

Environmental Rights and the Impact of Climate Change within the Committee on the Rights of the Child Concluding Observation Reports

Fiona MacDonald

Lecturer in Law, The Open University, Milton Keynes, UK
fiona.macdonald@open.ac.uk

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Abstract

In recent years, there has been an increasing global focus on climate change and environmental issues. Although there are only two articles that refer to environmental health and none to climate change in the Convention on the Rights of the Child, the UN Committee has considered these subjects to be children's rights issues. Presented here is a summary of the findings from an empirical study demonstrating the increasing frequency of comments relevant to environmental issues and climate change within the Concluding Observation reports from the Committee on the Rights of the Child from 2000 to 2022 before the introduction of the new General Comment No. 26. It is further established that though relevant comments occur within all rights clusters, it is the health cluster and under the general measure of implementation where these are mainly focused, with access to clean water and sanitation being the primary issue.

Keywords

children's rights – environment – climate change – Convention interpretation – concluding observations

Acronyms and Abbreviations

CRC –	UN Committee on the Rights of the Child
CO –	Concluding Observations (of the UN Committee on the Rights of the Child) (Intext citations of CO reports include the name of the State Party to whom the CO report is addressed for clarity)
GC –	General Comment
GC26 –	General Comment No. 26 on “Children’s Rights and the Environment with a Special Focus on Climate Change”
UN –	United Nations
UNGA –	UN General Assembly

1 Introduction and Background to Study

Climate change and environmental issues have increasingly been a global focus, and the United Nations states that, ‘climate change is the defining issue of our time and now is the defining moment to do something about it’ (United Nations, internet, n.d.). In July 2022, the UN General Assembly declared that they recognised ‘the right to a clean, healthy and sustainable environment as a human right’ (UNGA, 2022). The Resolution also included the recognition that:

While the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by women and *girls and those segments of the population that are already in vulnerable situations, including indigenous peoples, children, older persons and persons with disabilities.*

UNGA, 2022 (emphasis added)

Taking the increase in global focus on environmental matters into consideration, it is to be expected that the UN Committee on the Rights of the Child has, as this analysis demonstrates, increasingly focused on and drawn attention to environmental issues and climate change as a children’s rights issue despite there being only two Articles with references to environmental health (Arts. 24 and 29), and none to climate change in the Convention on the Rights of the Child. Though the Convention is of its time, the Committee has been able to interpret it, adapting to new or changing issues. General Comments have been an important tool in the continued interpretation of the Convention, enabling the Committee to expand on and clarify its understanding of Convention rights. General Comments have also enabled modern issues not envisioned at

the time of the drafting of the Convention to be included among the topics on which the Committee is prepared to comment. In 2021, the Committee started consulting on their proposed 26th General Comment on “Children’s Rights and the Environment with a Special Focus on Climate Change ” (GC26). This was adopted in May and subsequently published in August 2023.

Though the themes of “environment” and “climate change” are overlapping and are both covered within the new General Comment, they are separate concepts. In this overview of the initial study results, these concepts are considered separately in some circumstances, and it is intended to expand on these individually in the future. Nevertheless, they are frequently considered together here because they are both covered within the single General Comment.

This paper presents an overview of the findings from an empirical study analysing the Concluding Observation (CO) reports from 2000 to 2022 using content analysis to investigate how the Committee construed environmental issues as children’s rights issues before the new General Comment. The study’s initial aim was to investigate whether and, if so, when and in what context the Committee referred to environmental issues and climate change. The results discussed in the paper will demonstrate that recognition of these issues as children’s rights issues has increased over the last two decades. It investigates the themes of environmental concerns and explores how these concerns have been located. By analysing how these issues have been framed prior to the introduction of the new General Comment, it aims to develop further the understanding of how children’s rights and environmental rights have been demonstrated as interconnecting over the 23 years of CO reports.

Concerning environmental issues, Veerman (2010: 607) noted that, ‘[i]t is likely that had the Convention been drafted now, concern with the environment would have been more reflected in the text of the Convention’. That statement would undoubtedly be truer now, but although there is no overt right to a healthy environment in the original text of the Convention, there are two Articles that include relevant rights. First, Article 24, the right to the highest attainable standard of health:

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

...

(c) To combat disease and malnutrition, including within the framework of primary health care, through, 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*;

...

(e) To 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.

UN 1989, Art. 24 (emphasis added)

The second Article with particular relevance to this study is Article 29 on the aims of education:

States Parties agree that the education of the child shall be directed to:

...

(e) The development of *respect for the natural environment*.

UN, 1989, Art.29(1)(e) (emphasis added)

Other than these examples, the word “environment” is used in the Convention text about the family environment, and the word climate (or climate change) does not appear within the Convention. With these two Convention Articles containing overt reference to the environment and the natural world, this study had the expectation from the outset that relevant comments from the Committee were likely to be observed in relation to these Articles, which sit within the health and education clusters. Therefore, one of the aims of the analysis was to explore whether the Committee’s focus on environmental issues within their CO reports has increased over the 23 years. With the increased focus globally, the expectation was that reference to the environment and climate change would reflect this. Another aim of the study was to explore the themes (such as air pollution) among the concerns raised and consider how such concerns have been framed to fit within clusters of rights and connected with specific articles within the Convention.

2 Method

This study uses the published CO reports created during the monitoring process of the implementation of the Convention as a form of the Committee’s

jurisprudence. The structure of the reports and the monitoring process have changed over these 23 years including the reduction of word count for State Party reports, changes to the cluster structure and the increase in General Comments available. For instance, General Comment No.1 was published in 2001, meaning that the oldest reports within this set date from before this. Nevertheless, the structure and content of the reports have remained sufficiently similar since 2000 to enable a meaningful investigation of their content. Slight variations of headings were observed but were recognised as functionally the same so comments under “resources for children” were recorded under the more frequently used “allocation of resources” heading.

