

KidsRights Report 2016



Cleaning up the Mess

Children's Rights and Environmental Protection



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Preface

There are more children and young people in the world than ever before. The future, ostensibly, belongs to us, but we are helpless to change or influence the way we live now. Our dignity, or rather indignity, is determined by the never-ending demands of industries which turn virgin rainforests into ugly mining pits and pollute the pristine water of our rivers with toxic chemicals, pushing thousands of species to the brink of extinction. This is the harsh reality that stares us in the face, but many of us choose to either look away or shrug helplessly thinking it is someone else's problem.

As a 16 year old, I am dismayed by the shortsightedness that most adults demonstrate in relation to our environment, ignoring its paramount importance to our well-being. Thirty years ago, when my dad was in school, his geography text book proclaimed the Aral Sea as the fourth largest inland water body in the world. In the three decades since then, this water body has almost ceased to exist – my geography book calls it a desert. This environmental catastrophe took place over thirty long years, right in front of our eyes, yet no one cared enough to stop it.

This must change and this is why young people like me are speaking out and demanding conservation of the environment and the right to live with dignity, because we are the citizens of tomorrow – but we will not live to see tomorrow if our today is not taken care of.

Our rights can never be secured if the environment that we live in continues to be plundered and degraded

unashamedly. Future generations deserve to inherit an environment in the same pristine condition that our forefathers did. More species have been obliterated in the past century than in the entire documented history of our planet. Climate change threatens our survival, yet policy makers continue to ignore the dire consequences of global warming, while our energy-hungry economies choke the atmosphere with fossil fuel emissions. Environmental apathy is at the root of this problem and it must be done away with. Young people, whose future is at stake, are extremely concerned about the desecration of the pristine beauty of our environment. It is time for us to take action and to take charge of our destiny.

The Sustainable Development Goals (SDGs) adopted at the UN last September and the 2015 Paris Climate accord have finally merged the two pathways of climate change and developmental goals, cementing the fact that they cannot be pursued separately. The task at hand is monumental but it is not daunting. The 17 SDGs and 169 targets have laid out a clear framework of action but the challenge lies in their implementation. We, children, need to be an integral part of the transformation process. Time is not on our side. The clock of environmental degradation is ticking away relentlessly. Let us join hands to realize a future that is just, equitable and sustainable.

Kehkashan Basu, Winner of the International Children's Peace Prize 2016



"Children are the future of the planet and we have the fundamental right to a life of dignity. Do not underestimate our potential. Give us respect and equal opportunities so that each of us can blossom."

Kehkashan Basu

EDGE
mote
and equality

Human Rights

"Help spread peace to all."

Nicole Moracs.

Spreading the word of "Peace"

pledge to take care of the world

I pledge... to plant more trees and use ecofriendly products

I pledge to try my best to make this world a better place. I will make the world peaceful in my way.

Saving Water
No Wasting Food

I stop use plastic
I stop electrical waste
I do ReUse of things

My Pledge IS TO SAVE THE ENVIRONMENT.

Turning off AC and TV

SAVING ENERGY

I pledge to keep the eco-system safe

I Pledge to Save earth for Sustainable

I pledge to always treat people with respect.

I pledge to bring aware to all from my friends about peace

More Tree
More Walk
No Food Waste
Not Much water
No Paper Cup
Recycle

EVERY DROP COUNTS...

I PLEDGE TO ACKNOWLEDGE EVERY STEP TO PEACE & SUSTAINABILITY.

I pledge to use more

I pledge to encourage good habits of carbon and usage of alternative resources

I pledge to promote bank equality wherever

I pledge to

Executive Summary

The more our planet suffers, the more human beings suffer. And children suffer most of all. Environmental degradation – the depletion of resources, pollution of air, water and soil, and extinction of whole species of flora and fauna – is killing millions of children in the developed and developing world. Three million children under the age of five die every year from environment-related diseases.

Scientists have shown that environmental degradation is worsening at an unprecedented rate.¹ The same can be said for the rate of social, economic and political inequality,² all of which are inextricably linked with the state of the environment. When the fields are flooded or the rain doesn't come, children have no food to eat.

These inequalities affect children disproportionately, and their young, developing bodies are more vulnerable to the environmental health risks associated with hazardous child labor, housing, natural disasters and conflict. At the same time, children are a vital but often overlooked part of the solution: vocal participants in environmental decision-making, their internationally-acknowledged rights, such as the right to life and healthy development, are powerful tools in combatting the forces of environmental degradation.

Environmental issues are human rights issues. A healthy environment is essential to children's survival, well-being and development, and is therefore a precondition for the realization of the rights of the child. At the same time, the fulfillment of children's rights is a fundamental component of environmental protection. A child with access to justice can take her or his government to court for not doing enough

to protect the environment that is essential to her or his survival.

The UN Convention on the Rights of the Child (CRC) does not recognize the environmental rights of the child as such, but it does lay down enforceable obligations to protect children from environmental degradation. In the recently adopted Sustainable Development Goals (SDGs), the fulfillment of the rights of the child is both an end and a means to achieving sustainable development in developed and developing countries.

