**Comment on the UN Committee on the Rights of the Child’s draft General Comment on children’s rights and the environment with a special focus on climate change**

Esteemed Members of the Committee,

This comment relates to Section III.B, paragraph 27 of the draft General Comment: *“Specific rights of the Convention as they relate to the environment [...] The right to the highest attainable standard of health (art. 24) [...] Another concern is children’s current and anticipated psychosocial, emotional and mental health problems and suffering caused by environmental harm. The link between children’s mental health and environmental harm is increasingly recognized, such as the increasing prevalence of eco-anxiety, and needs further emphasis.”*

We welcome the Committee’s concerned acknowledgement of the link between children’s mental health and environmental harm, including the increasing prevalence of eco-anxiety, as well as the call to further emphasise this important issue specifically in relation to the right to the highest attainable standard of health (Art. 24 of the Convention on the Rights of the Child, hereafter UNCRC).

Additionally, for the Committee’s consideration for inclusion in the final draft of the General Comment, we submit that:

1. Adverse effects on children’s mental health are linked specifically to *climate change* in addition to general environmental harm in line with scientific literature; and
2. Eco- and climate anxiety jeopardises the enjoyment and fulfilment of several rights of the child, including the right to the highest attainable standard of health (Art. 24 UNCRC) and also for example the right not to be subjected to torture or other cruel, inhuman or degrading treatment (Art. 37(a) UNCRC).

**1. Adverse effects on children’s mental health are linked specifically to *climate change* in addition to general environmental harm in line with scientific literature.**

As we submitted through the public consultation, an unprecedented, independent study on climate anxiety in children and young people, which was peer-reviewed and published by the Lancet Planetary Health, surveyed 10,000 children and young people aged 16-25 across 10 countries: Australia, India, the United States, the United Kingdom, Nigeria, the Philippines, Finland, Portugal, Brazil, and France.[[1]](#footnote-0) Its findings were shocking and abundantly clear – widespread psychological distress linked to climate change and government (in)action on climate change was found among children and young people globally:

* Climate anxiety affects the daily life and functioning (at least one of the following: eating, concentrating, work, school, sleeping, spending time in nature, playing, having fun, relationships) of nearly half of children and young people surveyed globally.
* Over 60% of children and young people surveyed say they’re feeling anxious, afraid and/or sad due to climate change and over half feel angry, powerless, helpless and even guilty.
* 75% believe the future is frightening.
* 83% say people have failed to take care of the planet.
* 58% of respondents believe governments are betraying them and/or future generations and 64% say governments are not doing enough to avoid a climate catastrophe. 6 in 10 report that they believe governments are dismissing people’s distress. Accordingly, governments were perceived to be failing to respond adequately to climate change, and this perception was associated with feelings of betrayal (feeling anguished, abandoned, afraid, angry, ashamed, belittled) and increased climate anxiety and distress.
* Almost 1 in 2 of those who said they talked with others about climate change reported that other people had ignored or dismissed them.
* 39% indicate they are hesitant to have children because of climate change.

In summary, the study warned that such high levels of distress, functional impact, and feelings of betrayal will negatively affect the mental health of children and young people. It suggests for the first time that this psychological distress in youth is linked to perceived government (in)action on climate change. The authors of the study therefore cautioned that continued government inaction could provoke a public health crisis amongst our youth, and be considered “a failure of human rights [...] leading to moral injury”. While climate anxiety is a rational response to the state of the world and does not imply mental illness, it is a significant stressor that can easily become overwhelming for young people. As such it directly threatens their mental health, and is already impacting the enjoyment and fulfilment of their fundamental human rights.[[2]](#footnote-1) This will likely worsen as the impacts of climate change and environmental degradation increase.

**2. Eco- and climate anxiety jeopardises the enjoyment and fulfilment of several rights of the child.**

All human and children’s rights are indivisible, interdependent and interconnected. The complete spectrum of children’s rights requires the realisation of a safe, clean, healthy and sustainable environment, because climate change and other environmental harms have the potential of jeopardising all rights enshrined in the UNCRC.[[3]](#footnote-2)

We submit in particular that eco- and climate anxiety in children and young people has an impact on the enjoyment and fulfilment of a number of their rights as well – including the right to the highest attainable standard of health (Art. 24 UNCRC) as laid out in the draft General Comment, and also for instance the right not to be subjected to torture or other cruel, inhuman or degrading treatment (Art. 37(a) UNCRC).