The CO reports from 2000 to the end of 2022 (463 in total) were coded using the MAXQDA software and analysed using content analysis. Older reports were not included at this stage of the study as they are less standardised. The coding process was iterative, with the coding system developing during the process, starting deductively (with words such as climate and environmental) but developing inductively through observing and identifying terms being used (such as “fresh air”). During the global pandemic in 2020–21, there was, unsurprisingly, a dip in the number of reports issued which is likely to have influenced the data for these years.

Words such as “climate” and “environment” can have more than one meaning, such as the “family environment” or a “climate of fear”, therefore all coded words¹ were checked for context and relevant references were recorded in a spreadsheet. Where a comment covered two combined paragraphs of a “concern” paragraph and a “recommendations” paragraph relating to the same issues, this was recorded as a single comment. The details of the cluster, paragraph title and topic of the comment were recorded.

An inclusionary approach was taken to topics that have relevance to environmental issues and climate change. For instance, comments relating to “natural disasters”² were included as relevant due to the twin aspects of climate change exacerbating disasters (UN Committee on the Rights of the Child, 2022, Somalia, para. 4) and disasters causing environmental harm (UN Committee on the Rights of the Child, 2003, Czech Republic, para. 5). Some of the topics are explored further in Section 3.3, focusing on themes identified in the

- 1 Alphabetical list of coded words: climate, contaminated, contamination, earthquake, environmental, flood, fresh air, greenhouse gases/gas, poisoning, natural disaster, polluted, pollution, renewable energy, sanitation, smoke-free, water.
- 2 It is acknowledged that the term “disasters” is now preferred to that of “natural disasters”, because of the human impact on disasters, the very reason they are included in this study. Where the term “natural disasters” is used in this article, it is because that is the term used within the report sample, including in the more recent reports.

comments. With as large a sample size as this study of 463 reports, rare subjective decisions as to whether a borderline comment was relevant or not should not significantly affect the results.

3 Results

Of 463 CO reports, only 27 per cent contained no reference to the natural environment or climate change and, therefore, 73 per cent contained such comments where environmental issues or climate change were included as relevant to children's rights.

3.1 *Results by Year*

One of the initial conjectures the study set out to investigate was whether the frequency of comments by the Committee increased over time, mirroring the increasing social focus on environmental issues and climate change. There are three questions relevant to this:

- What proportion of reports each year contain at least one relevant comment?
- What proportion of reports each year contain comments under a relevant focused heading?
- What is the average number of relevant comments per report, per year?

For all three questions, the results for each year were mapped to show how these changed over time.

Starting with the first question, the results are shown in Figures 1 and 2. Figure 1 shows the number of reports for each year and the corresponding number of reports with a relevant comment, and Figure 2 demonstrates the change in the percentage of reports with relevant comments.

Generally, the increase in the frequency of relevant comments over time is demonstrated. In the first six years, fewer than 70 per cent of the reports each year contained relevant comments whereas in the last six years (except for 2021) 90 per cent or more of the reports contained relevant comments. There are occasional noticeable dips with the lowest percentage (44 per cent) occurring in the middle of the time frame in 2011. The previously noted reduction in CO reports issued in 2020 and 2021 can also be seen.

In addressing the second question, the headings identified as being relevant occur within the “disability, basic health and welfare” cluster where there are three headings that are used by the Committee that are of particular note: environmental health, children's rights and the environment, and the effect of climate change and children's rights. Figure 3 shows the number of CO reports

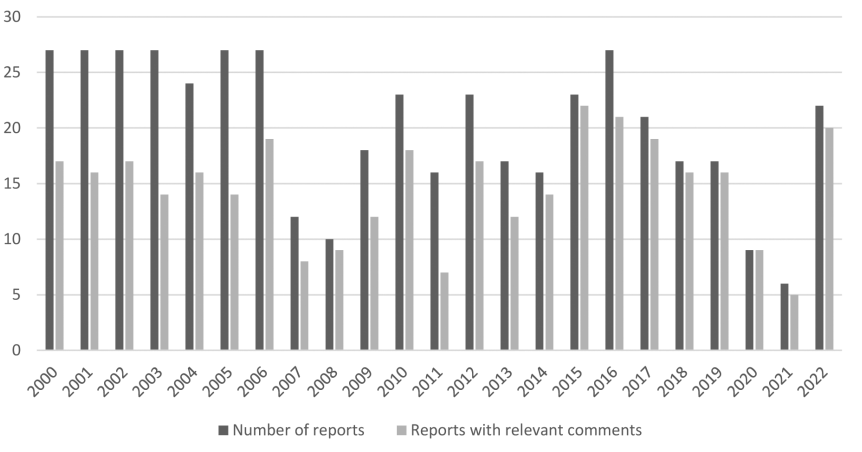


FIGURE 1 The number of reports each year, in comparison to the number with at least one relevant comment

for each year with at least one of these specific headings,³ and Figure 4 shows the percentage and trendline. Overall, 20 per cent of the sample contained at least one of these particular headings.