But the international children's rights framework must go further. Two areas of extreme urgency – children's rights and environment – are inextricably linked, and to save the children and the planet, the environmental rights of the child must be written into the statute books. Explicitly, and soon. The CRC acknowledges the role that the environment plays in fulfilling children's rights. This makes the CRC a vital tool for addressing environmental and children's rights issues in an integrated way, but that tool must be made fit for purpose: we call upon the Committee on the Rights of the Child to adopt a General Comment on the Rights of the Child and the Environment and develop an Optional Protocol which explicitly recognizes the environmental rights of children.

With three million young children dying every year from environment-related diseases, and with the environment degrading at record levels, it's going to get worse. But children are part of the solution: give them the tools, and they will lead the way.



"Climate change is the most fundamental and existential threat to our species. The consequences are unthinkable and worse, it has the potential to make our planet unlivable."

Leonarde DiCaprio, Speech Mayors Summit 2016



1. Introduction

Kehkashan Basu, International Children's Peace Prize winner 2016, transcends barriers of age and gender in her inspiring fight for environmental protection. At eight years old, she was already raising awareness about recycling in her neighborhood. At 12 years old, she founded Green Hope, to run a host of children's activities including recycling, beach cleanups, tree planting and awareness campaigns. Now 16, she has reached over 3,000 school and university students with sustainability workshops and conferences. Active in ten countries, Green Hope has inspired over 1,000 members worldwide.

Kehkashan has a talent for communicating her message to people of all ages. She has spoken at major national and international conferences, including the Rio+20 Earth Summit in Brazil and the COP 20 UN Climate Change Summit in Peru, and has moved the youngest children to action with her book, "The Tree of Hope".

Her story is one of empowerment. Kehkashan is an inspiring demonstration of the difference a 16-year-old girl can make, locally and internationally. That children can and should play a central role in environmental decision-making becomes self-evident when you see her at work. Protecting the rights of children and saving our planet go hand in hand. Cherish one, and the other will flourish.

Our world is younger than ever before. Children outnumber adults in most of our urban settlements. The world is changing fast, with rapid population growth, urbanization, and industrialization putting enormous pressure on the environment, and threatening the systems people have depended upon for generations. The deterioration of the environment in terms of quality and quantity is a pressing global issue which affects the daily reality of billions of people around the world.

Children, with developing bodies and limited choice about how to live their lives, are affected worst of all. They must be key actors in environmental and developmental discussions, initiatives and activities. Without securing fundamental aspects of children's well-being, society cannot expect to achieve stability and sustainable human development. As actors now, and inheritors of the future, children have an important role to play in finding environmental solutions. They have a fundamental right to be heard, as laid down in the United Nations Convention on the Rights of the Child (CRC).³

Little consideration has been given to the realization and protection of children's rights in the context of environmental protection, but that is beginning to change, with growing interest in the influence of environmental degradation on the rights of the child, and the integration of environmental protection into children's rights systems. This KidsRights report focuses on the relationship between the environment and the rights of the child, exploring the impact of environmental degradation on children's rights; how the environmental rights of the child are embedded in the CRC; and the interaction between environmental rights and children's rights.

Chapter 2 examines the correlation between environmental degradation and children's well-being, and Chapter 3 looks more specifically at the rights of the child in the environmental context. The CRC is considered from an environmental perspective, and we examine the ways it has shaped sustainable development and the environmental framework. Lastly, the most pressing environmental issues – climate change and energy – are examined from a children's rights perspective. The report concludes with a set of recommendations for the integration of environmental protection with the rights of the child.



"The most devastating effects of climate change – deadly storms, heat waves, droughts, rising food prices and the advent of climate refugees – are being visited on the world's poor. Those who have no involvement in creating the problem are the most affected, while those with the capacity to arrest the slide dither."

Desmond Tutu, The Guardian 21 September 2014



2. Environmental degradation and children

2.1. Environment

The survival of the human race depends upon the preservation of our environment. The environment has intrinsic value, and also confers benefits on people, their livelihoods and their well-being. Wild fauna and flora is “an irreplaceable part of the natural systems of the Earth which must be protected for this and the generations to come”, with an “ever-growing value [...] from aesthetic, scientific, cultural, recreational and economic points of view.”⁴

There is no universal definition of the environment, but it is generally defined as a physical surrounding for humans, within which two aspects are distinguished: the natural and the man-made.⁵ The natural environment includes air, water, land, flora and fauna.⁶ The *natural environment* is primarily regulated and protected within environmental law and policy. The *man-made environment* is the natural environment that humans have fundamentally transformed and modified in order to provide a better environment for themselves and to fulfill their needs and desires for living, working and relaxing. Examples of the man-made environment include human settlements such as cities; infrastructure such as water, sanitation, energy and transport; and parks.

2.2. Environmental changes

The environment changes constantly, and those changes can be attributed to ongoing natural processes and human activities. Despite scientific and technological advancement, humans have very little influence over natural processes such as earthquakes and hurricanes. Nature cannot be controlled, and we can only influence our response to natural processes.⁷ Human activities can work against the flow of natural processes, causing extensive deforestation for example, disregarding nature’s ability to restore itself, resulting in further deterioration. Or humans can respect and adapt to natural processes, mitigating undesirable outcomes with measures such as flood prevention.

