Proposal for
UN Committee on the Rights of the Child
Day of General Discussion 2016

“The right of the child to a healthy environment”

submitted by
Terre des Hommes International Federation

With support of:

UN Major Group for Children and Youth

Children and Youth

the space for children and youth in the United Nations

National Coalition Germany

EARTHJUSTICE

Because the Earth needs a good lawyer

and

UN Special Rapporteur on Human Rights and the Environment
John Knox
**Sponsor: Terre des Hommes International Federation**

Terre des Hommes International Federation (TDHIF) is a network of ten national organisations working for the rights of children and to promote equitable and sustainable development. To this end, TDHIF runs 847 development and humanitarian aid projects – supported by 880 local and national partner NGOs - in 65 countries supporting close to 3 million direct beneficiaries. An increasing number of projects address environmental issues, including through education and participation of children and youth.

Moreover, TDHIF raises general awareness about violations of children’s rights and lobbies governments to make necessary changes in legislation and practice. Since 2011, Terre des Hommes (Germany) has been lobbying for children’s right to grow up in a healthy environment, succeeding to build awareness and networks among UN bodies and international partners. For example, Terre des Hommes enjoyed the privilege to present the concept of children’s right to a healthy environment before the Committee on the Rights of the Child during its 60th session. In 2015, Terre des Hommes will publish three in-depth case studies that document violations of children’s rights as a consequence of environmental damage in the context of development. The DGD proposal draws on the expert advice of UN Special Rapporteur on Human Rights and Environment, John Knox. [http://www.terredeshommes.org/](http://www.terredeshommes.org/)

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**Co-Sponsors**

**UN Major Group Children and Youth (MGCY)**  
The MGCY is the officially recognised space within UN processes for Sustainable Development which facilitates the voice of children and young people. We represent the voice of children and youth around the world. The vision of the UN Major Group for Children and Youth is the meaningful participation of children and youth and their organisations at all levels in decision-making on sustainable development. Currently, over 5000 organizations and/or people participate in the activities of the MGCY. [http://childrenyouth.org/](http://childrenyouth.org/)

**National Coalition Germany: Network for the Implementation of the UN Convention on the Rights of the Child**  
The National Coalition is a German NGO network of 117 member organizations. The common goal of all members is the full implementation of the UN Convention on the Rights of the Child in Germany. Already in 1999, the Coalition introduced the term “ecological” child rights, defining it as the right to grow up in a safe environment, to lead a healthy life and develop positive future prospects. [http://www.national-coalition.de/index.php](http://www.national-coalition.de/index.php)

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**Center for International Environmental Law (CIEL)**  
The Center for International Environmental Law uses the power of law to protect the environment, promote human health, and ensure a just and sustainable society. CIEL is a non-profit organization dedicated to advocacy in the global public interest, including through legal counsel, policy research, analysis, education, training and capacity building. [http://www.ciel.org/index.html](http://www.ciel.org/index.html)
Summary of Proposal

Environmental degradation, including harm from climate change, is one of the pressing human rights challenges facing humanity in the twenty-first century. We are failing to safeguard the environment, and the result is that we are contributing to major violations of human rights to life, health, food, water, and housing, among others. Children suffer a disproportionate share of the burden, because they are still developing and are very vulnerable to environmental damage. They will also face the long-term consequences.

While the general nexus between human rights and the environment has received some attention recently, the role of a healthy environment in fulfilling the rights of children is less well-known than it should be. The interdependence between children’s rights and the environment may seem self-evident, but the CRC is often overlooked in the development and implementation of environmental policies. Practice shows that the contours of substantive and procedural duties relating to the environment urgently require clarification.