In this comment, like in our submission to the public consultation, we would like to draw the Committee’s attention to Article 37(a) of the UNCRC and how it relates to youth eco- and climate anxiety. Legal analysis[[4]](#footnote-3) of the youth climate anxiety study by Hickman et al. (2021) referenced above indicates that children and young people are facing such high levels of distress and anxiety, linked with State (in)action on climate change, that it may amount to a violation of their rights and particularly the right to be free from inhuman and degrading treatment (Art. 37(a) UNCRC).

Article 37(a) corresponds with, for example, Article 3 of the European Convention on Human Rights. The European Court of Human Rights’ case law in particular offers a lot of support for the idea that the right not to be ill-treated is at stake when it comes to climate anxiety:

* The Court has associated inhuman and/or degrading treatment with, for example:
  + intense physical or mental suffering (*Bouyid v Belgium*);
  + treatment that arouses feelings of fear, anguish, powerlessness, hopelessness, or inferiority capable of breaking an individual’s moral and physical resistance (*Pretty v UK*; *Volodina v Russia*; *Premininy v Russia*);
  + treatment that induces desperation (*MSS v Belgium and Greece*);
  + treatment that shows a lack of respect for or diminishes people’s human dignity (*Pretty v UK*); and
  + distress associated with prolonged uncertainty or constant mental anxiety (*MSS v Belgium and Greece*; *Rodić v Bosnia and Herzegovina*).
* For the threshold of the right not to be ill-treated to be crossed, a “minimum level of severity” must be reached. However, this is assessed in a context-sensitive way, taking into account for instance the pronounced vulnerability of children, and acknowledging the cumulative effects of a particular situation (*Ireland v UK*; *P and S v Poland*; *O’Keeffe v Ireland*; *Bouyid v Belgium*).
* The Court’s case law also establishes that an attitude of indifference or disregard by State authorities towards an effectively powerless person’s serious suffering that the State is aware of and in a position to alleviate, is at odds with human dignity and, thereby, may violate the right not to be subjected to ill-treatment (*Budina v Russia*; *Varnava and others v Turkey*). Incidentally, such an attitude towards the plight of children facing climate catastrophe also falls foul of States’ duty under the UNCRC, in all actions concerning children, to accord primacy to and act in accordance with the best interests of the child.
* The right not to be subjected to inhuman or degrading treatment may be violated by State authorities through the creation of a situation for which responsibility is diffuse (*MSS v Belgium and Greece*), including through the State’s laws, policies and practices, and even in the absence of intent to inflict harm, suffering or humiliation (*Sławomir Musiał v Poland*).

In addition, Article 37(a) corresponds with Article 5(2) of the American Convention on Human Rights. The Inter-American Court of Human Rights’ case law related to both Article 5(2) – the right not to be ill-treated – and Article 5(1) – the right to physical, mental, and moral integrity – also offers support for the idea that the right to humane treatment is at stake when it comes to climate anxiety:

* The Court has associated inhumane treatment and potential breaches of mental and moral integrity with, for example:
  + profound grief and anguish which negatively impact mental and moral integrity (*19 Tradesmen v Colombia*);
  + strong feelings of fear, anguish and defenselessness (*Anzualdo Castro v Peru*);
  + feelings of intense anguish and vulnerability (*Barrios Family v Venezuela*).
* The Court’s case law indicates that the personal characteristics of an alleged victim of torture or cruel, inhuman or degrading treatment must be taken into account when determining whether their personal integrity has been violated (*Barrios Family v Venezuela*; *Ximenes-Lopes v Brazil*).

The UN Human Rights Committee in its General Comment No. 20[[5]](#footnote-4) also established that the prohibition of torture and cruel, inhuman or degrading treatment in Article 7 of the International Convenant on Civil and Political Rights (hereafter: ICCPR) relates not only to acts that cause physical pain but also to acts that cause mental suffering. The Committee has additionally held that a State can, by virtue of its existing legislative framework, subject someone “to conditions of intense physical and mental suffering” in violation of Article 7 ICCPR (*Mellet v Ireland*).