As societies have progressed, human influence over the environment has increased significantly. Scientific data suggest with 95% certainty that the dominant cause of climate change since the mid-20th century is human activity, predominately economic and population growth.⁸

2.3 Environmental degradation and its impact on children

Both natural and man-made environments impact upon children, on their well-being and on their rights. So does *environmental degradation*: changes in the environment reducing its quality, such as the depletion of resources, pollution of air, water and soil, and irreversible extinction

of species of flora and fauna. Environmental degradation is a very complex issue that affects everyone, but children are particularly vulnerable to its biological, socio-economic and cultural consequences. A recent UNICEF study (2016) concluded that children have unique vulnerabilities to air pollution, especially girls, children living in poverty, and children with pre-existing health issues.⁹

Although the environment impacts on all aspects of children’s lives, its impact has mainly been addressed in the context of their health and well-being. The World Health Organization (WHO) Global Plan of Action for Children’s Health and the Environment¹⁰ declares a safe, healthy and clean environment to be essential to every child’s life, survival and development. Environmental degradation exposes children to serious health risks, which have been listed by the WHO.¹¹ Examples of these environmental risks include:

- **Hazardous child labor** – Hazardous child labor puts children at serious risk, and has been classified as an environmental risk by the WHO. Article 3 (d) of the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182)¹² defines hazardous child labor as ‘*work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children*’. According to the International Labour Organization (ILO) 115 million children between the age of 5 and 17 in developed and developing countries work in dangerous conditions, which makes hazardous child labor the largest category of the worst forms of child labor. Children work in dangerous health and environmental conditions in sectors such as agriculture, mining, manufacturing, and domestic services, where they are exposed to environmental contaminants. For example, in the domestic services sector, the World Energy Outlook from 2010 estimated that 40% of the world population relies on the traditional use of biomass for cooking, which exposes women and children to greater risks as they are put in charge of fuel collection. In addition, the Outlook emphasized research that links premature deaths around the world with household air pollution.¹³
- **Housing** – Housing has important consequences for children’s physical and mental health, especially in the context of rapid urbanization, whereby children spend more and more time indoors, for example in homes, schools and day-care centers, while green urban spaces are shrinking. In addition, according to UNICEF, rapid urbanization can also cause children to end up in slums or less healthy or unsafe environments.¹⁴
- **Disasters and conflicts** – natural disasters and conflicts affect the provision of basic services such as supplies of

drinking water. Where drinking water is contaminated, children are significantly more prone to diarrheal diseases. Disasters and conflicts also influence the provision of basic health services, particularly those meant for children such as immunization. Furthermore, child refugees and internally displaced children are exposed to unhealthy physical and psychological environments.

In addition to the environmental risks, research across the world suggests that children are less likely to benefit from the ecosystems' goods and services. Ecosystem services or services of nature are those products of nature which are utilized by humans. Humans are fundamentally dependent on the flow of these services. Ecosystem services include *provisioning services* concerning food, water, fiber, and timber; *regulating services* affecting, among others, air, food, water quality, climate, energy and diseases; *cultural services* referring to non-material benefits people obtain from ecosystems, such as spiritual and religious enrichment, cognitive development, reflection, recreation and play, tourism and aesthetic experiences; and *supporting services* necessary for the production of all other ecosystem services such as soil formation, nutrient cycling, water cycling, primary production, etc.¹⁵ According to the WHO, deprivation of ecosystem services such as drinking water, nutritious food, clean air and adequate shelter is one of the leading causes of deaths of children under five. Throughout the world, every year:

“Three million children under the age of five die due to environment-related diseases;

Acute respiratory infections annually kill an estimated 1.6 million children under the age of five. As much as 60 percent of acute respiratory infections worldwide are related to environmental conditions;

Diarrheal diseases claim the lives of nearly 1.5 million children every year. 80 to 90 percent of these diarrhea cases are related to environmental conditions, in particular, contaminated water and inadequate sanitation;

Nearly 1 million children under the age of five died of malaria in 2008. Up to 90 percent of malaria cases are attributed to environmental factors.”¹⁶

Children and adults access, use, and benefit from the environment differently. Because children's bodies are growing and developing, they need more air, food and water than adults. Furthermore, it needs to be of good quality, or they will be exposed to numerous risks, particularly health risks, related to environmental degradation. The environment also influences children's physical, social, emotional and cognitive development. The developmental stage of a child affects how she or he responds to her or his environment, making younger children more vulnerable to the environment and environmental conditions, including pollution.

Children living in both developed and developing countries are exposed to environmental degradation. However, environmental degradation impacts children in developing and developed countries differently. Access to nutritious food, for example, poses a serious challenge for children in both developed and developing countries. However, where children in developed countries tend to become overweight and obese as a consequence – there is a growing body of research that identifies the environment as one of the main contributors to the obesity pandemic, because children cannot access healthy food for example¹⁷ – children in developing countries run the risk of malnourishment, because of the lack of access to food. This lack of access to nutritious food has been addressed as a public health and human rights issue, but it is also essential to consider it an environmental issue, since it is a direct consequence of environmental degradation.

In conclusion, a healthy environment is essential for the survival, well-being and development of children, and environmental degradation is particularly problematic for children in many different ways, some of which have been highlighted here. As a consequence, the environment is directly connected to the realization of the rights of the child. At the same time, the realization of the rights of the child can be regarded as essential for environmental protection.¹⁸ The following chapter will zoom in on the rights of the child and the environment.



“When we stop harming our planet, we will stop hurting ourselves.”

