend relying on language from the Convention on Biological Diversity Article 2 – “terrestrial, marine and other aquatic ecosystems.”

**para 73(e):** Conserve, **use sustainably** and restore biodiversity**, and protect terrestrial, marine and other aquatic ecosystems and their benefits** to current and future generations;

In addition, we recommend adding reference not only to the negative impacts of biodiversity loss and ecosystem degradation in the draft, but also lack of access to biodiverse areas (rather than just “green spaces”), that is essential for children’s right to health (e.g., faster recuperation time from surgical operations: CBD/WHO [2015](https://www.who.int/publications/i/item/9789241508537)) and to education (notably in terms of inter-generational transmission of Indigenous and local knowledge - see below) at **paras 26-27, 36, 47.**

1. **Children’s Right to Food (para 24(c))**

We recommend underscoring more clearly the negative impacts on children’s right to food both from the perspective of food security and nutrition in relation to fish and seafood. Cheap and accessible fish and seafood is dense in nutrients and contains high-quality, readily digestible protein and essential amino acids (i.e., Omega-3), as well as micronutrients are very important for the health and development in children (Morgera and Lennan, [2022](https://doi.org/10.3233/epl-219052)). That fact that as a result of climate change impacts on the ocean (warming, acidification and deoxygenation), fish catches are decreasing in the Tropics due to shifting stocks, where populations are more dependent on seafood, and increasing in higher latitudes in regions with economies less dependent on fisheries is particularly concerning for several reasons (Pinsky et al., 2018). The UN General Assembly has called upon States to assess the risks of climate change on fish stocks and consider them when developing conservation and management measures and to identify and develop adaptation strategies (A/RES/77/118, paras. 18–19). We thus recommend referring to fisheries in para 24(c), in line with the text of the FAO Constitution that includes in the definition of agriculture also fisheries (Article 1(1)). This addition would also align with the emphasises business responsibility to respect children’s rights in the context of fishing practices in the draft (para 42).

**Para 74 (c)** Transform industrial agriculture **and fisheries** to produce healthy and sustainable food aimed at preventing malnutrition and undernutrition;

1. **Rights of Indigenous and peasant/rural community children**

The draft can be significantly strengthened by referring consistently to:

* “Indigenous and local knowledge” whenever references to science are concerned across the General Comment (Convention on Biological Diversity, Arts. 8(j) and 10(c)); and
* Consider implications for intergenerational transmission of Indigenous and local knowledge.

In addition, **para 49** on Indigenous children should be expanded to refer to:

* Reference to “terrestrial, marine and other aquatic territories”, beyond traditional ‘lands’ (see Strand et al., in review);
* The three safeguards of environmental and socio-cultural impact assessments, free prior informed consent and fair and equitable benefit-sharing in relation to proposed developments (including climate change response measures or conservation measures) in or affecting traditional territories and natural resources (Morgera, [2019](https://doi.org/10.1080/13642987.2019.1592161) and [2020](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/603491/EXPO_STU(2020)603491_EN.pdf)), to protect cultural rights and other culture-dependent rights of Indigenous children. These safeguards are also part of business responsibility to respect Indigenous peoples’ human rights (Morgera, 2020b);
* Reference to additional guarantees for the protection of Indigenous Peoples’ rights are also necessary where the General Comment refers to relocation (**para 43**).

Furthermore, additional reference should also be made to “children of peasants”, “children in rural communities”, and “children of nomadic groups” which are mentioned separately with a generic reference to discrimination (para 50) as similar guarantees for the protection of their world views and distinctive ways of life are provided at the intersection of international biodiversity and human rights law (Morgera and Nakamura, [2022](https://doi.org/10.4324/9781003139874-7)), as reflected in the UN Framework Principles on Human Rights and the Environment, the [UN Declaration on the Rights of Peasants](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3850133) and the FAO [Guidelines](https://www.fao.org/documents/card/en/c/I4356EN) on Small-scale Fisheries (also in para **92**).