Compared to Figures 1 and 2, Figures 3 and 4 show more of a marked increase in recent years, with noticeably fewer occurrences before 2014. In 2021

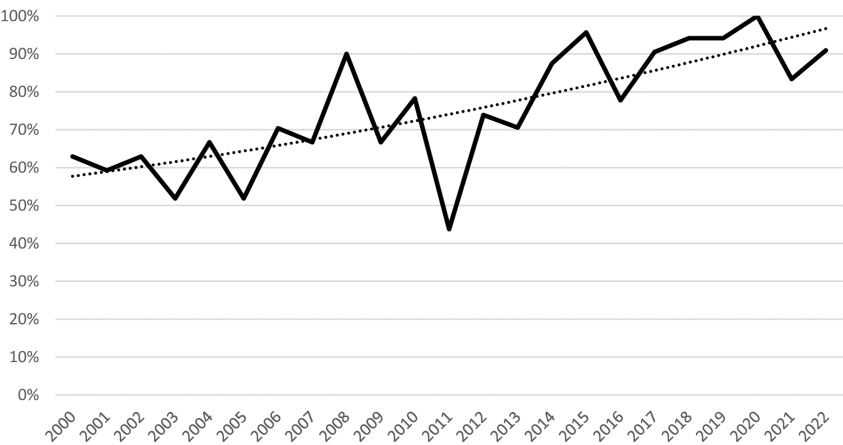


FIGURE 2 The percentage and trendline of reports each year with at least one relevant comment

3 Where the CO report to a State party contained more than one of these specific headings, the report was only counted once for this chart because it is the reports that are being counted, not the headings.

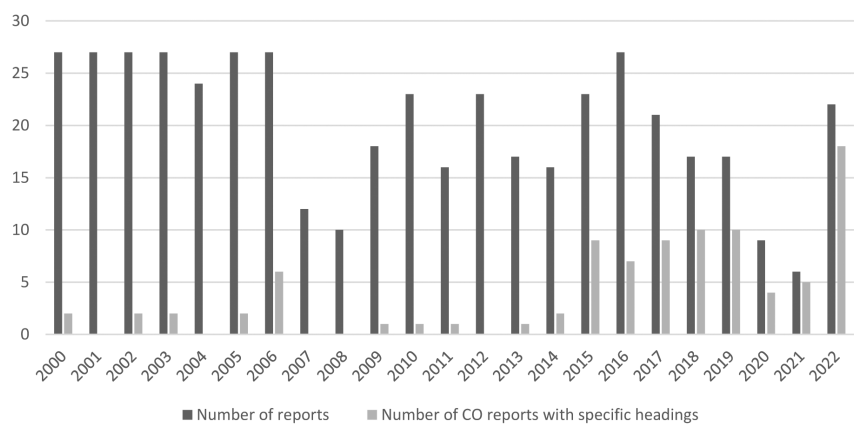


FIGURE 3 The number of reports each year containing at least one comment under a focused heading

and 2022, over 80 per cent of CO reports contained one or more of these headings. Figures 5 and 6 break this data down further into the two types of heading to reflect the sperate nature of the concerns, first “environmental health” and “children’s rights and the environment” for Figure 5, and secondly, “the effect of climate change and children’s rights” for Figure 6.

This disaggregated view of the comments is interesting as there is a reduction in the use of headings relating to the environment in the middle of sample 4, and overall, 10 per cent of the sample reports contained one of these

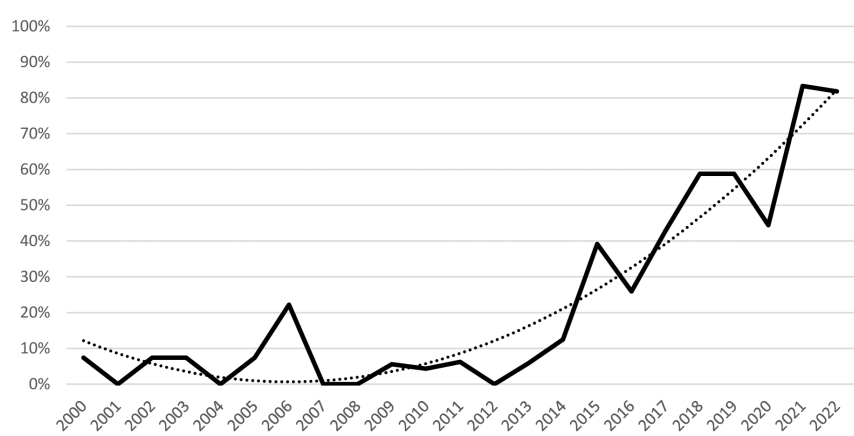


FIGURE 4 The percentages and trendline of the number of reports each year containing at least one comment under a focused heading

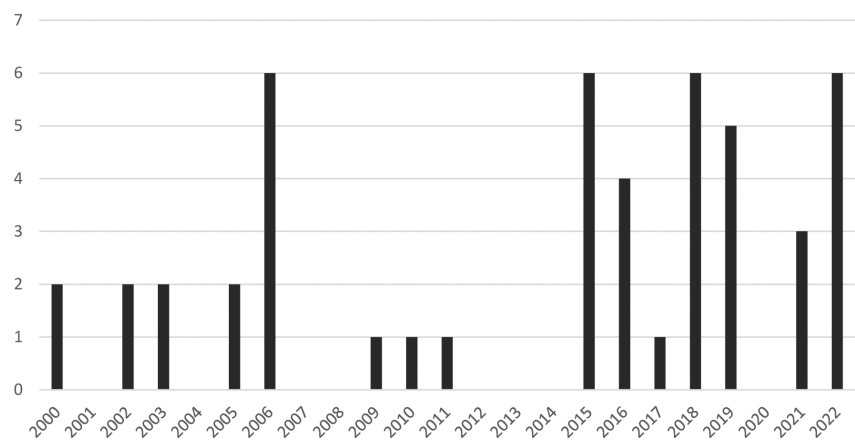


FIGURE 5 The number of reports each year containing either the heading “environmental health” or “children’s rights and the environment”.

headings relating to the environment and children’s health. In comparison, the use of a heading focused on climate change appeared for the first time in 2013. In addition, there are two identified instances of the merging of these headings: Poland in 2021 and Kiribati in 2022 have the heading, “Impact of climate change on the rights of the child and environmental health”; these, therefore, are recorded in both figures above. Within the sample, 11 per cent of the reports contained a heading relating to climate change and children’s rights.