Youssef, environmental activist, 11 years old (Morocco)

3. Rights of the Child and the Environment

Environmental degradation has reached its highest rate ever.¹⁹ The same is can be said of the rates of economic, social and political inequality,²⁰ as they are closely linked with access to ecosystem services and participation in environmental and developmental decision-making. The UNDESA Study on Inequality and Environmental Sustainability demonstrates the negative correlation between inequality and environmental quality.²¹ In other words: inequality has increased because of environmental degradation. For example, children in the developing world have less access to electricity and modern energy services and are more likely to suffer from pollution-related diseases such as respiratory and diarrheal diseases, in addition to significant limitations on access to basic public services such as water, food, health and education than children in the developed world. Specific groups of children are suffering more than others, including girls, children with disabilities and children belonging to minority groups or indigenous peoples. This is problematic in light of Article 2 of the UN Convention on the Rights of the Child, which prohibits discrimination and advocates equality among children.

Other studies document child rights violations due to environmental degradation,²² and that those violations can result in (further) environmental degradation. For example, the nexus between poverty, which is considered a human rights violation, and environmental degradation, is explained in the Brundtland Report:

“Many parts of the world are caught in a vicious downwards spiral: Poor people are forced to overuse environmental resources to survive from day to day, and their impoverishment of their environment further impoverishes them, making their survival ever more difficult and uncertain.”²³

Environmental issues are global and transnational, based on natural geography rather than political geography. The list of emerging environmental issues impacting people and ecosystems is a very long one.²⁴ Their common denominator, however, is that they are also human rights issues.

In theory and in practice, there are three approaches to the relationship between the rights of the child and the

environment. These approaches coexist without mutually excluding each other.²⁵ The first is that *environment is a precondition for the fulfillment of all the rights of the child*. The most prominent example is the child’s right to life (art. 6 CRC). Air pollution alone kills 600,000 children every year; 300 million children breathe air whose pollution levels are at least six times higher than international guidelines recommend.²⁶ The second approach suggests that *the rights of the child are one of the tools of environmental protection*, whereby the rights of the child and environment are simultaneously protected. International, regional and national courts and administrative bodies throughout the world are seeing a growing number of law suits concerning the protection of the rights of the child and the environment. These forms of litigation have already made a considerable impact (see para. 3.3 below for an example). The third approach considers *the rights of the child as a means for the integration of the three dimensions of sustainable development*, that is: the economic, social and environmental dimensions. This approach has been reaffirmed in numerous international documents concerning the international sustainable development agenda, particularly Agenda 21²⁷ and the recently adopted Sustainable Development Goals (SDGs),²⁸ which will shape international, regional, national and local development until 2030.

3.1. Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (CRC) is the most comprehensive and ratified human rights instrument of all. All states but one – the United States of America – have embraced the CRC. This human rights treaty for children sets out the civil, political, economic, social and cultural rights of every child. Children, for the purposes of the CRC, are all those under the age of 18 (Art. 1). Although the CRC does not recognize the environmental rights of the child, those rights can be derived from the other rights recognized in the CRC - mainly through the right to life, survival and development (art. 6), right to health (art. 24), right to education (arts. 28 and 29) and the right to an adequate standard of living (art. 27).

However, the lack of explicit recognition of the environmental rights of the child poses significant challenges for the protection of children’s rights relating to environment,



“The greatest threat to our planet is the belief that someone else will save it.”

Robert Swan (<http://2041.com/robert-swain>)

mainly the right of the child to environment. The main concern is that there is too little attention to the relation between environmental degradation and the realization of children's rights. Recognizing the environmental rights of the child could help to empower and enable key actors, including children themselves and environmental human rights defenders, to enforce and defend these rights. It would strengthen efforts aimed at addressing environmental issues, ensure access to justice, and address violations of the rights of the child due to environmental degradation. It would also help to clarify the responsibilities of states in addressing and preventing environmental degradation. In light of this, one could consider drafting another Optional Protocol to the CRC on the environmental rights of the child, in which the rights of the child and the environment are explicitly linked and states' obligations defined.

Selected CRC articles (summarized)

Article 6 (Survival and development): Children have the right to live. Governments should ensure that children survive and develop healthily.

Article 24 (Health and health services): Children have the right to good quality health care – the best health care possible – to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy...

Article 27 (Adequate standard of living): Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.

Article 29 (Goals of education): Children's education should ...help them learn to live peacefully, protect the environment and respect other people...

The UN Committee on the Rights of the Child, the treaty body monitoring the implementation of the CRC, acknowledges the connection between the rights of the child and the environment by drawing

"...attention to the relevance of the environment, beyond environmental pollution, to children's health,"

and urging states to

"...put children's health concerns at the centre of their climate change adaptation and mitigation strategies." 29

Furthermore, the Committee has expressed its deep concerns about

"the adverse impact of climate change and natural disasters on the rights of the child, including rights to education, health, adequate housing, safe and drinkable water and sanitation, among others." 30

While in most of the provisions of the CRC the environment is implied indirectly, some of the provisions do refer to it explicitly. For example, in article 24 (2)(c), the CRC demands that states:

"...shall take appropriate measures [...] to combat disease and malnutrition, including within the framework of primary health care, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution."

Article 24 (2) (e) of the CRC provides that states must:

"...ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents"

and in article 29 (1) (e) CRC on the aims of education, it is stated that the

"...States Parties agree that the education of the child shall be directed to [...] the development of respect for the natural environment."

