



**Parallel Report**  
submitted by  
**the Philippine Alliance of Human Rights Advocates (PAHRA)**  
and  
**the Center for International Environmental Law (CIEL)**  
to the  
**Pre-sessional Working Group of the Committee on the  
Rights of the Child**  
on the occasion of the consideration of the  
**List of Issues on the Philippines**  
during the Working Group's 87<sup>th</sup> session  
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## Executive Summary

Climate change is infringing fundamental rights of Filipino children. The largest fossil fuel producers – the so-called *Carbon Majors*<sup>1</sup> – are among the biggest contributors to climate change globally.<sup>2</sup> Pursuant to its duty to protect human rights, the Philippines has an obligation to regulate those corporations and/or their subsidiaries subject to its jurisdiction, to prevent, mitigate, and provide remedy for the adverse impacts of their activities on children’s rights. In order to avoid further violations to human rights, such regulation should require fossil fuel producers to align their business plans and operations with a pathway that would limit warming to 1.5°C, consistent with the best available science, and should introduce clear, objective standards for corporate reporting on fossil fuel producers’ own contributions to climate change.<sup>3</sup> Moreover, because effectively regulating private actors includes “*holding them accountable for harm they generate both domestically and extraterritorially*,”<sup>4</sup> the Philippines should maintain or, where necessary, establish accountability and redress mechanisms that are both effective and readily accessible to children whose rights have been infringed by the climate consequences of fossil fuel producers’ products, operations and conduct. It should also cooperate with third countries, where many of the fossil fuel-producing corporations are domiciled, to improve the regulatory and accountability framework for climate-related human rights harm transnationally.

The Commission on Human Rights of the Philippines has announced it will imminently conclude its national inquiry on the *Impact of Climate Change on the Filipino People, and the Responsibility of the “Carbon Majors”, if any*. Once the Commission releases its final report, the Philippines should take the Commission’s findings and recommendations into account when implementing measures to strengthen the country’s framework for corporate regulation and accountability, consistent with its international human rights obligations.

In light of the above, we urge the Committee to include the following in its List of Issues to the Philippines:

**Taking into account that fossil fuels are the primary driver of climate change, please provide information on:**

**(a) how the State Party is fulfilling its duty to protect children’s rights from the adverse impacts of fossil fuel production, marketing, and sale, including information on measures requiring fossil fuel producers subject to the Philippines’ jurisdiction to report on their**

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<sup>1</sup> The term “Carbon Majors” refers to the largest multinational and state-owned producers of crude oil, natural gas, coal and cement. R. Heede, *Carbon Majors: Accounting for Carbon and Methane Emissions 1854-2010, Methods and Results Report* (Apr. 7, 2014), <http://climateaccountability.org/pdf/MRR%209.1%20Apr14R.pdf>.

<sup>2</sup> Richard Heede, Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers, 1854-2010, 122 CLIMATIC CHANGE 229 (2013) (in Annex D3 to the Petition); see also Annex D to the Greenpeace Petition, Updated Details of Carbon Majors Publications. A 2017 update to this research demonstrated that over half of global industrial emissions since 1988 can be traced to just 25 corporate or state producers. See CDO, THE CARBON MAJORS DATABASE (2017). Available at: <https://www.cdp.net/en/reports/downloads/2327>.

<sup>3</sup> Amended Petition Requesting for Investigation of the Responsibility of the Carbon Majors for Human Rights Violations or Threats of Violations Resulting from the Impacts of Climate Change, GreenPeace and others, p.48. See: <https://storage.googleapis.com/planet4-philippines-stateless/2016/07/213f91ba-amended-petition-may-2016.pdf>

<sup>4</sup> See CEDAW, CESCR, CRC, CMW, & CRPD, Joint Statement on Human Rights and Climate Change (Sept. 16, 2019), available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24998&LangID=E>. Last accessed 26th September 2020.

contributions to climate-induced threats to children rights, and to align their business plans and operations with emission pathways consistent with the best available climate science;

(b) how the State Party is fulfilling its duty to provide children with access to remedy for climate-induced human rights violations, including information on measures to enhance the accountability of fossil fuel producers, improve the regulatory and accountability framework transnationally, in cooperation with third countries; and

(c) how the State Party will implement the recommendations arising from the National inquiry on Climate Change by the Commission on Human Rights of the Philippines.

