

DECLARATION OF BUENOS AIRES

Contributions of the First Regional Consultation of Latin America and the Caribbean for the drafting of General Comment No. 26 of the Committee on the Rights of the Child on the Rights of Children and the Environment, with special attention to Climate Change¹ .

The representatives of the National States, international organizations, social organizations, academics and children and adolescents of the countries of Latin America and the Caribbean² participants in the First Regional Consultation for Latin America and the Caribbean for the drafting of General Comment No. 26 of the Committee on the Rights of the Child on the Rights of Children and the Environment, with special attention to Climate Change, meeting in the city of Buenos Aires, from November 1 to 3, 2022, and

Emphasizing that this is the first time in history that children and adolescents have pushed an issue of their interest on the international political agenda, and of the Committee on the Rights of the Child in particular.

With the conviction that environmental policy standards must contain a human rights perspective, with a special focus on children and adolescents.

Considering that this Observation, because of the subject it addresses, should take into account in its drafting the different regional particularities, both in the causes and consequences, of the negative effects of climate change and environmental degradation.

Considering that the Convention on the Rights of the Child (hereinafter CRC) implies the recognition of the human rights of children and adolescents and the commitment on the part of the States to provide positive benefits by investing the maximum of their available resources for the promotion of the rights of children and adolescents, It also establishes the right to life, development, health, education, a healthy environment, nutritious food, access to drinking water, rest and recreation, among others, which are especially threatened by climate change and environmental degradation.

Considering that the rights enshrined in the international *corpus iuris* establish the obligation of all States to provide special protection to all children and adolescents.

Whereas the Inter-American Court of Human Rights (IACHR) has "recognized the existence of an undeniable relationship between the protection of the environment and the realization of other human rights, inasmuch as environmental degradation and the adverse effects of climate change affect the effective enjoyment of human rights"³ .

¹ Without claiming to be exhaustive, within the framework of a wide-ranging debate, the document summarizes some of the ideas that emerged as the main and consensual contributions.

² The Consultation was attended by representatives from the following countries: Argentina, Bahamas, Brazil, Bolivia, Colombia, Chile, Costa Rica, El Salvador, Honduras, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago and Uruguay.

³ Advisory Opinion N°23/2017

Considering that environmental problems, especially climate change, have global consequences and, in this sense, negatively affect all children and adolescents living on the planet.

Considering the observed and expected impacts of climate change on children and adolescents detailed in the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC)⁴.

Taking into consideration that the Committee, in its General Comment No. 16, states that "environmental degradation and pollution resulting from business activities may jeopardize children's rights to health, food security and access to safe drinking water and sanitation" (paragraph 19).

Emphasizing that the negative effects of environmental degradation and climate change have an impact on the exercise of the rights of children and adolescents with serious violations, including forced displacement, human trafficking, and violence associated with the defense of their rights.

Whereas the IPCC Fifth Assessment Report (AR5) concludes that climate change is a reality, that its cause is human action and that the dangerous consequences of its impact are already reflected in all regions of the world and that global warming can still remain below the agreed threshold of 2°C, with respect to pre-industrial levels, and that ensuring a safe climate future is possible and economically viable, if urgent and immediate action is taken; and that, according to information compiled by ECLAC, the average temperature has increased over the last 60 years by 1.5°C in the Caribbean, 1.3°C in Central America, and 1.2°C in South America⁵.

With human activities as the main cause of climate change, we pay special attention to modes of production and consumption.

Concerned that, already in 2012, an estimated 26% of infant mortality could have been prevented by reducing environmental risks, such as air pollution, unsafe water, poor sanitation and hygiene or inappropriate chemicals⁶.

Noting that the negative impacts of climate change affect the most vulnerable groups to a greater extent, who are also those who are least responsible for generating the problem and who have the fewest resources to deal with its consequences.

Considering the voices and demands made by children and adolescents, based on the suffering caused by environmental pollution and the harmful effects of climate change, where the following are especially considered: pollution from solid waste, health effects

⁴ Among the observed impacts are the consequences on food systems and their consequences on food security; the consequences on water security, affected by the intensification of the global hydrological cycle; observed mortality and losses due to floods and droughts are much higher in regions with high vulnerability and vulnerable populations; the contribution of climate change to malnutrition. Among the projected impacts, we can highlight the impact on health and well-being that climate change will have, especially on children under 5 years of age; the increase in malnutrition and mortality and risks related to food globally; the increased risks for a greater number of cities and growing settlements in larger areas, especially in coastal and mountainous regions.