The CRC has four guiding principles which underlie all of its provisions. These general principles have environmental relevance and are:

1. **Non-discrimination (art. 2 CRC)** - the CRC applies to all children without discrimination. In the context of the environment, all children, without discrimination, should enjoy environment of good quality, and have access, without discrimination, to ecosystem services.
2. **Best interests of the child (art. 3 (1) CRC)** - are of a primary concern in decision-making concerning children. A child rights impact assessment, meant to assess the best interests in general and in specific cases, could be used, for example, in all developmental and environmental decision-making and activities, at all levels - international, regional, national and local.

3. **Right to life, survival and development (art. 6 CRC)** - all children have the right to live, survive and develop in good health. Hence, it is essential to safeguard the environment in order to enable children to live, survive, develop and reach their full potential.
4. **Right to be heard (art. 12 CRC)** - every child has the right to voice her/his opinion and for it to be taken into account in all relevant decision-making - at family, legal, administrative and community levels. Meaningful participation of children at all stages of developmental and environmental decision-making is a prerequisite for being CRC compliant. This affects all levels of decision-making relevant for achieving sustainable development and environmental protection.

Currently, there are three Optional Protocols to the CRC. The first is on the prohibition of children's involvement in armed conflict, and the second prohibits child prostitution, child pornography and the sale of children. The third Optional Protocol provides children with the right to file individual complaints to the Committee on the Rights of the Child on child rights violations. This third Optional Protocol is the most relevant in the context of the protection of children from environmental degradation, as it enables children to formally complain (i.e. access justice) about child rights violations due to environmental degradation. However, in order to fully utilize the third Optional Protocol, it's essential that the Committee on the Rights of the Child provide guidance on how to interpret CRC provisions from an environmental perspective. We suggest that the Committee should consider developing a General Comment on this specific topic; such a General Comment could guide states in their obligations towards children as regards environmental issues.

In conclusion, the CRC stipulates enforceable obligations for states regarding the environmental rights of children and the protection of children against environmental degradation. There is also an associated infrastructure through which the implementation of the Convention can be monitored and stimulated. The Committee on the Rights of the Child plays an important role in this regard and can actively bridge the rights of the child with the Sustainable Development Goals in relation to the environment, as can be seen in the following example.

UN Day of General Discussion on children's rights and the environment

The link between children's rights and the environment is also an important issue for the UN. On Friday 23 September 2016 the Committee on the Rights of the Child organized a Day of General Discussion (DGD) on the topic of "Children's Rights and the Environment". The main topics were 'Children's exposure to environmental toxicants' and 'Children and the effects of environmental degradation'. The objective of this DGD was to form a better understanding of the relationship between children's rights and the environment. They examined how degradation of the environment negatively affects children's rights and how children of different ages, gender and social backgrounds can participate in decisions and actions to prevent, respond and adapt to environmental harm. One of the outcomes of the DGD was that children need to be included in discussions on the environment and child-friendly information needs to be made available for different age groups.³¹



Young environmental *changemakers*

Meet Madhav (19) from India. He fights for the protection of our environment and a sustainable future. At just eight years old, Madhav convinced some friends to join him in founding "Green the Gene", which has since grown into an international, youth-led, non-profit organization with active projects in 45 countries and over 4,800 youth volunteers. With projects such as 'The Aqua Revival', focusing on water recycling, and 'The Environmental Kaleidoscope', a weekly newsletter for young people, Madhav is totally dedicated to the future of our planet. Green the Gene is a partner organization to Kehkashan's Green Hope.

"Climate change is not only about polar bears and melting ice caps, it is about you and me. It is about everyone in our generation, it affects all of us. This is the challenge of our time and must lead and demand change."

Madhav Datt (Children's Peace Prize 2015 nominee).

3.2. Convention on the Rights of the Child and Sustainable Development Framework

The CRC has significantly influenced and shaped sustainable development and environmental deliberations at United Nations (UN) level.

Agenda 21

The CRC’s influence is most prominent in Agenda 21, considered internationally as the ‘blueprint for development of the XXI century’. Agenda 21 is one of the outcome documents of the United Nations Conference on Environment and Development³² that was held in Rio de Janeiro in 1992, only 3 years after the adoption of the CRC. Agenda 21 recognized the critical role of children and youth in sustainable development, particularly in decision-making and implementation processes. It stated:³³

“...children not only will inherit the responsibility of looking after the Earth, but in many developing countries they comprise nearly half the population. Furthermore, children in both developing and industrialized countries are highly vulnerable to the effects of environmental degradation. They are also highly aware supporters of environmental thinking. The specific interests of children need to be taken fully into account in the participatory process on environment and development in order to safeguard the future sustainability of any actions taken to improve the environment.”³⁴

Agenda 21 stipulated that governments, in order to achieve sustainable development at all levels, should undertake steps to ratify the CRC, and implement it to address the basic needs of children and youth. The Agenda 21 built on the right of the child to be heard and to participate in matters affecting them (art. 12 CRC), and encouraged states to:

“establish procedures to incorporate children’s concerns into all relevant policies and strategies for environment and development at the local, regional and national levels, including those concerning allocation of and entitlement to natural resources, housing and recreation needs, and control of pollution and toxicity in both rural and urban areas.”³⁵

This was the foundation for the institutionalization of children’s participation in sustainable development and environmental processes at local, regional and national levels.

