

# Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice

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## Abstract

Frequently forgotten in the global discussions and agreements on climate change are children and young people, who both disproportionately suffer the consequences of a rapidly changing climate, yet also offer innovative solutions to reduce greenhouse gas emissions (climate change mitigation) and adapt to climate change. Existing evidence is presented of the disproportionately harmful impact of climate-induced changes in precipitation and extreme weather events on today's children, especially in the Global South. This paper examines the existing global climate change agreements under the UN Framework Convention on Climate Change for evidence of attention to children and intergenerational climate justice, and suggests the almost universally ratified Convention on the Rights of the Child be leveraged to advance intergenerational climate justice.

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## Introduction

*We do not inherit the Earth from our  
Ancestors, we borrow it from our  
Children*

Native American Proverb<sup>1</sup>

IN SEPTEMBER 2013, the Intergovernmental Panel on Climate Change (IPCC), which provides the Conference of Parties to the UN Framework Convention on Climate Change (UNFCCC) with the latest relevant scientific data, issued its Fifth Assessment Report (AR5), *Climate Change 2013: The physical science basis*.<sup>2</sup> The report documents the evidence of the fact of global warming, and of its effects, which include ocean warming and acidification, shrinking of glaciers and polar ice sheets, and raising sea levels, all of which, in turn, combine to produce extreme weather events unevenly and unpredictably across the globe. The report also asserts that carbon dioxide has already accumulated to such a degree in air and seas that, even if emissions were stopped today, most aspects of climate change will persist for many centuries.<sup>3</sup> Thus, the lifestyles and decisions of today's adults, and those of the past two generations, have inalterably changed the life prospects for centuries of future generations. Climate justice is not simply owed to those less developed, poorer countries suffering the impact of climate damage, inflicted by the wanton energy use of rich, industrialized countries, under their "common but differentiated responsibilities... to protect the climate system for the benefit of present and future generations of humankind".<sup>4</sup> Rather, climate justice also has a dimension beyond geographic space: it has a dimension of time, across generations. Children alive today, and those to be born in the future, have a claim to climate justice within their own countries, be they rich or poor, as well as among countries. That claim is firmly rooted in the Convention on the Rights of the Child (CRC), which is law in 193 nations, ratified by almost all the

same states which have ratified the UN Framework Convention on Climate Change (UNFCCC).

Climate change is already having a disproportionate impact on 21<sup>st</sup> century children. Children's bodies and minds are, by definition, developing and thus more susceptible than adults to effects of environmental stressors. Physiological and mental development can slow down or be halted by the unpredictable consequences of increased heat, rain, drought, natural disasters, and rising sea levels. Increasing rates of crop failure and flood-borne diseases leave children exposed to lifelong harm from malnutrition. The very nature of childhood means that children spend more time playing outside, close to the ground and exposed to the elements, than do adults; they depend on adults as their small stature and comparatively weak bodies leave them at a serious disadvantage when trying to escape floods, high winds, and other extreme weather events.

As the IPCC documents, consequences of climate change are not limited to drastic changes in rainfall, weather events, and rising seas. They also include ocean acidification (compromising fisheries, livelihoods, and children's nutritional status), changes in vector-borne disease (extending malaria and other tropical diseases into highland populations for the first time), air pollution due to high ozone levels (affecting children's lung development and general health), and ecological imbalances (leading to crop failure, species extinction, and humanity's diminished heritage).

This article reviews evidence of the disproportionately harmful impact of climate-induced changes in precipitation and extreme weather on today's children (defined under the CRC as any person below the age of 18 years). It analyses the impact of climate change on children under the framework of principles which undergird the CRC: the right to survival and development; the right to participation and to be heard; accountability and the rule of law; the right to equality and non-

discrimination; and the over-arching principle of the best interests of the child. It examines the existing global climate change agreements and processes under the UNFCCC for evidence of attention to children, and reviews the role of the CRC for its usefulness in protecting children from the short- and long-term effects of climate change. The piece concludes with tentative policy proposals for contributing to intergenerational climate justice for children today, and raises the conundrum of climate justice for future generations of children.