⁵ Source: FAO / Food and Agriculture Organization of the United Nations / FAOSTAT online statistical database. <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=3&lang=es>

⁶ Prüss-Ustün A, Wolf J, Corvalán C, Bos R, Neira M. Preventing disease through healthy environments: A global assessment of the environmental burden of disease from environmental risks. Geneva: World Health Organization; 2016.

due to the proximity of open-air dumps, environmental degradation (droughts, destruction of native forests, forest fires and wetlands), industrial waste, water pollution (from garbage, industrial waste), insufficient access to drinking water and contamination from toxic agro-chemical spraying, among others.

Considering that children and adolescents in the region are affected by recurrent climatic catastrophes (aggravated by climate change) such as hurricanes, earthquakes, floods, landslides of hillsides and mountains, among others.

It is particularly concerned about the vulnerability of children and adolescents living in the small island states of the Caribbean, due to their exposure to the consequences of these particularly recurrent climatic phenomena,

Emphasizing that, in order to cope with recurrent climatic events, infrastructure and impact-resistant sanitation works are required, which the countries of the region find it difficult to finance.

Whereas it is necessary for Multilateral Development Banks to identify, mitigate and respond to the direct and indirect impacts on children and adolescents of the projects to which they provide financing.

Assuring that one of the characteristic aspects of the region is related to the limitations and difficulties in access to safe water and its unequal and unfair distribution due to human action, in a territory where 31% of the fresh water resources available on the planet are found to meet the needs of 8% of the world's population⁷.

Considering that in Latin America and the Caribbean, 46.2% of people aged 0 to 14 live in poverty⁸, that there are 70 million children in this situation⁹ and that the incidence of child poverty in some countries of the region reaches rates of more than 80%¹⁰.

Noting that, in the Latin American region of high social inequalities, children and adolescents find themselves at the intersection of different vulnerabilities, which require even greater protection by the State.

Considering that indigenous children and children living in rural areas are disproportionately affected by environmental degradation, plundering, displacement from their place of origin, which seriously impacts their access to safe water and food, to which is added, from the transformation of their habitat, a component related to the attack on their worldview and identity as peoples and their relationship with nature.

⁷ Rubio, P., "Vulneración al Derecho Humano al Medio Ambiente Sano por el Cambio Climático"; In: *Derechos Humanos ante los nuevos desafíos de la globalización*; Pérez Adroher Editora et. all., Editorial Dykinson, 2021, pp.205.

⁸ Source: Unicef. Children in Latin America and the Caribbean. Panorama 2020
<https://www.unicef.org/lac/media/21901/file/NNAenALC2020-a-una-pagina.pdf>

⁹ Source: https://www.unicef.org/colombia/comunicados-prensa/70-millones-de-ninos-en-pobreza-en-america-latina-y-caribe?gclid=Cj0KCQjwteOaBhDuARIsADBqRejpZZy1SCk0fmCfM-PuOCRuN1HB4__Rir-5s06W5i0rTpuuhKwFrQaAj3TEALw_wcB

¹⁰ Source: ECLAC. 2010. Child Poverty in Latin America and the Caribbean. Available at:
https://repositorio.cepal.org/bitstream/handle/11362/1421/1/S2010900_es.pdf

Emphasizing the responsibility of the States to take the necessary measures to ensure that rights are respected in the diversity of territories inhabited by children and adolescents.

Convinced that the risk management approach, by considering social vulnerability, makes it possible to work on reducing both the causes - through mitigation actions - and the negative impacts of climate change - through adaptation actions (not resignation) - that scientists already warn will occur and that have differentiated consequences on the populations¹¹ .

Whereas, through the United Nations Framework Convention on Climate Change (UNFCCC), countries have assumed the responsibility to implement Nationally Determined Contributions (NDCs), which must be carried out to intensify their actions against climate change, either to reduce greenhouse gas (GHG) emissions (mitigation actions) or to adapt to the impacts produced by this phenomenon (adaptation/non-resignation actions).