Sustainable Development Goals

The Sustainable Development Goals (SDGs) are the outcome of the 2012 United Nations Conference on Sustainable Development, also known as Rio+20 Conference, held as a follow up to the 1992 Earth Summit in Rio de Janeiro. The SDGs build on previously agreed sustainable development and environmental frameworks such as Agenda 21. They were adopted in September of 2015 by the United Nations General Assembly as a set of 17 universal goals to be achieved by 2030 in all countries of the world. Although the environmental perspective is integrated into all SDGs, the goals considered to be more specifically environmental are Goal 6 on clear water and sanitation, Goal 7 on affordable and clean energy, Goal 14 on life below water and Goal 15 on life on land. As with Agenda 21, the SDGs make strong reference to the rights of the child, and particularly the right to non-discrimination, health, education, freedom from violence, access to justice and others. Consequently, the fulfillment of the rights of the child is both an end and a means to achieving the Sustainable Development Goals at all levels before 2030, in developed and developing countries.



Source: <http://archiveglobal.org/archive-global-tackles-sdg-11/>

3.3. Access to information, participation and justice for children in environmental matters

Lack of access to environmental information, participation and justice does not represent an environmental issue as such. However, it is directly connected to key children's rights issues and principles, of which the most prominent is the right of children to participate in matters affecting them. Information, participation and access to justice significantly influence the efforts and initiatives for environmental protection. More than 150 constitutions across the world proclaim the right to a healthy environment, and define that everyone, including children, has a responsibility to protect and advance the environment. Access to information, participation and justice is not only essential, therefore, to the rule of law, it is also a precondition for fulfilling the responsibility to protect and advance the environment.

Access to environmental information for children can be understood in the context of the realization of the right to an education. This includes education on the rights of the child, which encompasses environmental education and learning about sustainable development. Information and education enable children to make informed decisions that will contribute to the protection and advancement of the environment, and consequently, the well-being of children and their community. Similarly, access to environmental information is one of the prerequisites for the *meaningful participation of children in environmental and developmental decision-making*. There are numerous arguments for taking the participation of children seriously, apart from it being an entitlement, ranging from ensuring the legitimacy of relevant decisions to ensuring a sense of ownership in the implementation of such decisions. Creating institutional frameworks for the participation of children, such as the UN³⁶ and UNEP³⁷ Major Group for Children and Youth and YOUNGO,³⁸ has contributed significantly to their empowerment. Through these frameworks, young people have been encouraged to be active agents of change in their communities and to address environmental issues and contribute to the protection of their own rights. Still, there remain significant challenges to filling the knowledge gap, with regard to the incorporation of children's concerns into relevant policies for environmental development at different levels and across different spheres. These challenges mostly relate to a lack of access to information and education and to a lack of opportunities to participate.

*"For rights to have meaning, effective remedies must be available to redress violations."*³⁹

For the environmental rights of children to be meaningful, they need to be assured of access to justice. Access to

Tunza

The United Nations Environment Programme (UNEP) adopted its strategy, Tunza, in 2003, to engage young people in environmental activities and the work of the organization. Tunza means 'to treat with care' in Kiswahili. It initiates capacity building activities, environmental awareness, and information exchange to create a generation of environmentally conscious citizens capable of positive action. Every year there is a Tunza international Youth Conference, providing a platform for over 300 young people all over the world to discuss the role that youth play in environmental issues. Tunza has a Youth Advisory council and publishes a quarterly Tunza magazine.⁴⁰

justice consists of two components. Firstly, a child (or a group of children) should have access, in appropriate conditions, to judicial and administrative procedures in order to challenge decisions, acts and omissions of private and public authorities that violate environmental regulations. The judgment in the *Minors Oposa case*⁴¹ demonstrates how protection of the rights of the child contributes to protection of the environment – in this case the rainforests of the Philippines. The case was argued that the destruction of the rainforests should be halted by revoking existing timber licensing agreements, and preventing new licenses from being issued. The notion of "intergenerational equity" was raised, whereby natural resources belong to everyone, including children. It was argued that limiting children's access to ecosystem services and the ecosystem constitutes a violation of the rights of the child, and limits life-supporting opportunities for current and future generations of children.

Similarly, the *Urgenda Climate Case* in the Netherlands demonstrates the intersection between greenhouse emissions and the protection of human rights, and children's rights specifically; children were represented in the lawsuit.⁴² It was argued that based on existing international law, governments have an obligation to prevent the harmful effects of climate change, and that the Dutch government should be held responsible for not taking sufficient measures to reduce the greenhouse emissions that cause climate change.

The second component of access to justice is that afforded to children whose rights are violated due to environmental degradation; such as the right to life, health, property and education. In 2015, a group of children filed a climate change lawsuit against the federal government in the U.S. District Court for the District of Oregon for violating their right to life, liberty and property as well as for failing to protect

essential natural resources.⁴³ As with the Urgenda Climate Case, it was argued that the government has an obligation to prevent, adapt to, and mitigate climate change. It was also argued that children bear the costs of climate change disproportionately, and that this constitutes a violation of the rights of the child.