### 1. The impacts of climate change on children in the Philippines

#### Climate change science

According to the latest report of the Intergovernmental Panel on Climate Change (IPCC), global average temperatures have already increased by more than 1°C above pre-industrial levels.<sup>56</sup> The current level of temperature increase has already had severe implications for communities across the world. These impacts are felt both through slow-onset catastrophes, such as long-term changes in sea level rise, temperature and rainfall patterns, and the geographic spread and life cycles of mosquitoes and other disease vectors; and through extreme events made more frequent or more severe by climate change, such as hurricanes, droughts, floods, and wildfire. Both slow-onset and extreme events jeopardize fundamental human rights, including the right to life, by destroying homes and livelihoods, increasing the prevalence and impact of disease, heightening food and water insecurity, and displacing populations both within and across borders. In October 2018, the IPCC released a Special Report on 1.5°C of warming, which concluded that “climate-related risks for natural and human systems are higher for global warming of 1.5°C than at present, but lower than at 2°C”.<sup>7</sup> The IPCC has stressed that risks increase with every additional magnitude of warming.

The IPCC notes that without rapid and dramatic emissions reduction efforts, an increase of average temperatures by more than 4°C is “more likely than not”. According to the IPCC, “the risks associated with temperatures at or above 4°C include substantial species extinction, global and regional food insecurity, consequential constraints on common human activities, and limited potential for adaptation in some cases (high confidence).” The Filipino government has formally endorsed these findings through its adoption of the 1.5°C Special Report on October 6th, 2018, and several other reports produced by the IPCC.

<sup>5</sup> IPCC Special Report, ‘Global warming of 1.5°C. An IPCC special report on the impacts of global warming of 1.5 °C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty’ (2018) (SR 1,5), finding A1.

<sup>6</sup> Global Climate Change, NASA. See: <https://climate.nasa.gov/evidence/>.

<sup>7</sup> IPCC. Report on Global warming of 1.5°. See: [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15\\_Full\\_Report\\_Low\\_Res.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Full_Report_Low_Res.pdf).

The Philippines ranks among the top five countries most vulnerable to climate change impacts.<sup>8</sup> The country experienced 317 climate-related extreme weather events between 1999 and 2018, greatly exceeding the number of events experienced by any other of the ten most vulnerable countries over the same period.<sup>9</sup> As noted above, moreover, such extreme events only compound and exacerbate the array of slow-onset climate catastrophes that jeopardize human rights in the country on a continuous and growing basis.<sup>10</sup>

Climate change results in considerable impairments of Filipino peoples' human rights, especially those protected under the Convention on the Rights of the Child. These include, *inter alia*, the rights to life, survival and development (Art. 6), the right to health (Arts. 24 and 32), the right to education (Art. 28) and the right to an adequate standard of living (Art. 27).

Children, particularly the most disadvantaged, are acutely vulnerable to the impacts of climate change, and face heightened and specific risks compared to the wider population as a whole.<sup>11</sup> Their vulnerability to climate change can be attributed to three main factors: firstly, considering that climate change can have negative effects on both the physiological and mental development of children under the age of five, these young children are at risk of experiencing distinct, disproportionate and possibly life-long impacts.<sup>12</sup> Secondly, children constitute one of the largest segments of the overall population in the Philippines<sup>13</sup>; as of 2020, around 30 percent of the population is under the age of 14.<sup>14</sup> Lastly, children and future generations, although least responsible for the driving causes of climate change, will experience the long-term and escalating consequences of today's insufficient climate action.<sup>15</sup>

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<sup>8</sup>German Watch, Global Climate Risk Index 2020. [https://reliefweb.int/sites/reliefweb.int/files/resources/20-2-01e%20Global%20Climate%20Risk%20Index%202020\\_10.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/20-2-01e%20Global%20Climate%20Risk%20Index%202020_10.pdf). Last accessed September 26, 2020.

<sup>9</sup> Ibid.