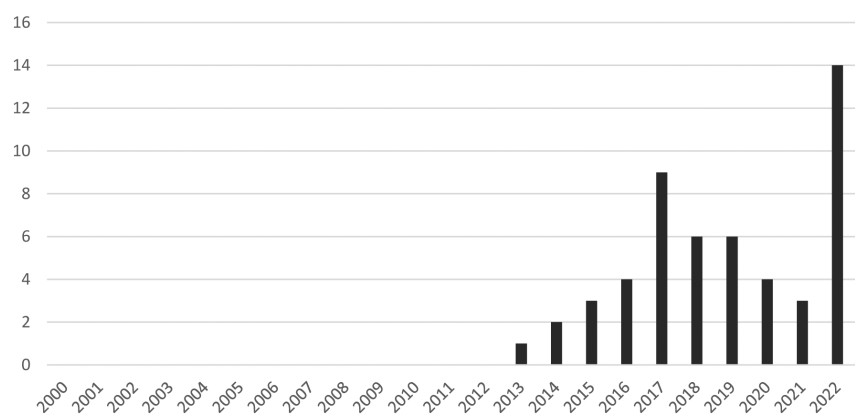


FIGURE 6 The number of reports each year containing the heading, “the effect of climate change and children’s rights”

For the third question, the number of reports per year was divided by the total number of relevant headings with comments for all of the reports for that year. For instance, in 2009, there were 18 CO reports containing 38 headings with relevant comments, giving a mean of 2.11 comments per report. Figure 7 displays the average number of comments per report and the trendline of how this has changed over the 23 years. The trendline shows this average number of comments per report moving from less than one comment per report in 2000 to 3.64 in 2022.

These charts all support the initial hypothesis that the frequency of comments by the Committee would increase over time, mirroring the increasing social focus on environmental issues and climate change.

3.2 *Results by Cluster and Right*

One of the ways that relevant comments were recorded was against which cluster they appeared and under which heading. Environmental concerns appear in two of the articles and therefore one of the pre-existing expectations before analysing the CO reports was that clusters and headings relating to these articles were likely to contain relevant comments. The results, though confirming that these clusters contained relevant comments, demonstrated that most clusters contained some relevant comments, and 14 per cent of the reports contained comments before the cluster structure as preliminary issues. Table 1 sets out the frequency of comments and the percentage of reports with at least one relevant comment within that cluster.

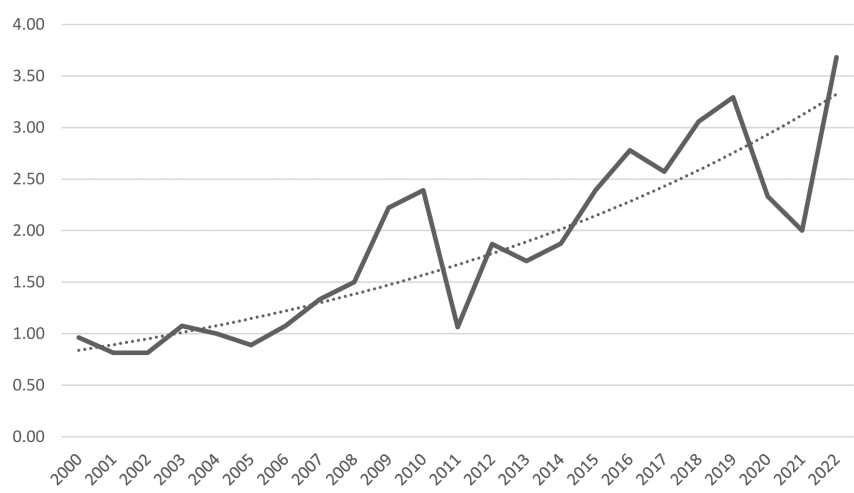


FIGURE 7 The average number of relevant comments per report, per year, and trendline

TABLE 1 Table of frequency of comments against cluster heading

Cluster	Frequency
	%
Before clusters	14%
General measures of implementation (Arts. 4, 42 and 44 (6))	29%
General principles (Arts. 2, 3, 6 and 12)	9%
Civil rights and freedoms (Arts. 7, 8, and 13–17)*	0.2%
Violence against the child (Arts. 19, 24, para. 3, 28, paras. 2, 34, 37 (a) and 39)	0.4%
Family environment and alternative care (Arts. 5, 9–11, 18, paras. 1 and 2, 20, 21, 25 and 27, para. 4)	3%
Disability basic health and welfare (Arts. 6, 18, para. 3, 23, 24, 26, 27, paras. 1–3, and 33)**	60%
Education, leisure, and cultural activities (Arts. 28–31)	15%
Special protection measures (Arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), and 38–40)	13%

*The single comment under this cluster was under a heading usually found in general measures of implementation.
**More recent reports separate this cluster into two clusters, “Children with disabilities” and “Basic health and welfare”.

The clusters, “Civil rights and freedoms” (Arts. 7, 8 and 13–17) and “Violence against the child” (Arts. 19, 24, paras. 3, 28, paras. 2, 34, 37 (a) and 39) both contained comments but less than one per cent.

As expected, the “Disability basic health and welfare” cluster contained a significant number of comments, the highest percentage of any cluster. The details of these comments will be considered in Section 3.2.4.

Comments occurring before the cluster structure and in the two clusters of “General measures of implementation” and “General principles” will be considered first as they are relevant to the structural realisation of children’s rights generally and begin to shed light on how the Committee has viewed the structural nexus of environmental issues for children’s rights.

3.2.1 Comments occurring before Clusters

Fourteen per cent of CO reports included a relevant comment before the cluster structure. These occurred under four headings. In one instance the comment was in the introduction to the report, noting that,

[t]he Committee appreciates the efforts made by the State party to submit its replies to the Committee's list of issues in light of the significant recent natural disasters that have affected the country, including the tropical storms in the recent hurricane season.