What many children and young people around the world have conveyed in response to the Hickman et al. study (2021), regarding both their serious distress and its connection with perceived inaction by those with the power to alleviate it, corresponds in many respects to the dynamics of inhumanity and degradation described above, as interpreted by human rights bodies around the world. Many are currently enduring fear, anguish, hopelessness and what appears to be intense mental suffering emerging from climate change and its consequences, and from facing the real prospect of catastrophic harm and further suffering. As the destructive impacts of climate change and environmental degradation increase, this distress is likely to intensify in the future.

Children and young people’s well-founded fear and sense of urgency and despair are met, as they themselves document in their responses to the survey outlined in the study, by the perceived failure or indeed the refusal of those in power to take the necessary action. Their perceptions of State (in)action are validated by the Sixth IPCC Assessment report’s Working Group contributions[[6]](#footnote-5) and by the Climate Action Tracker, an independent scientific analysis that tracks government climate action and measures it against the Paris Agreement which at present still does not list any countries as on track to be Paris Agreement compatible.[[7]](#footnote-6)

This link between State (in)action and climate anxiety is therefore indicative of a breach of States’ obligations to take appropriate steps to protect young people from inhumanity and degradation.

We deeply appreciate the Committee’s careful consideration of all submissions to the public consultations. We were particularly pleased to see a reference to eco-anxiety in the draft of the General Comment and we strongly encourage the Committee to include and expand on this reference in the final General Comment.

Yours Sincerely,

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2. Hickman et al., *Climate anxiety in children and young people and their beliefs about government responses to climate change: a global survey,* The Lancet Planetary Health Vol. 5 Issue 12, December 1 2021, <https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(21)00278-3/fulltext>. See also: Burke et al., *The Psychological Effects of Climate Change on Children*, Curr Psychiatry Rep, April 11 2018, <https://pubmed.ncbi.nlm.nih.gov/29637319/>; Vergunst and Berry, *Climate Change and Children’s Mental Health: A Developmental Perspective*, Clinical Psychological Science Vol. 10 Issue 4, September 14 2021, <https://journals.sagepub.com/doi/full/10.1177/21677026211040787>. [↑](#footnote-ref-1)
3. UNICEF, *The climate crisis is a child rights crisis*, 2021, <https://www.unicef.org/media/105376/file/UNICEF-climate-crisis-child-rights-crisis.pdf>; UNICEF, *One billion children at ‘extremely high risk’ of the impacts of the climate crisis - UNICEF*, 19 August 2021, <https://www.unicef.org/press-releases/one-billion-children-extremely-high-risk-impacts-climate-crisis-unicef>. [↑](#footnote-ref-2)
4. Mavronicola, *The Future is a Foreign Country: State (In)Action on Climate Change and the Right against Torture and Ill-Treatment*, Europe of Rights & Liberties/Europe des Droits & Libertés 2022/2 n°6, <https://www.europedeslibertes.eu/article/__trashed/>; Mavronicola, *Climate anxiety, a human rights matter*, <https://avaazmedia.s3.amazonaws.com/Climate_Anxiety_HumanRights.pdf>. [↑](#footnote-ref-3)
5. UN Human Rights Committee, *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, March 10 1992, <https://www.refworld.org/docid/453883fb0.html>. [↑](#footnote-ref-4)
6. IPCC, *Climate Change 2021 The Physical Science Basis – Working Group I contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*,August 9 2021, <https://report.ipcc.ch/ar6/wg1/IPCC_AR6_WGI_FullReport.pdf>; IPCC, *Climate Change 2022: Impacts, Adaptation and Vulnerability – Working Group II Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change,* February 28 2022, <https://report.ipcc.ch/ar6/wg2/IPCC_AR6_WGII_FullReport.pdf>. [↑](#footnote-ref-5)
7. Climate Action Tracker, <https://climateactiontracker.org/>. [↑](#footnote-ref-6)