**Para 49.** Indigenous children are disproportionately affected as a result of environmental degradation, pollution and climate change. States parties should closely consider the impact of environmental harm for the significance of traditional **territories (terrestrial, aquatic and marine)** and the quality of the natural environment while ensuring the right to life, survival and development of Indigenous children, **through socio-cultural and environmental impact assessments,16 strategic environmental assessments, FPIC and fair and equitable benefit- sharing.17** States should also undertake measures to engage with Indigenous children and their families in responding to **the global environmental crises**, by integrating, as appropriate, Indigenous cultures and knowledge in **proposed environmental management measures (nature conservation, climate change response measures).**

**New para 49 bis. Comparable measures should be taken with regard to children in local/traditional/rural communities18 and their families (peasants, small-scale farmers, small-scale fishers).**

1. **Right to Education**

We recommend clarifying that:

* environmental education should promote a holistic systems approach to the environment (ecological connectivity, ecosystem health across land-sea interfaces, people and society as part of this environment: Virapongse et al., 2016; Strand et al., [2022](https://doi.org/10.3389/fmars.2022.886632)). This is particularly important as education enables children to understand how their rights can be infringed in the context of environmental governance and support the exercise of children’s rights to participation and access to remedies;
* the interface of the right to education and cultural rights, notably with regard to Indigenous and local knowledge and nature-based learning, requires decolonize environmental education and ocean literacy, with a view to preventing discrimination vis-à-vis children from different cultural backgrounds, worldviews and life experiences, and rather nurture for all children appreciation and respect for the plurality of knowledges and cultures (see Strand et al., 2023 in review), as recognised by UNCRC Art 29.1c.
* more specific reference to environmental justice and its multiple dimensions – i) distributive justice ii) recognition, which also includes a notion of cognitive justice; iii) procedural justice; iv) contextual justice; and v) restorative justice(see Blue et al., 2021; McGarry et al., 2022; Strand et al., in review) –to address also the interface between the right to education and the prevention of discrimination;
* connect children’s right to education and the human right to science (right to benefit from scientific advancements and participate in scientific endeavours, so that children’s needs can inform research priorities (A/HRC/20/26; ​​ E/C.12/GC/25).

**31.** Education is one of the cornerstones of a child rights-based approach to the environment. Children highlighted that education is instrumental in protecting children’s rights and the environment and in increasing their awareness and preparedness for **the negative impacts of the intertwined global environmental crises and the exercise of relevant procedural rights (participation, access to justice),** while the right to education …

**32.** Article 29(1)(e) of the Convention requiring that the education of a child be directed to the development of **understanding of the holistic nature of, and** respect for, the natural environment shall be read in conjunction with article 28 of the Convention to ensure that every child has the right to receive an education which reflects **contextual** environmental values.9

**33**. … Curricula should reflect changing environments and new environmental science, **including Indigenous and local knowledge.** Teaching materials should provide accurate, updated and age-, **culturally**- and developmentally-appropriate environmental information. All children should be equipped with the skills necessary to face expected environmental challenges in life such as disaster risks, including the ability to critically reflect upon such challenges, **benefit from and contribute to scientific advancements,** solve problems….

**34**…. environmental protection and respect for the values and traditional lifestyles of Indigenous children **and children in local/rural/traditional communities**. … Environmental education extends beyond formal schooling to embrace the broad range of lived experiences and learning, **including in contact with nature for the inter- generational transmission of Indigenous and local knowledge.**

35. Environmental values, **including Indigenous and local knowledge, and research on environmental justice in its different dimensions (distributive, procedural, recognition, capabilities, contextual, restorative)** should be reflected in the education and training of all professionals involved in education, encompassing teaching methods, technologies, and approaches used in education, and school environments, **with a view to preventing discrimination**. …

1. **Child Rights Impact Assessment (CRIA, paras 87-89)**

The GC should:

* call for integration of CRIA into already mandated environmental impact assessments (EIAs) and strategic environmental assessments (SEAs) (including as part of the international guarantees to protect Indigenous peoples and other communities’ human rights on territories and natural resources: Morgera and Lennan, [2022](https://doi.org/10.3233/epl-219052); Nakamura, Diz and Morgera, [2022](https://doi.org/10.1111/reel.12462));
* clarify that the key principles of the UN Convention on the Rights of the Child (non-discrimination; best interests; the right to life, survival and development, and the views of the child) should be used to assess the legitimacy and effectiveness of EIAs and SEAs that disregard potential negative impacts on children’s rights and/or have not appropriately supported children’s participation; and
* make reference to the inter-governmentally approved CBD [Akwé: Kon Voluntary Guidelines](https://www.cbd.int/doc/publications/akwe-brochure-en.pdf) (supported by the UN Framework Principles on Human Rights and the Environment, Inter-American Court, CERC, etc), which call for integrating consideration of socio-cutural aspects, including inter-generational transmission of knowledge as part of CRIA. Our research suggests that there are particular challenges in integrating cultural heritage and cultural rights in current environmental and human rights EIA and SEA practices.

**87.** All proposed legislation, policy, regulations, budget or other administrative decisions related to the environment requires **systematic** child rights impact assessments. States should require the prior assessment of the possible environmental and climate **and socio-cultural** impacts, directly or indirectly, including transboundary and cumulative, and both production and consumption effects, on the enjoyment of children’s rights, **including inter-generational transmission of knowledge**.fn to [Akwé: Kon Voluntary Guidelines](https://www.cbd.int/doc/publications/akwe-brochure-en.pdf)

**88**. … For example, States that have substantial fossil fuel industries should assess the socio-**cultural** and economic impact on children of their strategies for a just transition. …

**89**. Child rights impact assessments should be undertaken as early as possible in the decision-making process, include the views of children and experts working at the interface of children’s rights and the environment, **including Indigenous and local knowledge holders**, and make recommendations for alternatives and improvements. …

1. **International cooperation (draft paras 45-48)**

The section on international cooperation, notably on international finance and technology transfer, should also be expanded from its current focus on climate finance to all other relevant international environmental obligations on financial and technological solidarity (examples of legal bases under the CBD have been provided in the track-changes version of the draft; others can be found under the UN Convention on the Law of the Sea and the chemicals treaties). Here the GC could draw on the 2022 report by the UN Special Rapporteur on Human Rights and the Environment on States’ human rights obligations to provide funding for Sustainable Development Goals (A/77/284).

**95.** **Generally**, high-income States **have committed to** support **action to address the inter- twined global environmental challenges** in developing countries by facilitating the transfer of green technologies, and by contributing to financing **environmental measures**,33 **with** internationally agreed climate **and biodiversity** finance goals. The Convention should form the framework for States’ international cooperation and **technology** and financial support. The **environment**-related programmes of donor States should be rights-based, while States that receive international **environmental** finance and assistance should allocate a substantive part of that aid specifically to children **according to priorities co-identified with them**. Implementation guidelines **under international environmental finance mechanisms** should be reviewed and updated to take into account the child rights obligations of States.

**96.** States should ensure that **environmental** measures supported by international **environmental** finance mechanisms and international organizations respect and protect children’s rights, including through the integration of standards and procedures to assess the risk of harm to children in conjunction with new **environment**-related projects, …

1. **Child-Friendly Version of the GC**

When considering “best available science”, the Child Friendly version should also highlight Indigenous and local knowledge that can and should inform environmental decision-making” (Convention on Biological Diversity, Arts 8(j) and 10(c)).

Furthermore, although the Zero Draft mentions “cultural life” and children’s “enjoyment of their own cultures” as part of a broad range of children’s rights where a healthy environment plays a role, the Child Friendly Draft does not specifically consider children’s rights to culture as being “related to the environment and climate change”. Children’s “cultural life” and children’s “enjoyment of their own cultures” is also linked to the right to play and its contributions to children’s healthy development within children, including in marine and coastal environments (Elliott et al., [2018)](http://dx.doi.org/10.1016/j.marpol.2018.03.013)

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