UN Committee on the Rights of the Child, 2008, Dominican Republic, para. 3⁴

In eight instances these comments were under the heading of "Follow up measures undertaken and progress made" and were generally positive, such as the committee 'welcomes the progress achieved ... in improving access to water and sanitation' (UN Committee on the Rights of the Child, 2002, Mozambique, para. 3). Another heading with relevant comments before the cluster structure was "Main areas of concerns and recommendations", all four of these comments were since 2017 and were along the lines of this example to Australia in 2019:

The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: ... the impact of climate change on the rights of the child.

UN Committee on the Rights of the Child, 2019, Australia, para. 4

Most of the comments that occurred before the cluster framework were under the heading of, "Factors and difficulties impeding the implementation of the Convention". These occurred more frequently in the earlier reports, but an example of a more recent comment was to Somalia in 2022:

The Committee notes the particularly severe effects of the ongoing armed conflict, political instability, presence of armed groups and consequences of climate change creating natural disasters in the State party, which have led to severe violations of children's rights and constitute a serious obstacle to the implementation of the rights enshrined in the Convention.

UN Committee on the Rights of the Child, 2022, Somalia, para. 4

Comments under this heading were, like the example, generally focused on the effects of disasters impinging on the implementation of children's rights. All the comments identified before the cluster framework linked environmental issues, climate change or disasters with the focus on the realisation of

4 In this overview, examples of comments have been chosen due to their relevance; they do not demonstrate changes over time.

children's rights, predominantly as a detriment and occasionally as a recognition of improvement.

3.2.2 General Measures of Implementation (Arts. 4, 42 and 44 (6))

The occurrence of comments under this cluster started in 2009 and, overall, it has the second-highest identified occurrence. As expected, the comments received under the umbrella of the "General measures of implementation" cluster were connected to issues of structural realisation and the implementation of rights.

Relevant comments for this cluster appeared under six types of headings, the most common two headings being, "Allocation of resources" (comments under "Resources for children" included) and "Children's rights and business sector",⁵ each with relevant comments in 18 per cent of the reports. The other headings under this cluster used for environmental or climate comments were: "National plan of action" (including "Comprehensive policy and strategy"); "Data collection"; "Cooperation with civil sector" (including "International cooperation"); and "Corruption", all with fewer than ten comments each.

Of the two headings with significant occurrences, an example of the types of comments relating to the allocation of resources is to Angola in 2018:

Define budgetary lines for all children, paying special attention to those in disadvantaged or vulnerable situations who may require affirmative social measures, and make sure that those budgetary lines are protected, even in situations of economic crisis, natural disasters or other emergencies.

UN Committee on the Rights of the Child, 2018, Angola, para. 9(f)

The pertinent focus here is the protection of budgets from disasters. General Comment No.26 contains cross-references to GC19 "on public budgeting for the realization of children's rights" (2019) and encourages State Parties to ensure that 'budgetary policies address climate change-related risk factors' (2023, para. 101) and the GC develops the "loss and damage" concept from the Paris Agreement, noting how climate-related loss and damage can affect children and their rights both directly through both sudden and slow-onset extreme weather events and indirectly where:

5 On one occasion the heading, "children's rights and business sector" was included under the "Civil rights and freedoms cluster", rather than in this cluster.

States, communities and parents are forced to reallocate resources away from intended programmes, such as those for education and health care, towards addressing environmental crises.

UN Committee on the Rights of the Child, 2023, para. 105

This demonstrates the complexity of multi-faceted issues that even a single heading, "Allocation of resources" encompasses.

The heading, "Children's rights and the business sector" was also present in 18 per cent of reports. The comments here were split between relatively broad concepts and those that focused on a specific situation. An example of a broad comment is to the United Republic of Tanzania in 2015 where the concern and linked recommendation were that:

The Committee notes the lack of information on any regulatory framework regarding the social and environmental responsibility of business corporations and industries, both national and international, to prevent the possible negative impact of their activities on children

[The State party should]

(b) Require companies to undertake child-rights assessments and consultations, and full public disclosure of the environmental, health-related and child-rights impacts of their business activities, and their plans to address such impacts, and promote the inclusion of child-rights indicators and parameters for reporting.

UN Committee on the Rights of the Child, 2015, Tanzania, para. 21–22

Whereas to Zambia in 2016 the comment was focused on concerns regarding a specific type of business, the mining industry:

Establish a clear regulatory framework for the mining industries operating in the territory of the State party to ensure that their activities do not negatively affect or endanger environmental and other standards, particularly those relating to children's rights.

UN Committee on the Rights of the Child, 2016, Zambia, para. 22

General Comment No. 26 has a section focused on children's rights and the business sector where GC16 (2013) is cross-referenced with the critical reiteration that: 'States have the obligation to protect against the abuse of child rights by third parties, including business enterprises' (UNCRC, 2023, para. 78). GC26 is explicit that, '[b]usiness activity is a source of significant environmental damage, contributing to child rights abuses' (2023, para. 79) and makes

recommendations for the use of children's rights impact assessments by businesses, and for standards to ensure against such practices as "green-washing".

3.2.3 General Principles (Arts. 2, 3, 6 and 12)

The general principles cluster covers Article 2 on non-discrimination, Article 3 on the best interests of the child being a primary consideration, Article 6 on the inherent right to life and Article 12 on the respect for the views of the child. Under this cluster, though relevant comments have become more frequent since 2013, relevant comments can be seen from 2000, the start date of this sample. This cluster of rights is of interest for two reasons: first, the involvement (and the resulting media coverage) of children in the movement calling for global action to reduce the impact of climate change; and secondly, in relation to Article 6 which, although in this study was not found to have been frequently used to link children's and environmental rights, it is likely to be increasingly used as a nexus of these interlinking rights because a healthy environment is increasingly being construed as an issue relating to the right to life. For instance, the UN website for the Special Rapporteur on Human Rights and the Environment states that:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the right to life.