<sup>10</sup> See, e.g. Philippines National Climate Inquiry Record Exhibit 2J (Testimony of Dr. Victorio Molina regarding *Health Impacts of Climate Change*) <http://chr.gov.ph/wp-content/uploads/2019/11/Exhibit-2J-Health-Impacts-of-Climate-Change-PPT-Presentation-of-Victorio-Molina.pdf>; 3U (Testimony of Segfredo Serrano, Ph.D, regarding *Climate Change and Philippine Agriculture*) <http://chr.gov.ph/wp-content/uploads/2019/11/Exhibit-3U-Climate-Change-and-Philippine-Agriculture-PPT.-Presentation-of-Usec.-Segredo-R.-Serrano.pdf> ; Exhibit 3X (Testimony of Dr. Vincent Hilomen regarding *Effects of Climate Change on Food Chain: Compromising Food Security*) <http://chr.gov.ph/wp-content/uploads/2019/11/Exhibit-3X-Effects-of-Climate-Change-on-Food-Chain-Compromising-Food-Security-PPT-Presentation-of-Dr.-Vincent-V.-Hilomen.pdf> ;

<sup>11</sup> Center for International Environmental Law (CIEL), Amicus Brief "GreenPeace Nordic Association & Natur Og Ungdom v. The Government of Norway". Available at: <https://www.xn--klimasksm1-95a8t.no/wp-content/uploads/2019/10/Brief-of-Amicus-Curiae-CIEL-in-GreenpeaceNaturUngdom-v-Norway-Oct-28-2017.pdf>. Citing UNGA, Human Rights Council Resolution 35/20, Human rights and climate change, 19 June 2017, paragraph 15: "recognizing that "children [...] are among the groups most vulnerable to the adverse impacts of climate change, which may seriously affect their enjoyment of the highest attainable standard of physical and mental health, access to education, adequate food, adequate housing, safe drinking water and sanitation". See Res.35/20 at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G17/167/92/PDF/G1716792.pdf?OpenElement>

<sup>12</sup>Hannah, Oliva. Implications of Climate Change for Children in Developing Countries. See:[https://www.jstor.org/stable/pdf/43755233.pdf?casa\\_token=KIFULmGbsmQAAAAA:eCABf1dsJ883WLNLC70T2wPwefQ\\_7F4MzD1d8M0khJBB-m30LQWVvTPW2EjMh8EOp58cTzTbsZ9-lvPgpMTUAhfte9ioocXdTQfDcbkicvYd3mNPcxMdB](https://www.jstor.org/stable/pdf/43755233.pdf?casa_token=KIFULmGbsmQAAAAA:eCABf1dsJ883WLNLC70T2wPwefQ_7F4MzD1d8M0khJBB-m30LQWVvTPW2EjMh8EOp58cTzTbsZ9-lvPgpMTUAhfte9ioocXdTQfDcbkicvYd3mNPcxMdB). Last accessed 17th August 2020.

<sup>13</sup> Iberdrola. Which countries are most threatened by and vulnerable to climate change? See: <https://www.iberdrola.com/environment/top-countries-most-affected-by-climate-change>. Last accessed 17th August 2020.

<sup>14</sup> United Nations Population Fund. World Population Dashboard. See: <https://www.unfpa.org/data/world-population/PH> last accessed 12th August 2020

<sup>15</sup>Hannah, Oliva. Implications of Climate Change for Children in Developing Countries. See:[https://www.jstor.org/stable/pdf/43755233.pdf?casa\\_token=KIFULmGbsmQAAAAA:eCABf1dsJ883WLNLC70T2wPwefQ\\_7F4MzD1d8M0khJBB-m30LQWVvTPW2EjMh8EOp58cTzTbsZ9-lvPgpMTUAhfte9ioocXdTQfDcbkicvYd3mNPcxMdB](https://www.jstor.org/stable/pdf/43755233.pdf?casa_token=KIFULmGbsmQAAAAA:eCABf1dsJ883WLNLC70T2wPwefQ_7F4MzD1d8M0khJBB-m30LQWVvTPW2EjMh8EOp58cTzTbsZ9-lvPgpMTUAhfte9ioocXdTQfDcbkicvYd3mNPcxMdB). Last accessed 17th August 2020.