## The child's right to health, survival, and development

### *Health*

Climate change is amplifying existing health and survival risks which poor children, and children in poor countries, face routinely, due to weak health systems, their unique physiological vulnerabilities, and the nature of childhood. In 2012, diarrhea was the cause of one in ten preventable child deaths, killing more than 1,600 children under five every day. Second only to pneumonia as a cause of child mortality, diarrhea is contracted through unclean and contaminated water.<sup>5</sup> Clean water is already scarce among the poorest households in the developing world: while 55% of the global population uses piped water supplies, it is a convenience enjoyed by only 12% of the people living in least-developed countries and 4% of their rural populations.<sup>6</sup> Climate change is constraining access to clean drinking water—and the infrastructure which delivers it—by flooding which follows a heavy rain storm or a cyclone; contaminating water and rupturing pipes, by salinization from raising sea levels; and by drought, which dries up water sources, thereby concentrating contaminants. A study in Bangladesh found that the number of diarrhea cases per week increased by 5.1% for every 10 millimeter increase above the threshold of 52 millimeter average rainfall, and by 3.9% for every 10 millimeters below that same threshold.<sup>7</sup> In Peru, diarrhea incidence increased 8% with every one degree Celsius increase in temperature.<sup>8</sup> Diarrhea

is but one water-related risk to children's survival. Extreme weather events accompanied by flooding is another: flood-related fatality rates of children in Nepal were six times higher than the mortality rates in the same villages the year before, with 13.3 per 1000 flood-related fatalities for girls compared to 9.4 per 1000 for boys. Girls are more at risk as they are more likely to be at home when a flood hits, and less likely to know how to swim than their brothers, but both girls and boys are at higher risk than adults. This study further showed that children aged two to nine were twice as likely to die than their same-sex parent.<sup>9</sup>

Children's untreated diarrhea both results in and is exacerbated by malnutrition; in 2012, globally, nearly half of all deaths of children under five years old were attributed to undernutrition. Poor nourishment puts children at greater risk of death from common infections, and increases the frequency and severity of illnesses.<sup>10</sup> Malnutrition in a child's early years can have a lifelong impact, affecting brain development, learning and earning capacity, as well as physical stature. While the causes of malnutrition are more complex than simply a lack of food, access to adequate quantity and quality of food is necessary—if not sufficient—to protect a child's nutritional status. Climate change is affecting the food supply at both global and national levels, and this has a knock-on effect on poor children, the poorest of whom already suffer rates of chronic malnutrition (stunting) twice as high as those of children in the richest households.<sup>11</sup> On a global level, the International Food Policy Research Institute has estimated that by 2050, there will be 20% more malnourished children than would be the case without climate change.<sup>12</sup> By the 2050s, even with a climate-warming scenario of less than two degrees Celsius, the World Bank estimates that crop yields in sub-Saharan Africa could decrease by 10% (and by as much as 15-20% with higher levels of warming); this will increase food insecurity and malnutrition by between 25% and 90% across the continent.<sup>13</sup> Data from Niger, the frontline of climate change, shows children aged two and under born in a drought year were 72% more likely to be stunted than children born in normal years.<sup>14</sup> In South

Asia, reduced food supply is predicted to increase childhood stunting by 35%, compared to a scenario without climate change.<sup>15</sup>

Climate change was a factor in the 2008 food crisis, during which world prices for staples rose between 20% and 50% in some countries, triggering an increase between one-third and one-half in rates of severe malnutrition (wasting) of young children.<sup>16,17</sup> Just two years later, a confluence of freak weather events in China (drought), Canada (record rain), Russia (drought and fires), Ukraine and Kazakhstan (drought) and Australia (torrential rain) combined to send global wheat prices soaring in 2011 to \$8.50 a bushel compared to \$4 a bushel the year before.<sup>18</sup> According to the World Bank, these price increases pushed some 44 million people living in low- and middle-income countries into extreme poverty, with an inevitable negative impact on the nutritional status of the millions of children among them.<sup>19</sup> Some estimates have prices of staples like wheat, rice, and corn rising between 60% and 80% in the next two decades, which will disproportionately affect the poorest families, for whom food consumes as much as half of the family budget.<sup>20</sup>