UN Special Rapporteur on Human Rights and the Environment, 2023

Within the reports analysed, three headings under the General Principles cluster occasionally included relevant comments. The heading, "Respect for the views of the child" was used in only 4 per cent of the reports and the headings, "Right to life, survival and development" and "Non-discrimination" in only 3 per cent.

The types of issues raised under the "Right to life, survival and development" heading frequently included concerns about access to clean water and sanitation as well as specific issues such as in 2022 a comment to Canada focused on health issues caused by water contaminated with mercury. Likewise, water and sanitation tended to be the focus for comments under the heading, "Non-discrimination".

Comments under the heading 'Respect for the views of the child' included a reference to GC12. For instance:

Recalling its General Comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party:

(a) Promote meaningful and empowered participation of children, particularly children in marginalized and disadvantaged situations, within the family, communities, schools and other settings, and include children in decision-making in all matters related to them, including environmental matters.

UN Committee on the Rights of the Child, 2022, Croatia, para. 19

The importance and relevance of Article 12 to children's environmental rights cannot be overstated. The Committee acknowledges on the webpage for GC26 that: '[t]he efforts of children to draw attention to environmental crises created the motivation and were the momentum behind this General Comment' (UNCRC, 2023). The '16,311 contributions from children' is expressly mentioned and within GC26 the section on Article 12 on the "Right to be heard" opens with the recognition that:

Children identify environmental issues as being highly important to their lives. Children's voices are a powerful global force for environmental protection, and their views add relevant perspectives and experience with respect to decision-making on environmental matters at all levels.

UNCRC, 2023, para. 26

Though only 4 per cent of the reports included environmental issues under this heading, the theme of the voice of the child was frequently included elsewhere in the cluster framework. For example, the recommendation to Antigua and Barbuda contained under the heading, "Impact of climate change on the rights of the child" in the health cluster:

Ensure that the special vulnerabilities and needs of children, as well as their views, are taken into account in developing policies and programmes addressing climate, environmental change and disaster risk management.

UN Committee on the Rights of the Child, 2017, Antigua and Barbuda, para. 46(b)

Notwithstanding that the General Principles cluster did not register the level of relevant comments of some of the other clusters within this set of CO reports, after the publication of GC26 and due to other UN bodies' recognition of environmental rights, the cluster has the potential to become a critical cluster (while respecting concepts of indivisibility and interdependence) due to the acknowledgement of the importance of a healthy environment to the inherent right to life, survival and development. It includes this right as one

of those particularly linked to children having the right to a clean, healthy and sustainable environment (UNCRC, 2023, para. 63).

3.2.4 Disability Basic Health and Welfare (Arts. 6, 18, paras. 3, 23, 24, 26, 27, paras. 1–3, and 33)

For this study, the “Disability basic health and welfare” cluster is of particular importance as it contains the largest number of comments relating to the environment and climate issues, with 60 per cent of the CO reports containing relevant comments. This is not surprising because, as noted, Article 24 on the highest attainable standard of health contains specific reference to the environment.

Under this cluster, there were eight headings with relevant comments. The most common headings were “Standard of living” and “Health and health services” (including comments under the “Basic health and welfare” heading) each with comments in 29 per cent of reports, “Impact of climate change on the rights of the child” 12 per cent and “Environmental health” (including comments under “Children’s rights and the environment” heading) 10 per cent. Headings that were found also to contain a few relevant comments were: “Nutrition”, “Children with disabilities”, “Adolescent health”, and “Mental health”. The number of headings under which comments were recorded may explain why the comments are spread out across them, possibly with the committee choosing the most appropriate in each circumstance.

Within this cluster of headings, four merit further exploration, the first two (“Standard of living” and “Health and health services”) because they contain the highest number of references and the second two as they are of particular relevance to this study (“Environmental health” including comments under “Children’s rights and the environment” and “Impact of climate change on the rights of the child”).

Starting with headings focused on health and the standard of living, the link between health and the environment is important as a healthy environment can affect an individual’s health in a multitude of ways and conversely, an unhealthy environment is likely to have a wide-ranging negative effect. In the draft GC26, the right to health (Art. 24), and the standard of living (Art. 27) were respectively the second and fourth articles to be considered before this organic structure was changed in the final published CG26 to be in numerical order.

The comments under these headings were dominated by the theme of access to clean water and sanitation. For instance, in 2010 the Committee recommended to Mongolia that the State Party, ‘[s]trengthen measures to increase access to safe drinking water and improve hygiene practices, in the

light of article 24(c) of the Convention' (UN Committee on the Rights of the Child, 2010, Mongolia, para. 51(c)). Water and sanitation are discussed further in Section 3.3. An example from comments under the heading, "Standard of living", which was not focused on water or sanitation, is from the recommendations to the UK where the focus was on pollution:

Take necessary measures to reduce homelessness and to progressively guarantee all children stable access to *adequate housing that provides physical safety, adequate space, protection against the threats to health and structural hazards, including cold, damp, heat and pollution*, and accessibility for children with disabilities.