While the impacts of climate change will affect all children to some degree, those impacts fall disproportionately on children living in conditions of extreme poverty, who face greater risks from natural disasters and climate-induced impacts, affecting their ability to cope and adapt to a changed and changing climate.<sup>16</sup> For instance, while one in three children under the age of five in the Philippines is stunted, nearly half of stunted children come from the country's poorest areas.<sup>17</sup> By 2050, an additional 70,000 Filipino children will be malnourished every year due to climate-related events<sup>18</sup>, while an additional 95,000 children below 5 years old will be dying globally from climate-induced undernourishment every year by 2030.<sup>19</sup>

As 60 percent of the Philippines' municipalities and 10 of its largest cities are situated along the coast,<sup>20</sup> a significant portion of the population is exposed to storms, cyclones and sea level rise, which, according to future projections, will increase from 10 to 20 percent beyond the global average, depriving 8.6 million Filipinos of their lands by 2050<sup>21</sup> and displacing 13.6 million of them.<sup>22</sup> Since 2008, floods, landslides, storms and menacing sea level rise are responsible for 3.7 million displacements in the Philippines, thus threatening the right to an adequate standard of living for many Filipino children.<sup>23</sup> For instance, in November 2013, the environmental devastation brought by Typhoon Haiyan onto coastal and inland areas affected 14 million people, of whom 5.9 million were children living in poverty.<sup>24</sup> Together with cyclones and storms, heat waves and sea-level rise strongly undermine children's health in more than 57 of the country's provinces and poorer districts<sup>25</sup>, as they contribute to the increase of vector-borne diseases, ranging from malaria, to Zika and dengue fever. According to future projections, climate-related children's deaths will rise from 7.7 percent by 2030 to 11 percent by 2050<sup>26</sup>, especially due to restricted access to water or contaminated water sources, increasing the probability of diarrhea among children younger than 5 years old.<sup>27</sup>

## 2. Private actors' contribution to climate change and related human rights harms

The CRC has acknowledged the links between the harmful activities of private actors, environmental damage, and the violation of children's human rights. In its General

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<sup>16</sup> UNICEF (2015), Unless we act now: The impact of climate change on children, page 6

<sup>17</sup> Situation analysis, UNICEF 2018. See: <https://www.unicef.org/philippines/media/556/file> Last accessed 12th August 2020

<sup>18</sup> Exhibit 6P, 'Statement of Resource Person: Katherine Lofts, Research Associate, Law, Governance & Society Lab at McGill University dated 16 September 2018, p. 2. citing Ortega, J. and Klauth, C. (2017), Climate Landscape Analysis for Children in the Philippines (Makati City: UNICEF Philippines). See: <http://chr.gov.ph/wp-content/uploads/2019/12/Exhibit-6P-Statement-of-Resource-Person-Katherine-Lofts.pdf>. Last accessed 20th August 2020.

<sup>19</sup> WHO, Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s (2014).

<sup>20</sup> World Bank Group (2011), Climate Risk and Adaptation Country Profile: Philippines, p. 7, available at [https://climateknowledgeportal.worldbank.org/sites/default/files/2018-10/wb\\_gfdr\\_climate\\_change\\_country\\_profile\\_for\\_PHL.pdf](https://climateknowledgeportal.worldbank.org/sites/default/files/2018-10/wb_gfdr_climate_change_country_profile_for_PHL.pdf) (last accessed on 12 September 2019).

<sup>21</sup> See: <https://www.philstar.com/headlines/2019/11/06/1966508/30-years-rising-seas-will-threaten-philippine-cities-towns-home-68m#:~:text=MANILA%2C%20Philippines%20%E2%80%94%20In%20only%20three,of%20average%20annual%20coastal%20flood,last> accessed 12 August 2020.

<sup>22</sup> UNICEF Philippines (2017) Climate Landscape Analysis for Children in the Philippines.

<sup>23</sup> See: IDMC <http://www.internal-displacement.org/countries/philippines/> Last accessed 20th August 2020.

<sup>24</sup> UNICEF (2014), One Year After Typhoon Haiyan, Philippines, Progress Report: [https://www.unicef.org/philippines/UNICEFPhilippines\\_Haiyan1yrProgressReport.pdf](https://www.unicef.org/philippines/UNICEFPhilippines_Haiyan1yrProgressReport.pdf)

<sup>25</sup> WHO, Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s (2014).