The recent and predicted future increase in climate-induced extreme weather events not only impacts children's physical health, nutrition, and survival, but carries long-lasting mental health effects on children who have been displaced by floods and storms. This effect on their well-being should not be underestimated. Though the research on the psychosocial impact of disasters on children is limited, what there is shows lasting trauma; a full year after the 1999 super-cyclone hit Orissa, India, 30.6% of children and adolescents suffered post-traumatic stress disorder (PTSD), with a further 13.6% showing symptoms of trauma.<sup>21</sup> Four months after the devastating 2010 floods in Pakistan, 73% of schoolchildren aged 10 to 19 showed high levels of PTSD, and only 3% showed no signs of trauma. Moreover, girls and the displaced were significantly more likely to be traumatized.<sup>22</sup>

### *Education*

A mother's education is a determinant of child

health and survival, with children whose mothers have completed secondary school being between two and three times more likely to survive until their fifth birthday than children whose mothers have no formal education.<sup>23</sup> Therefore, the impact of climate change on education affects children today, and children of the next generation. When schools are destroyed in a flood or another weather disaster, pupils not only lose out months or even years of education, but also lose the psychologically comforting routine of going to class. Research from India, Indonesia, Pakistan, Uganda, Nicaragua, and Mongolia consistently reports significant declines in school attendance, especially of girls, after floods or during droughts, and shows that these effects can last up to a decade. Climate changes, therefore, effectively rob children of their right to education and the lifelong benefits it offers.<sup>24-28</sup>

### *Protection*

The displacement of millions of children due to sudden-onset disasters places them at heightened risk of family separation, orphaning and, in the absence of adult protection, of exploitation, sexual abuse, and trafficking. The clandestine nature of child trafficking makes it impossible to quantify the extent to which natural disasters increase the risk, but rumors of its rise appear in news reports from almost every recent disaster.<sup>29</sup> The Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography noted in her 2011 report the increased vulnerability of children to sale, trafficking, and exploitation in natural disasters when normal legal and cultural child protection systems are disrupted or break down. She also pointed out that "The absence of quantitative, qualitative and empirical data severely limits the capacity to fully assess and address the extent of children's vulnerability [in natural disasters] to sale, trafficking and all forms of exploitation."<sup>30</sup>

In addition to natural disasters, stressors due to climate change are expected to be increasingly associated with conflict; one study indicated that the effects of climate change interacting with economic, social, and political problems will create a high risk of violent conflict in 46 countries.<sup>31</sup> A

recent study by the Stimson Center for Climate and Security traced the connection of severe drought in the 2000s to the Arab Spring, noting that while climate change cannot be considered a direct cause of political upheaval, it serves a ‘threat multiplier.’<sup>32</sup> For example, from 2006 to 2011, Syria experienced a very severe drought, such that some 800,000 people lost their entire livelihoods. This produced a massive exodus of farmers, herders, and other agriculturally dependent rural families into Syrian cities, where the Assad government did little to support them. The collapse of agriculture and the migration to the cities “eroded the social contract between citizen and government...strengthened the case for the opposition movement and irreparably damaged the legitimacy of the Assad regime.”<sup>33</sup> The consequences to Syria’s children of this three-year-old conflict are cataclysmic: an estimated 11,420 killed, a million displaced into neighboring countries (some 3,700 of whom crossed the border alone and at high risk), and another 2 million displaced inside Syria, an increase in severe malnutrition, the loss of months to years of schooling, add to the lasting psychological effects of the conflict on the present generation.<sup>34,35</sup> Conflict is just one of the knock-on effects of climate change on children, but one that results in particularly severe violations of their basic rights.

## Children’s right to be heard and participate in decisions that affect them

### *Participation at a global level*

As discussed, climate change disproportionately affects children, and will continue to do so in the future, as the IPCC’s likely scenarios play out. Political leaders of the late 20<sup>th</sup> and early 21<sup>st</sup> centuries are therefore making (or failing to make) decisions that greatly affect not only this generation of children, but future generations. The Convention on the Rights of the Child not only stipulates that children’s best interests be a “primary consideration” in all actions by public and private authorities, but that children have a right to be heard and to participate in decisions which affect them.<sup>36</sup> Despite