The Minors Oposa Case

In July 1993, the Supreme Court of the Philippines ruled in favor of a group of 44 children, acting in the name of their generation as well as those generations yet unborn. More than 40 years ago, the Philippines had around 16 million hectares of beautiful rainforest. In 1993 only 850,000 hectares of rainforest were left. The children wanted the deforestation to stop because deforestation violates their right to a healthy environment. Deforestation leads to a disturbance of the ecological balance and has led to several environmental tragedies, such as water shortages, salinization of water, massive erosion and loss of soil fertility.

The Judge ruled that the state had an intergenerational responsibility to respect the rights of children to a healthy environment and an obligation to preserve that environment for future generations.⁴⁴

The children's climate lawsuit in Oregon

In 2015, 21 American children between the ages of 8 and 19 years old filed a lawsuit against the US Federal Government. They complained that the Federal Government had violated their constitutional rights to life, liberty and property by causing climate change. They claimed that the Federal Government had known for decades that CO₂ pollution from burning fossil fuels had been causing global warming and dangerous climate change, and thereby harming their generation and generations to come. Despite knowing of these dangers, the Government did nothing to prevent them and allowed the level of concentration of CO₂ in the atmosphere to increase to levels it knew were unsafe.

In April 2016, Judge Thomas Coffin ruled in favor of the children and denied the motion of the Federal Government and the fossil fuel industry to dismiss the children's climate change lawsuit. When the case came under review in another court, a separate judge reaffirmed on 10 November 2016 that the children could proceed their claim. The case is going to trial!⁴⁵

Regional human rights treaties, such as the European Convention on Human Rights (ECHR), are applicable to children as well. Some rights recognized in ECHR have been linked to environmental issues in court cases already, for example:

- harsh environmental conditions, such as air pollution or constant noise emissions can lead to health problems and other interferences with private life (article 8 ECHR)
- environmental disasters form an infringement of the right to life (article 2 ECHR)

States have the legal obligation to prevent breaches of human rights by environmental causes. Environmental risks - such as climate change - need to be adequately addressed by States either with legislation, for example outlawing the building of houses in flood areas, or by taking certain measures itself. The ruling in the Urgenda Climate Case reinforces this responsibility.⁴⁶

3.4 Two specific environmental issues from a children's rights perspective

Climate change and energy issues have some of the most devastating consequences on children's well-being and rights.

Climate change

According to available scientific data, climate change poses serious risks for human health and security, making it an environmental and human rights issue. The cost of climate change is high for society and the economy.⁴⁷ The health costs are ever-increasing, damage to property and infrastructure is huge, and as a result it is becoming harder to deliver basic public services. Climate change has, for example, led to serious consequences for supplies of food and water – according to studies, food scarcity caused by climate change could lead to 500,000 deaths by 2050.⁴⁸ Water and food scarcity are closely linked to numerous diseases and deaths around the world, such as diarrhea. According to UNICEF (2015), the number of children exposed to climate change and its effects is alarming.⁴⁹ UNICEF concludes that children “bear the brunt of climate change” and that “climate change will make existing inequalities even worse.” The study also points out that climate risks differ from region to region: in Europe, children will face risks related to flooding and extreme heat, while children in Asia will face malnutrition due to drought-related water and food shortages.

From the perspective of children's rights, climate change also affects the implementation of the CRC. Climate change risks and effects makes it impossible to realize some of

the most basic rights, such as the right to life, survival and development, the right to health, and many others.⁵⁰ As the CRC does not make any reference to climate change, or define the obligations of states with regard to climate change adaptation and mitigation, the provisions of the CRC must be interpreted in the context of climate change adaptation and mitigation. Child impact assessments on climate change adaptation and mitigation strategies would be one way of doing this.

Since climate change is one of the most pressing issues in the world today, there is a growing number of initiatives and activities by international organizations, governments, civil society and the private sector which address the effects of climate change on children. Those initiatives range from integration of the rights of the child in climate change law and policy, including mainstreaming rights of the child in development cooperation, to ensuring children's participation in development, implementation and evaluation of climate change solutions. Strategic litigation is also being used to protect the rights of the child in relation to climate change, as demonstrated by the Urgenda Climate Case in the Netherlands, discussed above.

Energy

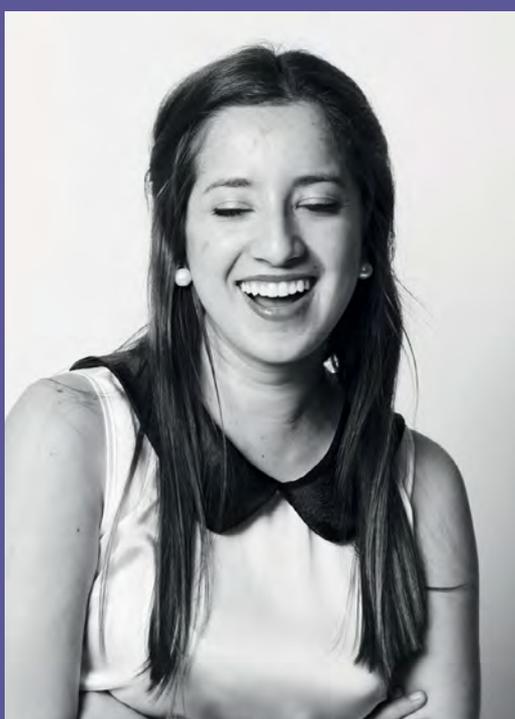
Energy is another key environmental issue which impacts upon children's rights. Energy has been at the cutting edge of national policies for sustainable development.⁵¹ Individuals and society at large require energy in order to function, putting it high on the agenda for all countries.