<sup>26</sup> World Health Organization UNFCCC Climate and Health Country Profile – 2015 Philippines.

<sup>27</sup> UNICEF (2015): Committing to Child Survival: A Promise Renewed, Progress Report 2015.

Comment No.16 on *State obligations regarding the impact of the business sector on children's rights*, the Committee states that “environmental degradation and contamination arising from business activities can compromise children’s rights to health, food security and access to safe drinking water and sanitation.”<sup>28</sup> In its Report of the 2016 Day of General Discussion, the CRC affirmed that business activities, ranging from the production, use, release and disposal of hazardous substances, the extraction of resources or other types of operations, are a driving factor in environmental degradation, which contributes to child rights abuses at the national and global levels.<sup>29</sup>

In the context of climate change, recent studies suggest that the 90 Carbon Majors<sup>30</sup>, the largest investor- and state-owned producers of fossil fuels - such as crude oil, natural gas and coal - and cement, have contributed to 63 percent of global carbon dioxide (Co2) and methane emissions between 1751 and 2010. There is clear scientific evidence that the Carbon Majors and other fossil fuel producers have contributed and are contributing to climate change impacts in the Philippines, thus deeply affecting the human rights of all Filipinos, in particular children.<sup>31</sup>

The transnational character of such corporations, comprising multiple interwoven legal entities operating in and across many different jurisdictions, further exacerbates the challenges faced by countries in establishing a regulatory and accountability framework capable of regulating and monitoring their activities.<sup>32</sup> Corporate soft power - also known as “corporate capture”<sup>33</sup> is also a limiting factor to effective regulation. In the context of the Philippines, studies suggest that corporations exert considerable influence on the government,<sup>34</sup> shifting the priorities away from the public social and environmental agenda.

## 2.1. State Party’s Duty to regulate private actors

The CRC has repeatedly recognized the obligation of States to regulate the activities of private and business actors and ensure access to remedy for business-related human rights harms.<sup>35</sup> The Committee’s General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) specifies that “States should

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<sup>28</sup>UN Committee on the Rights of the Child (2013), General Comment 16: State obligations regarding the impact of the business sector on children's rights

<sup>29</sup> UN Committee on the Rights of the Child. Report of the 2016 day of general discussion. See: <https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2016/DGDoutcomereport-May2017.pdf>.

<sup>30</sup>Accounting for carbon and methane emissions, Top Twenty investor-owned and state-owned oil, gas, and coal companies 1965-2017, Climate Accountability Institute. See: <https://climateaccountability.org/carbonmajors.html>

<sup>31</sup>John Cook et al, Quantifying the Consensus on Anthropogenic Global Warming in the Scientific Literature, available at <https://iopscience.iop.org/article/10.1088/1748-9326/8/2/024024> (last accessed on 12 September 2019); See also Watts, J. (24 July 2019), “No doubt left” about scientific consensus on global warming, say experts, available at <https://www.theguardian.com/science/2019/jul/24/scientific-consensus-on-humans-causing-global-warming-passes-99> (last accessed on 19 August 2020). 'There was 99% scientific consensus in 2011 that humans are causing global warming,' quoting John Cook, the lead author of Quantifying the consensus on anthropogenic global warming in the scientific literature.

<sup>32</sup> Ibid.

<sup>33</sup> See Corporate capture explained, Friends of the Earth International. See: <https://www.foei.org/what-we-do/corporate-capture-explained>. Last accessed 20 September 2020.

<sup>34</sup>OECD. A Country Paper on Corporate Ownership and Corporate Governance: issues and concerns in the Philippines,p.3. See: <https://www.oecd.org/corporate/ca/corporategovernanceprinciples/1931183.pdf>

<sup>35</sup>UN Committee on the Rights of the Child (CRC), *General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights*, 17 April 2013, CRC/C/GC/16, available at: <https://www.refworld.org/docid/51ef9cd24.html> [accessed 15 September 2020]

regulate and monitor the environmental impact of business activities that may compromise children's right to health, food security and access to safe drinking water and to sanitation".<sup>36</sup> The Committee's General Comment No. 16 on *State obligations regarding the impact of the business sector on children's rights* specifies that "States must have adequate legal and institutional frameworks in place to ensure that the business sector respects, protects and fulfils children's rights"<sup>37</sup> and that they should "ensure access to effective remedy for children whose rights have been infringed by a business enterprise acting as a private Party or as a State agent."<sup>38</sup>