2015 is a seminal year for better integrating human rights and environmental protection under the overarching concept of sustainable development: In September, governments will gather to adopt a successor framework to the MDGs, thereby effectively determining development priorities until 2030. 2015 will also, perhaps, see an agreement on climate change. The provisions and principles of the CRC have a unique potential to inform and strengthen the implementation of both the new climate agreement and the Post-2015 Agenda for Sustainable Development. A Day of General Discussion can offer a platform of dialogue between relevant actors in order to foster a deeper understanding of the contents and implications of the Convention as they relate to the protection of the environment in the context of sustainable development and climate change.
1. Rationale

The last two decades have seen a huge rise in public and political awareness regarding the effects of human-caused environmental damage. All over the world, people are experiencing the negative impact of water and food shortages, soil, air and water pollution or man-made natural disasters. Governments, especially in developing countries, have come under increasing pressure from their populations to do more for the protection of the environment and ensure sustainable development. Environmental degradation frequently crosses borders and is even felt at the global level, as in the case of climate change. Increasing urbanization, population growth and exploitation of natural resources along with the destruction of ecosystems have the combined potential to make environmental issues a major threat for the realization of human rights.

According to the World Health Organisation, already approximately one-quarter of the global disease burden is due to modifiable environmental factors, which play a role in more than 80% of the diseases regularly reported by it. As many as 13 million deaths could be prevented every year by making environments healthier. Recent global data shows that in 2012 around 7 million people – one in eight of total global death – died as a result of air pollution exposure alone. This finding more than doubles previous estimates. While the impact of environmental harm affects people everywhere it is disproportionately borne by children. Nearly one-third of the 6.6 million under-5 child deaths every year are associated with environment-related causes and conditions. Moreover, one third of all disease in this age group is caused by environmental factors such as unsafe water and air pollution. Globally, the per capita number of healthy life years lost to environmental risk factors is about 5-times greater in children under 5 years of age than in the total population. The infant death rate from environmental causes is 12 times higher in developing than in developed countries, reflecting the human health gain that could be achieved by supporting healthy environments. On average, children in developing countries lose 8-times more healthy life years, per capita, than their counterparts in developed countries from environmentally-caused diseases.

It is remarkable, that - despite such numbers, consequences and obvious disparities – the immense impact of environmental damage on children’s lives is rarely expressed in terms of gross and persistent violations of children’s rights. Too often, those concerned with child rights and those concerned with environmental protection focus on one to the exclusion of the other. States, for example, scarcely address environmental issues in their periodic reports to the Committee on the Rights of the Child.

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1 Brazil, for example, has just suffered the worst freshwater crisis in its history: http://www.theguardian.com/environment/2015/mar/08/how-water-shortages-lead-food-crisis-conflicts.
2 Recent examples include the governments of China, UK and India who have come under pressure due to heavily-polluted cities. See: http://www.theguardian.com/world/2015/apr/05/indian-minister-promises-acute-air-pollution-world-health-organisation, http://www.theguardian.com/world/2015/mar/05/beijing-sanguine-pollution-documentary-china or http://internacional.elpais.com/internacional/2015/04/30/actualidad/1430419961_721245.html.
5 In very poor regions of the world, however, the disparity is far greater; the number of healthy life years lost as a result of childhood lower respiratory infections is 800-times greater, per capita, and 140-times greater for diarrhoeal diseases. See 2006 WHO report on Preventing disease through healthy environments - towards an estimate of the environmental burden of disease (http://www.who.int/quantifying_ehimpacts/publications/preventingdisease/en/).
Although the interdependence between children’s rights and the environment may seem self-evident, state practice shows that the contours of substantive and procedural duties relating to the environment need further clarification: Often, environmental harm is treated as a matter merely of cost-benefit analysis, while child rights require us to consider it in light of its effect on the right of the individual child to grow up in dignity and freedom. Social root causes behind environmental problems, including socio-economic, sociocultural and demographic issues, and the injustices involved, receive relatively little attention. Not all children suffer from environmental problems in the same way, nor do all children have equal access to safe and healthy environments, but environmental decision-making related to children is rarely informed by disaggregated data capturing vulnerabilities and marginalization, which is scarce. In general, environmental policies lack a holistic understanding of the environment’s role in the fulfilment of children’s rights, including the many different ways in which environmental harm can negatively affect children (vulnerabilities). There is, for example, an urgent need to draw more attention to the relevance of the environment beyond the “immediate” health impact. Statistics usually fail to capture the long-term effects of exposures to environmental toxins that occur at a young age, but do not manifest themselves as disease until years later. The impact on children’s wider psycho-social, cognitive, spiritual and moral development, including the development of respect for the natural environment, is rarely looked at in-depth. In addition, there is a need to consider the child rights challenges arising from different forms of environmental problems, beyond matters of pollution. Recently, the Committee has explicitly recognized climate change as a major threat to children’s health globally. Man-made natural disasters and increasing urbanization are further environment-related topics that urgently require attention from a child rights perspective.