this legal requirement, children’s voices are scarcely heard, and their concerns are strangely invisible in climate policy dialogues.<sup>37</sup> The 1992 United Nations Framework Convention on Climate Change (UNFCCC) contains no mention of children, even though it calls for preserving the global climate for present and future generations. Not surprisingly, the UNFCCC guidelines for National Communications, in which States Parties report on the measures they are taking to implement the terms of the Convention, are completely silent on reporting developments which disproportionately affect children and other vulnerable populations.<sup>38</sup> Since 2008, after UN entities collaborated to establish the UN Joint Framework Initiative on Children, Youth and Climate Change, children and young people have consistently tried to influence the Conference of Parties (COP) meetings and bring attention to intergenerational climate justice.<sup>39</sup> At Warsaw’s COP19 in November 2013, nine youth delegates engaged in the intergovernmental negotiations process, and young people organized three side events to highlight children’s vulnerability, but also their agency in effectively adapting to climate change.<sup>40</sup> Somali youth delegate Marian Hussein Osman passionately addressed the plenary in Warsaw:

This year marks 21 years since the conception of the UNFCCC. And for those years, I ask negotiators, just what do you have to show for yourselves? .... no amount of political stalling can hide the fact that a climate crisis is here. .... As our window of opportunity to avoid irreversible climate change closes and you, the current climate architects, idle, we [youth] persist... We are not just a special interest group. We are....the principal recipients of this negotiation’s outcome...Where human existence is non-negotiable, you’ve made a 21-year wager on our future.<sup>41</sup>

Despite this effort and those of earlier COPs, the final declaration makes no mention of children, youth, or the next generation. Children’s voices, and thus global decisions to address their direct concerns, remain absent from the formal UNFCCC

goals and processes, but so do the voices of other marginalized groups disproportionately affected by climate change. Indigenous people, minority groups, people with disabilities, and the poor have not been granted a voice either; UNFCCC policy debates “have made sparse reference to these different groups and commonly they are referred to as passive or helpless victims.”<sup>42</sup> In some COPs, there were no disability organizations registered, and women made up only 12% of heads of delegation to the UNFCCC.<sup>43</sup> Children are therefore among several ‘vulnerable groups’ without presence or power to influence global climate change policy processes.

#### *Participation at the national and community levels*

The Convention on the Rights of the Child is legally binding and guarantees the rights of children at the national level, not the global level; it is also at the national or local level that children and adolescents can more effectively participate in climate change adaptation and advocacy, as well as policy processes. Children’s participation in global processes such as the COPs presents structural impediments because of the complexity and cost of attending negotiations, and the necessarily limited representativeness of children attending. Investing in children’s participation where they live and learn is more feasible and appropriate: they have more to contribute, as national and community climate issues are more directly related to their own knowledge and experience. National governments are more likely to bring children’s concerns into global negotiations once they hear their voices at home.

The 2010 Cancun Adaptation Framework includes a decision to “establish a process to enable least-developed countries to formulate and implement National Adaptation Plans” as a means for accessing climate finance.<sup>44</sup> This decision opened the door to addressing the special vulnerabilities and fulfilling the rights not only of poor people in poor countries, but of children. Yet an examination of some 43 National Adaptation Plans of Action (NAPAs) by the Institute of Development Studies

and Plan International found that very few NAPAs target children explicitly and none referred to children’s own capacity to contribute to adaptation.<sup>45</sup>

Meanwhile, children themselves are acutely aware of the impact of climate change on their lives, as well as those of their peers in future generations. For example, 74% of British children are worried about how climate change will affect the future of the planet.<sup>46</sup> In 2011, 600 children from 21 countries in Africa, Asia, the Middle East, and Latin America helped develop the Children’s Charter for Disaster Risk Reduction (DRR), a charter for children by children, which serves to provide guidance on how children’s vulnerabilities and assets can be better addressed in national DRR programs.<sup>47</sup> These programs are increasingly mobilized as countries and communities reel from the impact of climate-induced disasters.