It also evaluates the impact on the emotional health of children and adolescents who live in fear, not only of exposure to these extreme events, but also of reprisals for speaking out in defense of the rights violated in their communities,

Recognizing that the countries of the region have committed, through the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) to "ensure the right of public participation and, to this end, commits to implement open and inclusive participation in environmental decision-making processes" and that "public authorities shall make efforts to identify and support persons or groups in vulnerable situations to involve them in an active, timely and effective manner in the participation mechanisms. (article 7, points 1 and 14).

Considering that the States must guarantee the right to effective participation of children and adolescents in the promotion, design, implementation and evaluation of environmental projects and policies, without delegating to them the responsibility for decision-making or the guarantee of their care.

Considering the difficulties for the implementation and enforcement of regulations, in accordance with existing and future international environmental standards, highlighting the importance of the principle of non-regression in environmental matters and the principle of non-regression in human rights.

¹¹ Mitigation actions include human intervention aimed at reducing sources or enhancing sinks of greenhouse gases. It can be through sequestration (implementing and promoting activities that capture CO₂ from the atmosphere) or reduction (implementing and promoting activities that reduce GHG emissions to the atmosphere). Adaptation actions comprise the adjustment in a natural or human system in response to current or expected climatic stimuli or their effects, which moderates damages or takes advantage of beneficial opportunities (IPCC, 2001 and 2007).

Considering that GHG emissions are linked to modes of production and, therefore, mitigation goals cannot be achieved without urging the reconversion of production processes and the regulation of business activity,

Whereas Article 4 of the CRC establishes the framework for international cooperation among the states of the world to achieve the full realization of the rights of the child.

Reinforcing that the international cooperation obligations of each state are related to its particular situation.

Noting that, when analyzing the GHG emissions of each country, China tops the list, followed by the United States and the European Union,

Noting that the most developed countries are the ones with the highest level of historical greenhouse gas emissions, since they have managed to develop their economies by using energy combustion.

Considering that this privileged situation currently allows them to shift their economies towards activities that do not generate GHG emissions, such as financial activities or others.

Taking into account that Latin America and the Caribbean is an exceptional region, with an extraordinary biodiversity, with all the climates and ecosystems of the world¹², containing a third of the planet's water resources and a water endowment/inhabitant/year four times higher than the world average¹³.

Considering that the development of the so-called central or developed countries is produced by perpetuating geopolitical inequalities, which include the backwardness and subjugation of the global South.

Understanding that, in the context of the high rates of multidimensional poverty in Latin America and the Caribbean and its special impact on the comprehensive guarantee of the rights of children and adolescents, the international community, and especially the more developed countries, must generate strategies and tools (including especially technological transfers and financial resources) to support the necessary sustainable development in the region with the generation of formal employment and the consequent upward social mobility,

Considering that an international cooperation agreement is necessary to regulate the distribution of wealth in the world and to resolve the inequalities that directly affect the lives of children and adolescents in the region,

Convinced that the most developed countries must take measures to repair the damage historically caused to the environment, which has a negative global impact, generating a special violation of the rights of children and adolescents, who will be exposed for a longer period of time to the current and future negative effects.

¹² Source: <https://www.cepal.org/es/temas/biodiversidad/fortalezas-desafios-regionales>

¹³ Source:

https://www.cepal.org/sites/default/files/news/files/informe_regional_america_latina_y_caribe.pdf

Knowing that it is a genuine aspiration of developing States and their peoples that the economic and financial resources obtained from the exploitation of their natural resources result in the economic improvement of local communities, with special impact on the guarantee of the rights of children and adolescents.

Considering the role of States as regulators of the activities of industries, which are the main source of GHG emissions and that the Committee, in its General Comment No. 15, establishes that "States should regulate and monitor the environmental impact of business activities that may jeopardize children's right to health, food security and access to safe drinking water and sanitation" (paragraph 49).

Recognizing the political and financial difficulties that act as obstacles for the world's governments to regulate transnational exploitation and the special characteristic that this takes on in Latin America and the Caribbean, where States have less influence in world geopolitics,

Considering that, as indicated by the Committee in the draft General Comment, it is necessary for States, through legislation, to encourage companies to shift their production to sustainable forms, while preventing fraudulent and misleading campaigns under "greenwashing" techniques.