Global consultations show and a large number of diverse youth initiatives, networks and organizations all around the world confirm that a healthy environment is a major concern for children. Unfortunately, decision-making processes on the environment and sustainable development also illustrate the gap that exists between the ideal and reality of meaningful participation. It is blatantly unjust that children’s interests, rights and voices usually go completely unheard when politicians or other relevant actors decide on “hard” policy matters concerning the environment, including climate change. Most environmentally-relevant conferences and projects do not go beyond mere tokenistic participation and are characterized by a lack of child-friendly information, short speaking time and, most often, the exclusion from actual decision-making, that takes place behind closed doors. This entails an incredible loss of knowledge, creativity, courage and legitimacy for this policy area.

Taking into account that childhood is a unique period of development, tackling severe environmental problems with potentially lifelong, irreversible and even transgenerational consequences requires us to take a much more holistic, equitable and precautionary approach based on the principles and norms of the CRC.

**A growing understanding of the link between human rights and the environment**

In recent years, the relationship of human rights and the environment has become the subject of attention in many international human rights forums. In 2012, the High Commissioner for

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7 Just see recent study on “Association between Traffic-Related Air Pollution in Schools and Cognitive Development in Primary School Children: A Prospective Cohort Study (http://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1001792).
8 See, for example, the e-consultation on the “World Children Want” facilitated by the UN Major Group for Children and Youth in the context of the Post-2015 Agenda (https://www.worldwewant2015.org/children).
Human Rights urged the Human Rights Council to devote more attention to global environmental damage as one of “the pressing human rights challenges facing humanity in the twenty-first century.” ¹¹ Since then the Council has established, inter alia, a mandate for an Independent Expert to explore the human rights obligations “relating to the enjoyment of a safe, clean, healthy and sustainable environment” and held a full-day annual discussion (2015) on the topic of climate change and human rights with a view to strengthen the focus on vulnerable groups in the new agreement on climate change. The Independent Expert (now Special Rapporteur) has already submitted several reports clarifying state obligations with regard to environmental protection, including one mapping report on the UN Convention on the Rights of the Child (2014). ²²

Recently, the UN treaty body system has also become more strongly involved in clarifying the link between human rights and the environment. For example, the Committee on Economic, Social and Cultural Rights has decided to draft a General Comment on the topic of human rights, development and the environment. The Committee on the Rights of the Child itself regularly highlights environmental problems in the State review procedure and its Concluding Observations. ¹³ Many of the recent General Comments include references to environmental issues such as safe environments for play (General Comment No. 17) or the impact of business operations (No.16) and climate change on children’s right to health (No. 15).

The growing understanding of the link between human rights and the environment underlines an urgency to draw further attention to the specific situation of children, the most vulnerable group in this regard. It also provides a great opportunity to take stock and complement existing initiatives in their effort to clarify human rights obligations related to the environment. The CRC is particularly suited to contribute to a deeper and more systematic understanding of the direct and indirect links between the protection of the environment and the enjoyment of human rights since it is one of the few Covenants that explicitly mention environmental challenges. In addition, some of its provisions have unique but unexplored potential in regard to environmental issues (e.g. the best interests principle). The Special Rapporteur on human rights and the environment has indicated that children’s vulnerability to environmental problems will be one of the thematic priorities for his second mandate (2016). This would significantly raise the potential for synergy effects, if combined with a DGdD on children’s rights and the environment. Mr. John Knox has already expressed his willingness to support a potential initiative in any way that he can.