UN Committee on the Rights of the Child, 2016, United Kingdom, para. 71(f), (emphasis added)

Frequently within a report, issues were returned to in separate comments, developing the understanding of the details of a concern. Earlier in the same report under the heading "Environmental health", the Committee commented on air pollution and climate change the report said:

The Committee is concerned at the high level of *air pollution, which directly affects child health in the State party and contributes to the negative impact of climate change affecting various rights of the child, both in the State party and in other countries.*

UN Committee on the Rights of the Child, 2016, United Kingdom, para 68, (emphasis added)

In this report to the UK, the third and final relevant paragraph under the heading, "Rest, leisure, recreation, and cultural and artistic activities" within the education cluster included a further reference to air quality with the recommendation to provide "smoking-free places for play and socialisation" (2016, para. 75(b)). Reading the three comments together emphasises the concern regarding pollution generally for the UK and particularly air pollution.

On occasion the two headings, "Environmental health" and "Impact of climate change on the rights of the child" were merged, as for Poland in 2021 where the heading appeared as "Impact of climate change on the rights of the child and environmental health" (UN Committee on the Rights of the Child, 2021, Poland, para. 37). The heading of "Environmental health" enables the Committee to cover specific situations affecting a particular State Party, such as the comment and recommendation to the Ukraine in 2002 where the Committee recommended that it:

- (a) Continue to improve the specialized health care provided to children affected by the Chernobyl disaster, including its psychosocial aspect;
- (b) Strengthen its efforts to detect and prevent diseases related to nuclear contamination;

...

- (d) *Take all appropriate measures, including seeking international co-operation, to prevent and combat the damaging effects of environmental degradation on children, including pollution of the environment and food products.*

UN Committee on the Rights of the Child, 2002, Ukraine, para. 56 a)(b) and (d) (emphasis added)

Comments under “Impact of climate change on the rights of the child” increased in frequency over the 23-year period. Within the whole sample, 11 per cent of reports contained this heading, from 2013 to 2022 the heading appeared in 30 per cent of the reports, increasing to 57 per cent between 2020 and 2022.

While climate change is a global issue, for some States, its effect is already devastating. One of the nations at risk of being wiped out by climate change is Tuvalu, a small Pacific island nation; “Tuvalu is sinking” is the local catch-all phrase for the effects of climate change on this tiny island archipelago on the frontline of global warming’ (Roy, 2019). The Committee said:

While noting the measures taken to promote climate change resilience in the community and in schools, including disaster risk reduction and school safety initiatives, the Committee is deeply concerned about:

- (a) The increasingly adverse impact of global climate change on the rights of the child, including the rights to life, survival and development; non-discrimination; education; health; adequate housing; and safe drinking water and sanitation.

UN Committee on the Rights of the Child, 2020, Tuvalu, para. 42

Though the “Impact of climate change on the rights of the child” heading occurs within the health-focused cluster, the comments under this heading were observed frequently to encompass reference to other rights. The concerns to Tuvalu included in later sub-paragraphs comment on access to water and sanitation in schools, and the child’s right to be heard about climate change.

One of the types of comments that were found in both this cluster and the education cluster were recommendations to improve education on climate change, such as in this recommendation to Japan:

The Committee draws attention to Sustainable Development Goal 13 and its targets. In particular, it recommends that the State party: ...

(b) Increase children's awareness and preparedness for climate change and natural disasters by incorporating the topic into the school curriculum and teachers' training programmes.

UN Committee on the Rights of the Child, 2019, Japan, para. 37(b)

From 2013 onwards, 13 per cent of reports include this or very similar wording on the inclusion of climate change in the school curriculum (whether under the health or education cluster).

3.2.5 Education, Leisure, and Cultural Activities (Arts. 28–31)

The second Article containing an explicit reference to the environment is Article 29(1)(e) that 'education of the child shall be directed to: ... The development of respect for the natural environment' (UN, 1989 Article 29(1)(e)). Therefore, comments under headings within this cluster were expected and occurred under four headings, the most common being "education, including vocational training and guidance" which contained relevant comments in 12 per cent of the reports, followed by "Rest, recreation, leisure and cultural activities" (3 per cent) and in less than one per cent of the report's comments were constructed under "Aims of education" and "Early childhood development". The comments occurred across the time period of the sample reports.

The rare occurrence of comments under the "Aims of education" heading is perhaps surprising with the existence of Article 29(1)(e). However, comments relating to this point occurred more frequently under the more general heading within this cluster relating to education and within the health cluster under the headings "Environmental health" or "Impact of climate change on the rights of the child". Consequently, this recording of the use of this specific heading indicates the Committee raising the importance of the realisation of this right.

A repeated theme of comments under "education, including vocational training and guidance" was the need for states to improve access to water and sanitation facilities in school buildings. These linked issues were the predominant theme within the co reports across all clusters.

3.3 Results by Theme

The themes analysed were developed both deductively and inductively. Deductively they were developed from prior knowledge of the issues and therefore some themes were searched for from the start such as references to "pollution". From checking the coding of references to pollution, for instance,

repeated references to “smoke-free” in conjunction with air pollution were noted. Thereafter, the coding then developed inductively and this overlapping theme was then also coded and searched for.

The most common themes by far were comments relating to water (53 per cent of reports) and the accompanying theme of sanitation occurring (50 per cent). Comments relating to environmental issues were found in 36 per cent, “natural disasters” in 31 per cent, climate change in 15 per cent and pollution (generally) in 13 per cent. In addition to these main themes, some other less common themes were identified: floods (4 per cent), earthquakes (3 per cent), air pollution (9 per cent), soil pollution (2 per cent), greenhouse gases (2 per cent) and renewable energy (one per cent).

Some concerns and recommendations covered many of these themes under a single heading. For example, in 2015 the Committee raised the following concern to Jamaica under the heading, “climate change”, covering the themes of water, sanitation, disasters and climate change:

While noting as positive the fact that the State party has established guidelines for child-friendly disaster management and response through the Special Safety and Protection Initiative of its Office of Disaster Preparedness and Emergency Management, the Committee is concerned at the adverse impact of *climate change* and *natural disasters* on the rights of the child, including the rights to education, health, adequate housing, *safe and drinkable water and sanitation*. It is also concerned that *natural disasters* have the potential to undermine the social safety net of the State party, with negative consequences for children and families exposed to poverty.