When government creates an enabling environment and supports children’s participation—whether through its own resources or international cooperation—children can and do contribute to disaster risk reduction. For example, in the Philippines, schoolchildren skilled in disaster risk mapping and vulnerability assessments successfully persuaded school officials and community planners to relocate their school from a high-risk landslide zone to a safer area.<sup>48</sup> Children can also help climate-proof local infrastructure, strengthen community early warning systems, increase climate change awareness, and serve as a vital link between local government and communities.<sup>49</sup>

Education and information provide the scaffolding for effective and sustainable child participation, building their capacity to innovate and adapt to the coming drastic changes that the IPCC considers highly likely. When children and young people receive a strong education that develops environmental awareness and resilience from an early age, they become an indispensable resource as “the potential disaster management experts of the future and [today’s] teach[ers of] disaster management within the family.”<sup>50</sup>

The rapidly changing climate also adds urgency to the realization of children’s right to information

about what is and will happen. By realizing their right to information, children are empowered to participate meaningfully in risk reduction, community climate adaptation, and policy discussions for addressing climate change at local and national levels. Children have a unique capacity to perceive risks that are particular to their age and circumstances, and to propose child-friendly ways overcome them. Climate change is irrevocably transforming their world; therefore, supporting the agency of children and young people in developing creative solutions is both a right and a necessity. Most NAPAs do not adequately recognize this. When given the necessary support to claim their right to participate in decisions which affect them, children in both poor and rich countries can push the climate crisis into national policy processes, and help make intergenerational justice a priority at home, and by extension, in global climate negotiations.

## Accountability and the rule of law

### *Climate finance cheating children*

The CRC stipulates that states parties are obliged to undertake measures to fulfill children's economic social and cultural rights "to the maximum extent of available resources, and, where needed, within the framework of international cooperation" (Article 4). The UNFCCC, for its part, places the obligation for financing mitigation and adaptation to climate change squarely on developed countries, which "in accordance with their common but differentiated responsibilities and respective capabilities...should take the lead in combating climate change and the adverse effects thereof" (Article 3). It goes on to commit the developed country parties to "provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations" under the Convention (Article 4.3).

States parties to both Conventions are accountable to children and have, on the one hand, obligations to provide the necessary resources to combat the

drivers and adapt to the consequences of climate change (which disproportionately affect children), and on the other, to fulfill the rights of children, even in the face of threats posed by climate change. Save the Children estimates that for every year of the coming decade, natural disasters will affect 175 million children, increasing the risks to their health, education, protection, and lifelong opportunities.<sup>51</sup> By 2030, the Climate Vulnerability Monitor (2012) estimates that economic losses from floods, storms, and landslides alone will reach \$194 billion per year.<sup>52</sup> Between 80% and 90% of economic costs will fall on developing countries, where, on average, children and youth under 24 make up at least half of the population.<sup>53</sup> The massive costs of repairing destroyed and damaged infrastructure, including schools and health clinics, reduce the budget available for fulfilling child rights. This will crowd out additional investments in health, education, and protection systems needed for the CRC to meet their promise of universal realization of children's rights. For example, the damage from hurricanes that hit Haiti in late 2008 cost the country more than 1,000 lives and 15% of its GDP.<sup>54</sup> In 2010, least-developed countries (LDCs) faced, on average, in excess of 10% of forgone GDP due to climate change and the carbon economy (defined as the costs in air pollution, human health, and hazardous occupations of a carbon-intensive energy system).<sup>55</sup>

International finance for climate change adaptation in resource-poor countries is woefully inadequate to the overwhelming and accelerating needs. The UNFCCC Adaptation Fund, established in 2001, had by the end of 2013 only received a cumulative \$398 million, and disbursed slightly more than \$90 million.<sup>56</sup> The Special Climate Change Fund (SCCF), established at the same time, had been pledged \$328.1 million as of June 2013—a notable acceleration, given that over its first ten years it received only \$142.6 million.<sup>57,58</sup> The Least Developed Countries Fund received pledges of \$748 million by the end of June 2013, of which \$603 million had been disbursed for projects and activities in the LDCs.<sup>59</sup> Thus, over 12 years, total pledges for these three key funds reached \$1.474 billion, yet current

pledges cover a mere 0.008% of the estimated \$194 billion per year in economic losses. These expected annual losses represent almost twice the 2020 target of \$100 billion for the Green Climate Fund, which was established by COP17 to be an “operating entity of the financial mechanism” of the UNFCCC. Like the Warsaw Mechanism for Loss And Damage just established at COP19, the Green Climate Fund is not yet operational.<sup>60,61</sup>

Thus, developed country parties to the UNFCCC are failing to meet their obligation under Article 4.3 to finance the critical adaptation to climate change needed by developing countries. For their part, developing countries are failing in their CRC obligation to protect and fulfill children’s rights “to the maximum extent of available resources” and within the framework of international cooperation, by neglecting to direct what little climate finance they do receive through the NAPA to programs and projects benefiting and involving children.