The Committee's General Comment No. 16, together with the United Nations Guiding Principles on Business and Human Rights,<sup>39</sup> provides a framework for States' responsibility vis-a-vis human rights violations by private actors, and their duty to regulate, monitor and establish enforcement and redress mechanisms for business enterprises whose actions negatively impact children's rights. According to both documents, States should ensure that businesses comply with standards of human rights due diligence in order to "identify, prevent and mitigate their impact on children rights including across their business relationships and within global operations."<sup>40</sup> To do so, General Comment No. 16 specifies, States should "take all necessary, appropriate and reasonable measures to prevent business enterprises from causing or contributing to abuses of children's rights"<sup>41</sup> by introducing and implementing "laws and regulations that address specific foreseeable risks to children's rights from business enterprises that are operating trans-nationally."<sup>42,43</sup>

The Committee has reiterated these obligations in its dialogues with individual States Parties. For example, in its Concluding Observations (COBs) on the Netherlands, the Committee recommended that the State Party "ensure the effective implementation by companies, especially oil extracting [...] companies, as well as financial institutions, of international and national environmental and health standards," and require those companies to assess, consult on, and disclose the human rights impacts of their activities and their plans to address them.<sup>44</sup> It also asked Bahrain to "specify progress made in establishing a regulatory framework for the business sector regarding the impact of its activities on children's

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<sup>36</sup> UN Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), UN Doc CRC/C/GC/15, para. 49

<sup>37</sup> Ibid. para.4

<sup>38</sup> Ibid. paras.5, 30-31.

<sup>39</sup> See U.N. Guiding Principles on Business and Human Rights, HR/PUB/11/04 (2011), [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf) [hereinafter UNGP or Guiding Principles].

<sup>40</sup> Committee of the Right of the Child. General comment No. 16 (2013) On State obligations regarding the impact of business on children's rights, para.62. See: <https://resourcecentre.savethechildren.net/node/7140/pdf/7140.pdf>.

<sup>41</sup> Ibid. para.28.

<sup>42</sup> Ibid. para.50.

<sup>43</sup> States should also mandate all State-owned enterprises "to undertake child rights due diligence and to publicly communicate their reports on their impact on children's rights, including regular reporting", "to make public their efforts to address children's rights impacts [through communications that are] available, efficient, and comparable across enterprises [...]" and to "put in place verification and enforcement mechanisms to ensure compliance". Ibid. paras.64 and 65.

<sup>44</sup> Committee on the Rights of the Child, Concluding observations on the fourth periodic report of the Netherlands (CRC/C/NLD/CO/4), at para. 23(b)-(c), available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/159/42/PDF/G1515942.pdf?OpenElement>. Similarly, the Committee recommended that Angola "ensure that appropriate policies and regulations are issued with regard to the activities of the corporate business sector, [...] requiring respecting and protecting the rights of children and operating in a socially and environmentally responsible manner." (CRC/C/AGO/CO/2-4) See : [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAGO%2fCO%2f2-4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAGO%2fCO%2f2-4&Lang=en)

rights.”<sup>45</sup> The Committee further highlighted the need for mechanisms to assess “the impact of the business sector on children’s rights”.<sup>46</sup>

Given the numerous challenges faced by children in accessing redress mechanisms<sup>47</sup>, General Comment No.16 urges Parties to “provide effective remedies and reparations for violations of the rights of the child, including by third parties such as business enterprises”.<sup>48</sup> This echoes the Guiding Principles, which assert that States should “take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy”<sup>49</sup>, while requiring corporations that have caused or contributed to human rights harm to engage actively in providing remediation, individually or in cooperation with other actors.<sup>50</sup> The Guiding Principles specify that a corporation can be held accountable for causing adverse impacts not only if it is the “sole or main source”<sup>51</sup> of environmental damage, but also if it has caused or contributed to negative impacts on human rights through its activities - which is the case of fossil fuel producers in the context of climate change-related human rights violations.<sup>52</sup>