*"Energy services are a crucial input to the primary development challenge of providing adequate food, shelter, clothing, water, sanitation, medical care, schooling, and access to information. Thus energy is one dimension or determinant of poverty and development, but it is vital. Energy supports the provision of basic needs such as cooked food, a comfortable living temperature, lighting, the use of appliances, piped water or sewerage, essential health care (refrigerated vaccines, emergency and intensive care), education aids, communication and transport. ...Conversely, lack of access to energy contributes to poverty and deprivation and can contribute to economic decline."*⁵²

Energy is critical for the fulfillment of a broad range of the rights of the child and needs as

*"...lack of energy correlates closely with many indicators of poverty, such as poor education, inadequate health care and hardships imposed on women and children."*⁵³

Effective delivery of basic health services is also dependent on energy access; energy is understood as an enabler of access to health.⁵⁴ It is also required for access to safe drinking water.⁵⁵ Energy therefore has economic, social, environmental and security implications. Fundamental to the delivery of water, food, health, educational services, and sanitation, energy is an essential precondition for the implementation of the most fundamental children's rights.



Young environmental changemakers

Meet Araceli (19) from Paraguay. Araceli is a true environmentalist with a keen desire to promote the healthy development of children. She founded her own organization, Efecto Positivo (Positive Effect), when she was only 16 years old, as a result of her concern for the environment in Paraguay. Efecto Positivo has 200 active volunteers, 5 executive directors and 10 leaders. They help people affected by pollution, creating awareness and proposing change through civic participation. Paraguay lacks a functional waste recycling system, so there are lots of dumpsites causing disease, and people burn their garbage, polluting the air and destroying nature. Araceli has introduced community projects such as cleaning and recycling, food donations for children in extreme poverty, and activities to promote the social inclusion of children and adolescents. She has inspired and supported young people to start their own organizations, working together for a better world for children.

"Every ordinary day may become an extraordinary opportunity to keep on growing and make a change in the world"

Araceli Gonzalez Rolon (Children's Peace Prize 2015 nominee).



4 Conclusion and recommendations

A good quality, healthy environment is a precondition for fulfilling the rights of the child. When three million young children are dying every year from environment-related diseases, these rights are very far from being met.

Seen another way, respect for children's rights is also a precondition for successful environmental protection. Without the clear-thinking participation of the current and next generation, and action taken to protect the environment with and for them, the world will struggle to survive.

The rights of the child and environment are inextricably linked, but this has not been made explicit in the international children's rights framework. The sooner a human rights-based approach is embedded in environmental protection policies at the highest level, the better.

Children's rights lie at the heart of the world's sustainable development agenda, and the success of the Sustainable Development Goals (SDGs) will depend in great measure on the fulfillment and protection of these rights. But in order for this to happen, children must be empowered, legally and environmentally.

While the UN Convention on the Rights of the Child (CRC) does not explicitly recognize the environmental rights of the child, it does acknowledge the role that the environment plays in fulfilling children's rights. This makes the CRC a vital tool for addressing environmental and children's rights issues in an integrated way, but that tool must be made fit for purpose: we call upon the Committee on the Rights of the Child to adopt a General Comment and develop an Optional Protocol which explicitly proclaim environmental rights to children.

Acute respiratory infections kill an estimated 1.6 million children under the age of five every year. As many as 60% of these infections are related to environmental conditions. Diarrheal diseases claim the lives of nearly 1.5 million children every year, with a staggering 80 to 90 percent of these diarrhea cases relating to environmental conditions. Without major action to acknowledge and protect the environmental rights of the child, these heartbreaking numbers will just get worse.

In spite of progress in children's rights made over the last few decades, children around the world face their biggest challenge yet. We propose the following action points to face that challenge with them:

The CRC

- The adoption of a General Comment on the Rights of the Child and the Environment interpreting the rights of the child from an environmental perspective and explicitly acknowledging the link between children's rights and environmental development;
- The adoption of a Fourth Optional Protocol to the CRC recognizing the environmental rights of the child, especially to a healthy environment and to energy;

Access

- Improved access for children to environmental information and participation opportunities in decision-making at all levels;
- Effective access to justice for all children on environmental matters, and the promotion of strategic litigation for the joint protection of children's rights and the environment;
- The development of child-responsive measures for accessing environmental resources and services;

Mainstreaming

- The mainstreaming of children's rights in all relevant environmental policy fields;
- Ensuring that climate change adaptation and mitigation takes children's rights perspectives into account;
- The integration of a child rights perspective into energy law, policy and activities;

Impact Measurement

- The development of a methodology for child rights impact assessment instruments concerning social, environmental and economic law, policy and activities;
- The development of child rights impact assessment instruments for environmental decision-making;
- Better collection of data and indicators to ensure that no child is left behind in the 2030 Agenda for Sustainable Development.



There's more than meets the eye

Our society faces challenges every day. We would like to make a meaningful difference that goes beyond our day-to-day work. We take responsibility for the effects of our activities from a social, ecological and economical perspective and we are especially engaged when it concerns children and their rights.

That is why we are proud legal partner of KidsRights and help the foundation to advocate the realisation of equal fundamental rights for children according to the UN Convention of the rights of a child.

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