Considering that access to information is a necessary right for the exercise of other rights, guaranteed by Article 5 of the Escazú Agreement, and that environmental education is central to achieving this right.

"Environmental education should not be for children to learn to fix what adults broke"
Argentine teenager.

Understanding that in order for children and adolescents to have access to environmental information, it must be accessible, clear and available and included in the school curriculum.

Assuming the importance of promoting a cultural change that includes environmentally friendly practices and convinced that it is necessary to value the knowledge of indigenous communities.

"The environment is our life, not a subject or a day, we learn from a very young age how to respect nature" *Indigenous teenager from the Amazon.*

"We are taught from birth to respect the pacha. The Sumak kawsay (good living) teaches us to live in peace and reciprocity with the earth".

Considering that updated scientific information allows us to take precise measures, assess risks and adjust adaptation and mitigation policies.

Recognizing that, although in several countries of the region progress has been made in the establishment of a more robust institutional framework on science, technology and innovation, the production of scientific information in Latin America and the Caribbean on environmental issues with special emphasis on climate change and with a focus on children and adolescents continues to be deficient, causing a limitation when establishing public policies and demanding the fulfillment of the rights of children and adolescents

Agree on the following contributions to the draft General Comment No. 26 of the Committee on the Rights of the Child.

- 1- Suggest to the Committee that the final wording of the General Comment contemplate differentiated obligations for States in accordance with the principle of common but differentiated responsibilities, taking into account the historical division between developed and developing countries, which in Latin America and the Caribbean is deepened by the intersectionality of the vulnerabilities suffered by children and adolescents, aggravated by exposure to the negative effects of climate change and environmental degradation.
- 2- Suggest that the Committee urge States to address inequalities within countries as a condition for protecting all children and adolescents, with special attention to poor, migrant, rural, disabled, indigenous, Afro-descendant and street children and adolescents.
- 3- Suggest that the Committee include a gender perspective in the wording of the Observation in relation to the intersection of vulnerabilities suffered by girls and adolescents due to their gender. Likewise, it is suggested that special attention be paid to adopting non-sexist language in the translation of the document into Spanish.
- 4- Suggest that the Committee consider with special emphasis in the Observation the case of indigenous and Afro-descendant children living in rural areas, who, as mentioned in paragraph 49 of the draft, are disproportionately affected by environmental degradation, adding a component related to their worldview and identity as peoples, in relation to nature, plundering, and displacement from their place of origin.
- 5- Suggest to the Committee that in paragraphs 50 and 51 of the draft, it consider and make explicit the differences between developed and developing countries in relation to the needs of economic growth to protect the rights of children and adolescents, in accordance with the principle of common but differentiated responsibilities.
- 6- Suggest to the Committee that in paragraph 56, within the aforementioned importance of taking into account the opinions of children and adolescents, it emphasize that their opinion should be duly considered in decision-making and that it is also necessary for developing States (based on international cooperation and in accordance with the principle of common but differentiated responsibilities) to have sufficient funding to ensure that all children and adolescents have access to digital tools that enhance the spaces and forms of participation¹⁴.

¹⁴ 49% of school-age children and adolescents (3 to 17 years old) in Latin America do not have an Internet connection at home, a higher value compared to the global figure, where it is estimated that 33% of school-age children and adolescents

- 7- Request the Committee to include in paragraphs 56 to 58 a mention of the guarantee of mechanisms for the effective participation of children and adolescents in the promotion, design, implementation and evaluation of environmental projects and policies.
- 8- Propose to the Committee to include in paragraph 73 of the draft, among the measures to be adopted by States to guarantee the right to live in a clean, healthy and sustainable environment, measures such as the regulation of deforestation, as well as urging that the most developed countries avoid installing plants/activities in developing countries that pollute the environment in these latitudes most affected by social vulnerabilities.
- 9- Request that the Committee, in the sections on the obligation to respect, protect and fulfill (especially paragraphs 75, 78 and 79), indicate the obligation of the States to establish quantifiable adaptation and mitigation goals with a focus on children and adolescents, and these should be differentiated according to the characteristics of developed and developing countries.
- 10- Suggest that paragraph 79 of the draft Observation include that States, in addition to *"devote the maximum available financial, natural, human, technological, institutional and informational resources..."*, *must comply with international commitments when acting as members of any International Financial Institution or multilateral organization, ensuring that the projects financed do not involve direct or indirect violations of the rights of children and adolescents.* "should comply with international commitments when acting as members of any International Financial Institution or multilateral organization, ensuring that the projects financed do not involve violations of rights, directly or indirectly, on children and adolescents, especially with regard to environmental degradation and climate change.
- 11- Urge the Committee in paragraphs 78 and 80 to elaborate on the obligation of States when adopting environmental measures to respect the principle of non-regression and the principle of non-regression in the area of human rights.
- 12- Request the Committee to specify in paragraphs 82 and 83 that all actions by States related to the mitigation of greenhouse gas emissions, such as adaptation actions, should consider the populations of children and adolescents as paramount, reinforcing the differential obligation of States in relation to historical GHG emissions.
- 13- Suggest that the General Comment make explicit that developing countries should have the tools to explore and exploit their resources in a sustainable manner, without negatively impacting the rights of children and adolescents, and that the economic resources obtained from such practices should redound to the betterment of local communities.