Children cannot wait for adaptation to climate change; they are and will continue to be the biggest losers if climate finance and adaptation continue to fall so far short of what is needed. The stress of financing the protection and fulfillment of child rights will be even greater in the future, and children from the poorest families are at greatest risk, being up to 10 times more likely to bear the brunt of environmental disasters linked to climate change.<sup>62</sup> They are also least responsible for the greenhouse gas emissions that drive change. Children and their representatives do, however, have a lever to hold their own governments accountable for realizing their rights: the Convention on the Rights of the Child. Governments in developing countries have the same obligation to implement the CRC as those in developed countries. This obligation is not waived because developing countries may bear little responsibility for the devastation global warming is imposing on the children within their jurisdiction. Climate change propels the realization of children’s rights into a higher priority and special urgency, given climate change’s potentially catastrophic impact on children at any moment, now or in the future. It follows that protection of children’s rights and well-being should be central to the NAPAs.

### *The problem of legal accountability*

While States are legally obliged to ensure the widest possible enjoyment of economic, social, and cultural rights of children under their jurisdiction, and to ensure adequate safeguards to protect children from harm caused by climate change, legal enforcement of rights violations seen as stemming from climate change may be problematic. Accountability for climate-related events is virtually impossible to assign; as the Office of the High Commissioner for Human Rights points out:

Qualifying the effects of climate change as human rights violations poses a series of difficulties. First, it is virtually impossible to disentangle the complex causal relationships linking historical greenhouse gas emissions of a particular country with a specific climate-related effect... [and] adverse effects of global warming are often projections about future impacts whereas human-rights violations are normally established after the harm has occurred... [therefore] it is doubtful that an individual would be able to hold a particular State responsible for harm caused by climate change.<sup>63</sup>

Nevertheless, legal scholars are exploring climate change litigation as one avenue for forcing action on public utilities, fossil fuel companies, car manufacturers, and other private sector actors who have power to limit the greenhouse gas emissions at the source of much of climate change’s impact.<sup>64</sup>

However difficult it is to determine accountability for the devastation wreaked by climate change, children, their families, and representatives, have, through the leverage provided by the CRC, some power to claim their rights and lobby present-day local and national decision-makers to develop policies that favor mitigation and adaptation to climate change. They can also use existing accountability mechanisms, such as the national and international court system, National Human Rights Institutions, and obligatory reports to UN treaty bodies to enforce their rights and ensure that States fulfill their obligations for taking additional



steps (and for seeking international cooperation when national resources are inadequate) to address the impact of climate change, giving priority to its impact on excluded and marginalized children. Prominence of children's claims to climate protection and adaptation at the national level propels intergenerational climate justice onto the agenda their governments bring into global COP negotiations.

#### *Children's right to equality and non-discrimination*

The very premise underlying the UNFCCC is the existence of structural inequality against developing countries, which, though not responsible for causing global warming, face its most severe consequences with the least capacity to cope. The impact of these consequences falls disproportionately on children—particularly on the poorest among them. Children are even less responsible for climate change than the poor countries in which they live. This human rights principle compels States to direct attention and resources to those most excluded and marginalized, yet at both the global and national levels, the *de facto* discrimination against children is compounded by *de jure* exclusion of their concerns from global UNFCCC instruments and policy processes, and from national policies and instruments of climate change adaptation, including NAPAs. This discrimination against children demands intergenerational climate justice; one step towards justice is making this discrimination visible by collecting and disaggregating data (at minimum by age, sex, and location) on the human impact of climate damage to land, forests, and seas, of extreme weather, droughts, and floods (including the impact of heightened protection risks).