UN Committee on the Rights of the Child, 2015, Jamaica, Pos. 172 (emphasis added)

This example also demonstrates the inclusion of references to how disasters can undermine the realisation of children's rights. The themes of climate change and environmental issues not only included the prevalence of the specific headings described earlier, but also when they were referred to under other headings such as the “aims of education” and “children's rights and the business sector”. The relevance and the way the Committee comments on the main themes identified are informative in understanding children's environmental rights.

3.3.1 Water and Sanitation

The most common themes observed were water and sanitation occurring in over half of the reports. These themes directly link to one of the Sustainable

Development Goals, Goal 6 to ‘Ensure availability and sustainable management of water and sanitation for all’. The joint UNICEF and WHO report on the “State of the World’s sanitation” notes that, “The lack of safe sanitation leads to illness and disease that disproportionately affect children’ (2020: 11.) In addition, in the report they are unequivocal that:

Sanitation is vital to health, child development, and social and economic progress. Safe sanitation is also a human right – *essential for the fulfilment of child rights* and the achievement of good physical, mental and social well-being – recognized as a distinct right by the General Assembly of the United Nations in 2015.

UNICEF & WHO, 2020, p.15, (emphasis added)

Comments relating to water and sanitation were found throughout the sample under many headings and relating to numerous Convention Articles. The importance of clean, drinkable water and sanitation facilities that do not cause environmental degradation is a topic repeated in the new General Comment appearing in numerous paragraphs including in relation to Article 24 and the right to the highest attainable standard of health where it is described that:

Health protection also applies to the conditions that children need to lead a healthy life, such as a safe climate, safe and clean drinking water and sanitation.

UN Committee on the Rights of the Child, 2023, para. 43

Environmental degradation is multi-faceted and many of the issues raised by the Committee are interconnected. For instance, issues around air pollution and smoking-free spaces can be linked to water contamination because in the recent WHO report on the tobacco industry it is noted that ‘[c]igarette butts and other forms of tobacco product waste poison rivers, oceans and marine life, contaminate beaches and waterways’ (2022: 1). The interconnectedness of both issues commented on and of environmental rights to many Convention rights is demonstrated not only in the new General Comment but also in the comments the Committee have made to State Parties.

4 Future Developments of the Study

This article is an overview of the results of the study so far. There are plans to continue to explore and expand the data. As new CO reports are released, it is

planned to add these to the study, and it is also intended to explore including CO reports prior to 2000. Regarding the nature of the comments, further analysis is planned, for instance, investigating the comments to analyse whether the Committee is commenting on an issue that has relevance to the environment or whether they are actively recommending action on climate change, and how these comments have (or have not) changed over time. These expansions of the study would also aim to add to the growing evaluation of the Committee's jurisprudence. Finally, it is planned to develop the data set into a user-friendly searchable database that can be shared.

5 Conclusions

The results of the study establish that of the sample of CO reports from 2000 to 2022, 73 per cent had reference to environmental issues or climate change in one form or another. This rises to 83 per cent when considering the reports from 2010 onwards. These figures demonstrate that before the publication of GC26, environmental issues and climate change were being recognised as children's rights issues by the Committee, possibly reflecting both the increasing social focus and the Committee's developing understanding including via the process of production of the General Comment. The expansive nature of the intersection of environmental rights with children's rights as recognised in GC26 is apparent with comments being recorded under most clusters. The cluster with the highest percentage of reports with comments (60 per cent) was the "Disability, basic health and welfare" cluster, a result anticipated due to the inclusion of a reference to the health 'risks of environmental pollution' in Article 24. The cluster with the second highest percentage was the "General measures of Implementation" cluster (29 per cent). Within the large range of issues covered, the topics of water and sanitation were the most common, occurring in 54 per cent and 50 per cent of the reports.

Notwithstanding that it has been found that 'somewhat surprisingly newly adopted General Comments do not appear to have had a more significant impact on the Committee's assessment of a state party' (Alexander and Todres, 2021) with the introduction of the new General Comment in conjunction with (or due to) the increasing global media focus due to the unprecedented levels of climate incidents, it is expected that the emphasis on environmental issues and climate change in CO reports will increase. The Committee is clear in their General Comments that implicit from the Convention, 'Children have the right to a clean, healthy and sustainable environment' (UNCRC, 2023). It is anticipated that there may be a shift in where within the cluster framework

environmental issues and climate change are referred to, in part due to the analysis of the intersection of rights within the new GC26 and due to how other UN organisations are framing these issues. For instance, the rights to life, survival and development was not one of the Articles with significant comments. However, because of how a healthy environment is being construed within the broader human rights context, for instance such as, the Special Rapporteur on Human Rights and the Environment recognising that ‘a safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life’ (2023), it could be expected that environmental issues and climate change are likely to receive additional focus under this right in future CO reports.

Both the draft and final version of the GC26 included the concept of inter-generational equality and the draft version noted that:

Nearly all (88 per cent) of children consulted affirmed that climate change and environmental damage were threatening future generations, and 63 per cent believed children were affected more than adults.

UN Committee on the Rights of the Child, 2022

Intergenerational equality is of particular importance to environmental issues and climate change as they are long-term issues, with damage done in generations past as well as the ongoing damage occurring. Fundamentally, this study has demonstrated that the Committee on the Rights of the Child are considering climate change and environmental issues to be children’s rights issues by including them in over 86 per cent of the most recent ten years of the CO reports. Considering how critical climate change is for the future, ideally, all CO reports should include the impact of climate change on children and their rights because it is children and children’s children, and their children, that will be affected by climate change far more than those who are already adults.

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