- 14- To request the Committee to make special mention in the General Observation for the action of the States on the main problems related to environmental degradation that impact the daily lives of children and adolescents and that are especially highlighted by them, such as: destruction of native forests and wetlands forest fires, pollution by solid waste, open dumps and garbage burning, water pollution by industrial waste and garbage, lack of infrastructure for both sewage and access to drinking water, and health affectation by the use of pesticides, among others.
- 15- Urge the Committee to urge States to design and implement public policies that develop infrastructure to mitigate the impact of the negative effects of climate change, in order to prevent the violation of rights, especially housing, education, access to drinking water, food, health, among others.
- 16- Suggest to the Committee that in the section on "Access to information" (paragraphs 84, 85 and 86) it reinforce that States, in addition to "*encouraging the media to disseminate information related to the environment*", should consider the voices of children and adolescents and ensure all relevant mechanisms for access to clear and accessible information,
- 17- Request the Committee to make explicit in the General Comment the obligation of States to guarantee environmental education in school curricula (paragraph 9) and to evaluate mandatory training for state agents, proposing that environmental education be participatory and situated/contextualized locally, provincially and nationally.
- 18- Suggest to the Committee that the General Comment consider the need for more developed countries to financially support scientific research in developing countries, in order to have the best available science on equal terms, as mentioned in paragraph 14 of the draft Comment.
- 19- Welcome the fact that the draft General Comment establishes that international cooperation obligations depend in part on their situation and request the Committee to reinforce the idea, expressed in paragraph 94 of the draft, on the need for the more developed countries, in addition to shifting their energy production to clean energy, to provide financing (as a form of historical reparation for the damage caused) for the transition of the poorest countries, which will necessarily be slower. It is essential that the most advanced countries impose restrictions on the generation of GHGs by their companies operating transnationally.
- 20- Request the Committee to emphasize the importance of States requiring companies to establish GHG emission mitigation targets and monitor them, so that environmental commitments are not reduced to corporate social responsibility plans or "greenwashing" practices.

- 21- Suggest to the Committee that in the drafting of paragraph 101, it begin by requiring States to guarantee the rights of children and adolescents and, secondly, to refrain from activities that worsen the cause and effect of climate change, through the aforementioned regulations.
- 22- Request the Committee to reinforce the differential responsibilities of each country based on its situation at the time of channeling the mode of production towards non-polluting activities, duly regulating companies (paragraph 101 of the draft).
- 23- Suggest to the committee that in paragraph 106 it deepen the focus on risk management so that the States plan in a precise and effective manner adaptation measures to mitigate the adverse effects of environmental disasters (tropical storms, hurricanes, floods, droughts, fires, etc.) on the population of children and adolescents.
- 24- Demand that the States, within the framework of the elaboration and presentation of periodic reports to the treaty bodies, including those of the Environment, periodically incorporate the accountability of adaptation and mitigation actions carried out with a child and adolescent perspective and through quantitative and qualitative indicators.
- 25- To request that the Committee, when preparing the final glossary of the Observation, take into account the perspective of the Latin American region and that it contain the appropriate translations. In addition, when making the translations, special attention should be paid to certain terms that may have different interpretations, such as, for example, avoiding the use of the term "resilience", since it may be regressive in relation to the rights of children and adolescents.