The Post-2015 Sustainable Development Agenda and the UN Climate Change Conference – a great window of opportunity

2015 is a seminal year for integrating economic development, social justice and environmental protection under the overarching concept of sustainable development: In September, governments will gather to adopt a successor framework to the MDGs, thereby effectively determining development priorities until 2030. ²³ 2015 will also see an agreement on climate change, if governments decide so at the UN Climate Change Conference (COP 21) in Paris. There is now a widely shared view, affirmed by UN Secretary-General Ban Ki-moon in his synthesis report “The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet” that human rights should be at the core of the Post-2015 Development Agenda, including the new Sustainable Development Goals, and climate policy. From a child rights perspective, it is already a success that many of the seventeen goals recommended by the Open Working Group on Sustainable Development Goals address crucial rights issues for children such as empowerment of girls, ending violence against children, quality education, or combating child poverty ¹⁴. What is less clearly pronounced, however, is the

¹³ For some recent examples, see Concluding Observations on India (§ 30), Venezuela (§§ 62/63) or Colombia (§§ 17/18/49). For the latter state procedure, Terre des Hommes submitted a shadow report on the impact of coal mining on children’s rights in El Hatillo, Colombia.
importance of child rights for the third pillar of sustainable development – environmental protection.\textsuperscript{15} The provisions and principles of the CRC have a unique potential to inform and strengthen the implementation of the Post-2015 Agenda for Sustainable Development in this regard, because children have a role to play in action to combat climate change, conserve natural resources and biodiversity, and protect ecosystems – as pioneers and future guardians, victims and consumers. The Post - 2015 Agenda and the Paris Conference are two great windows of opportunity that can be utilized to insert child rights across all three pillars of sustainable development and thereby address issues such as climate change that are important to children but were not included in the CRC.

2. Objectives and Scope of the Day of General Discussion

Overall Objective
To enhance, at the international and national levels, understanding of the direct and indirect links between the protection of the environment and the enjoyment of child rights

Specific Objectives
1. Help identify specific child rights issues relating to environmental harm and understand how to define children’s vulnerability in this context.
2. Map and clarify child rights obligations relating to environmental protection.
3. Assess the current role of children’s rights in policies on environmental protection and sustainable development and provide guidance on how to implement a child rights approach in these fields.
4. Identify examples of good policies and practices in relation to children’s rights in the context of environmental protection and sustainable development
5. Provide substantive information to facilitate the Committee’s dialogue with and recommendations to States parties on issues relating to protection of children’s right to a healthy environment.
6. Offer a platform of dialogue between participants and promote exchange of knowledge and experience, and collaboration between relevant actors dealing with children’s rights and the environment.

The objectives of the proposed DGD can be achieved through broad consultation and the participation of a wide range of actors, including:

- children and youth representatives. There is an abundance of local and global initiatives, networks and organizations led by children and youths, which can provide expert advice on environmental issues and sustainable development (e.g. UN Major Group Children and Youth, Global Youth Biodiversity Network, and Young Friends of the Earth). As an implementing development NGO, Terre des Hommes (through its own International Youth Network) has the opportunity to enable, facilitate and accompany direct, meaningful and safe participation of children in marginalized and vulnerable situations from different world regions, in compliance with the Committee’s standards on child participation;
- representatives of UN human rights mechanisms, including the UN Special Rapporteur on Human Rights and the Environment, and members of other relevant treaty bodies working on matters related to human rights and the environment (UNCESCR);
- representatives of relevant UN bodies and specialized agencies (WHO, UNHCHR, UNICEF, UNEP, FAO, High-Level Political Forum on Sustainable Development);
- representatives of regional human rights instruments and national courts with expertise on environmental child rights (e.g. Green Tribunals);

\textsuperscript{15} This is quite evident from the list of recommended goals: https://sustainabledevelopment.un.org/focussdgs.html.
- NGOs working on environmental rights, representative of the environmental, development and child rights community (e.g. Earth Justice, CIEL, Plan International);
- national human rights institutions with expertise in the environmental field (e.g. Ombudsperson for Future Generations);
- academic and other scientific or technical experts on child rights and the environment (e.g. Pure Earth).