#### *The best interests of the child*

To date, through both their action and their inaction on climate change, States parties to the CRC have failed to meet their obligation to make decisions in the best interest of the child (Article 3), while those parties to the UNFCCC have failed to meet their obligations to “protect the climate system for the benefit of present and future generations” (Article 3.1). The most complete way to serve children's best

interests and their claim to intergenerational climate justice is by achieving UNFCCC goals and COP commitments. National governments must take all necessary action to drastically reduce greenhouse gas emissions and pursue a long-term innovative path of low-carbon development. Two preconditions to this action are woefully absent: political will for mitigation, and adequate climate finance. There is scant evidence of progress in meeting these preconditions, as industrialized countries refuse to accept responsibility or countenance the notion of what some consider reparations for past pollution.<sup>65</sup> Developing countries refuse to give up their right to development, and to a standard of living equal to that of the industrialized nations. Without compromise, the inexorable pace of global warming will proceed, posing enormous risks to the future of humanity. The risks are most acute for poor children living in both poor and rich countries. One area where all countries may find common ground is around children, and urgent action is needed to respect their best interests and claim to intergenerational climate justice. Possible actions include:

- Developing a globally harmonized system for the collection, analysis, and dissemination of data on the human impact of climate change consequences. Data should be disaggregated by at least age, sex, and location, and should track the consequences of extreme weather, floods, droughts, environmental degradation of land, forests, and seas.
- Adding a standing agenda item in UNFCCC annual Conference of Parties on action toward intergenerational climate justice, where States would listen to the perspectives of children, analyze disaggregated data on the human impacts of climate change, and decide on action to safeguard present and future generations of children.
- Devoting a special report, by the IPCC, to evidence of the present and future impact of climate change on children, connected to its projected impact on oceans, atmosphere, forests, and coastlines.
- Including in the Guidelines for National

Adaptation Plans of Action a requirement for a child rights assessment of climate change's impact, with and without adaptation.

- Opening a dedicated window for intergenerational climate action within UNFCCC climate financing instruments.
- Including, within guidelines of State parties' periodic reports to the CRC Committee, a requirement to provide information on action taken to safeguard children from the impact of climate change on their rights (with equal protection for poorest and most marginalized children), and action to create an enabling environment for children's agency in climate adaptation and innovation.
- Leveraging the power of the CRC by children, their representatives, and organized civil society, to make States accountable for meeting their obligation to realize child rights, without discrimination, even in the face of climate change for which these States may have limited responsibility. Accountability, including that for mobilizing maximum available resources and international cooperation, can be pursued through public audits, judicial action, citizen mobilization, and the climate-strengthened CRC reporting process.

*A final conundrum: climate justice for generations yet unborn*

The struggle within UNFCCC fora to agree on climate justice is already acute and filled with dilemmas for today's generations; introducing the claims of future generations can only intensify that struggle. Nevertheless, should global warming continue at the expected pace, evidence suggests that generations of children yet unborn will not realize their rights under the CRC. What recourse do these children have, when the child rights machinery is only available to children under 18 who already exist? While a new cohort of children is born every minute, State parties are not legally accountable to protect a child's rights until their birth. With evidence accumulating of future violations to child rights, states do have a moral obligation to protect children yet unborn. Although a General Comment (GC) is advisory and not enforceable,

it is noteworthy that the CRC Committee—in its GC15 on the child's right to health—calls on states to put children's health concerns at the center of their climate change adaptation and mitigation strategies.<sup>66</sup> As these concerns are long-term by definition, they will protect unborn children far into the future.

Legal action on behalf of the human rights of future generations is not unheard of; in its briefing papers series *Children in a changing climate*, the Institute of Development Studies cited an encouraging case from the Philippines:

In 1992, 43 children, acting as representatives of succeeding generations, petitioned the Federal Constitutional Court of the Philippines and sued the government of the Philippines for failing to prevent the destruction of the country's rainforests. The children framed the case as an issue of intergenerational justice in relation to the management of environmental resources by adults and the implications of these actions for their own future.

The Court admitted the claim of the petitioners, stating: 'We find no difficulty in ruling that they (petitioners-children) can, for themselves, for others in their generations, file a class suit ... based on the concept of intergenerational responsibility ... [to make natural resources] equitably accessible to the present as well as to future generations.'

While the case was on appeal, the government passed a law to declare the remaining forests to be a national protected area reserved for perpetual protection for the benefit of present and future generations not yet born.<sup>67</sup>

There is an urgent need to identify human rights mechanisms that will ensure that future generations have access to remedies and resources for climate justice. Climate policy makers must invest in long-term solutions that provide for distributive justice between generations. As Sir Nicholas Stern suggested, a cost-benefit analysis should be used that values the future generation's quality of life as

much as the present generation's, and recognizes that we indeed live in a world borrowed from our children and our children's children.

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