Environment-related rights in the CRC

While the universal human rights treaties do not refer to a specific right to a healthy environment, there is no doubt that human rights law sets out obligations on States that are relevant to the enjoyment of a safe, clean, healthy and sustainable environment, as the UN Human Rights Council recognized in its March 2014 resolution on human rights and the environment (see Fn. 10).

The Convention on the Rights of the Child is one of the very few global human rights instruments that contain explicit provisions on the environment. It raises environmental challenges in the specific context of child health and education (Article 24/29 CRC). In addition, several other child rights provide minimum substantive standards environmental policies and laws must strive to meet. Without access to a healthy environment it is impossible to realize the rights to life, survival and development, food, water, health, an adequate standard of living, housing, play and culture (Arts. 6, 24, 27, 31) – now and in the future. In its interpretations of the CRC, the Committee has further linked environmental concerns with other rights, including the right to protection from all forms of violence and the right to freedom from economic exploitation. Since many of the environmentally-related child rights depend on each other for their realization, serious cases of environmental degradation can have far-reaching consequences for the implementation of the Convention as a whole. States also have obligations to facilitate procedural rights whose implementation is vital to environmental policy-making. In order to protect child rights from environmental harm, States must, for example, examine the possible effects of projects before they implement them (Art.3); make information public and accessible to children (Arts. 13/17); give children access to decision-making processes (Art.12), and provide timely access to remedies for environmental harm. More generally, the four guiding principles of the CRC, including non-discrimination (Art.3), should inform all environmental policies.

Despite this clear connection between children’s rights and the environment, the precise contours of substantive and procedural state duties are less clear and known than they should be. A Day of General Discussion can offer a platform of dialogue between relevant actors in order to foster a deeper understanding of the contents and implications of the Convention as they relate to the protection of the environment. Given the broad range of children’s rights that can be affected by environmental harm, the DGD should seek to provide recommendations for implementing the Convention as a whole whilst focusing on specific contexts where the impact on children’s rights can be most significant.

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16 That is partly due to the fact that international environmental law only started to develop from the 1970s onwards.
17 In an important sense, all environmental laws that set stringent standards for air quality, water quality, toxic releases and/or other environmental matters are good practices for the protection of the many child rights that depend on a healthy environment.
18 See CRC General Comment No. 5, §24.
3. Suggested format

To facilitate discussions during the DGD, the event can begin and conclude in full plenary. The opening plenary session will aim to provide all participants with an overview of the link between children’s rights and the environment and the priority concerns for discussion. It may include an input by the UN Special Rapporteur on Human Rights and the Environment. The concluding plenary will aim at consideration of the main findings arising out of discussions and follow-up steps to the DGD. In line with the arguments and considerations presented above and in accordance with current CRC practice, the DGD can have two working groups with discussions on issues linked to the respective indicative questions listed below.

**Issues for Consideration in Working Group 1: The international legal framework for the protection of children’s right to a healthy environment, challenges, state responsibilities and protection gaps**

1.) What is the role of a healthy environment for implementing the CRC as a whole and as an underlying determinant of the right to life, survival and development, food, water, health, housing, play and culture etc. In which ways are these rights affected by environmental problems?

2.) What are the effects of climate change on the realisation of children’s rights?

3.) What is the effect of a decrease in the time spent in connection with nature for children’s development (e.g. through urbanisation or deforestation)? In which ways does access to and contact with the natural environment promote and reinforce the ethical core values underlying the Convention on the Rights of the Child as a whole?

4.) Which groups of children are particularly vulnerable to environmental degradation and lack of access to safe and healthy environments (e.g. poor children living in informal and disaster-prone settlements, indigenous children, children with disabilities)?

5.) What state obligations arise from the CRC regarding the design of environmental policies and regulation, standards and protection measures? What are main gaps in States Parties compliance with their legal obligations concerning environment-related rights?

6.) What is the precise role of environmental education in the realisation of children’s rights? What is the concrete meaning underlying the central aim of education articulated in Article 29 (1)e CRC to develop “respect for the natural environment”? In which ways can this aim empower children to act as agents of change towards an environmentally and socially sustainable life style?

**Issues for Consideration in Working Group 2 - A child rights approach to environmental protection and sustainable development**

1.) What are the basic elements of a child rights approach to environmental protection and sustainable development? What is the added value of a child rights approach applied to these policy areas?

2.) What are the linkages between the guiding principles and norms of the CRC and those of sustainable development and environmental protection? In which ways can the CRC inform decision-making and the practice of implementation in these fields? And, more specifically,
   - what do the best interests principle and the right to life, survival and development mean for determining the degree of environmental protection, setting policy priorities and child-sensitive standards?
   - what does the principle of non-discrimination imply for matters relating to environmental protection and sustainable development?

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19 The provided format is, indeed, a suggestion, and can be flexibly adjusted according to the needs identified in a potential organizing process.
What minimum standards do the provisions of the CRC set for the level and quality of effective participation in decision-making on environmental or sustainability policy and implementation at different levels?

3.) What challenges can arise in the implementation and operationalization of a child rights approach to environmental protection and sustainable development and how can they be met (e.g. lack of disaggregated and child-rights specific environmental data; lack of involvement of children and the youth in a frequent and qualified way)?

4.) What are examples of good practices regarding the implementation of a child rights approach or specific child rights in relation to environmental protection and sustainable development?

4. Outcome and Follow-up

Potential recommendations coming out of the discussion may assist all stakeholders (governments, UN bodies, research institutions, NGOs) in better understanding the relationship between children’s rights and the environment.

Main findings can be used, for example, to draft a General Comment - complementing the initiative taken by the UNCESCR - that provides governments with pragmatic guidance on how to interpret the substantive and procedural duties arising from children’s rights for the protection of the environment. This would be an opportunity to address issues such as climate change that are important to children but were not included in the Convention. Furthermore, such guidance could enrich directly the debates on and elaboration of National Action Plans or other measures related to the implementation of the post-2015-Agenda and the new climate change agreement.

At the same time, the Committee can use the outcome of the Day of General Discussion to foster its role as a relevant monitoring body for assessing the impact of development goals on the enjoyment of the rights enshrined in the CRC, including by drawing on development data and reports in the Committees’ constructive dialogue with States as part of the review process. Best practices should be examined to see if and how they could be adapted for implementation at the national level. By learning more about what other states are doing, each state will be better able to fulfil its own duties to protect the rights of children from the effects of e.g. climate change.

Potential recommendations would also be a useful tool for other relevant stakeholders. NGOs could employ them to lobby for a strong child rights approach in the implementation of the post-2015 Agenda and the climate agreement. Recommendations could also inform much needed research, including data collection, regarding the effects of environmental damage on children. In any case, follow-up measures should ensure that the outcome of the DGD is brought to the attention of relevant actors concerned with environmental protection, since many of these are unfamiliar with children’s rights.

5. Available Resources

Terre des Hommes commits to dedicate the personal and financial resources that are necessary to prepare and hold a Day of General Discussion on children’s rights and the natural environment, including for funding travel and other related expenses of participants and panellists. While basic funding for the envisaged DGD is secure, TDH is ready to explore further sources, if additional funds are needed. Moreover, Terre des Hommes is willing to carry out the required functions as principal NGO partner to support the Committee and OHCHR in conceptualising and developing the DGD, in accordance with existing guidelines. TDH is already in conversation with other major child rights NGOs, inter alia, to set up a working group on children’s rights right to a healthy environment within Child Rights Connect.