As highlighted by the CRC General Comment No. 16, a State will “ be in breach of its obligations under the Convention where it fails to respect, protect and fulfil children’s rights in relation to business activities and operations that impact on children.”<sup>53</sup> The Philippines will be in breach of these obligations if it fails to protect the rights of children from business activities and operations that contribute to climate change. As fossil fuel producers are among the biggest contributors to climate change, the Philippines has a duty under international human rights law to regulate those corporations so as to limit, according to the best available science, their impacts on climate change, and by extension, on children’s rights. This requires regulating the production, marketing and sale of fossil fuels, which lead

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<sup>45</sup> Committee on the Rights of the Child, Concluding observations on the combined fourth to sixth periodic reports of Bahrain (CRC/C/BHR/CO/4-6). See : [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fBHR%2fCO%2f4-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fBHR%2fCO%2f4-6&Lang=en)

<sup>46</sup> See Committee on the Rights of the Child Concluding observations on the combined fifth and sixth periodic reports of Argentina (CRC/C/ARG/CO/5-6), : [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fARG%2fCO%2f5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fARG%2fCO%2f5-6&Lang=en);

Committee on the Rights of the Child Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation (CRC/C/RUS/CO/4-5), : [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fRUS%2fCO%2f4-5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fRUS%2fCO%2f4-5&Lang=en);

also CRC/C/NLD/CO/4, *supra* note 37, at para. 23(c).

<sup>47</sup> Committee of the Right of the Child, General Comment No.16, paras. 4., 66 and 67. See : <https://resourcecentre.savethechildren.net/node/7140/pdf/7140.pdf>. In its General Comment No.5 (2003), the Committee equally stresses that «for rights to have meaning, effective remedies must be available to redress violations». See : <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRICAqhKb7yhsiQql8gX5Zxh0cQqSRzx6Zd2%2fQRsDnCTcaru5eZhPr2vUevibn6t6GSi1fheVp%2Bj5HTLU2Ub%2FPZtQWn0jExFVnWuhiBbqgAjdWBoFGbK0c>

<sup>48</sup> *Ibid.* para.30

<sup>49</sup> UN Guiding Principles, para.25. See : [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>50</sup> *Ibid.* para.22

<sup>51</sup> United Nations-Office of the UN High Commissioner, The Corporate Responsibility to Respect Human Rights: An Interpretive Guide, 2012 at 13-14, [https://www.ohchr.org/Documents/publications/hr.pub.12.2\\_en.pdf](https://www.ohchr.org/Documents/publications/hr.pub.12.2_en.pdf) (last accessed on Apr. 20, 2016) [hereinafter Interpretive Guide].

<sup>52</sup> Guiding Principle, 13. The Supreme National Court of the Philippines has ruled in favour of such reasoning, stating that a precautionary approach should apply and that “when in doubt, cases must be resolved in favor of the constitutional right to a balanced and healthful ecology.”

<sup>53</sup> UN Committee on the Rights of the Child (CRC), *General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights*, 17 April 2013, CRC/C/GC/16, available at: <https://www.refworld.org/docid/51ef9cd24.html> [accessed 15 September 2020] para. 25



to emissions both within and outside the Philippines<sup>54</sup>, and ensuring that children whose rights are adversely affected by climate change have access to remedy, including means to hold fossil fuel producers accountable for their contribution to the harms.<sup>55</sup>

In light of the above, the Philippines should put in place a framework to monitor fossil fuel producers, requiring those corporations subject to their jurisdiction to align their business plans and operations with a pathway that would limit warming to 1.5°C, consistent with the best available science, and report on their contributions to climate change and attendant human rights violations. Moreover, the Philippines should take appropriate steps to prevent, investigate, and redress human rights violations which fossil fuel producers have caused or to which they have contributed<sup>56</sup>, through effective policies and laws, by adopting a National Action Plan on business, environment and climate change, and maintaining, or if necessary, establishing, accountability and redress mechanisms that are accessible to children who have been victims of human rights violations as a consequence of corporate operations, including climate change-related harm.<sup>57</sup>

### **3. State Party's duty to cooperate**

As noted above, the Philippines has the duty to regulate, monitor and establish accountability mechanisms for those corporations that are within its jurisdiction. It faces considerable limitations, however, with regard to the activities of corporations domiciled in third countries that contribute to global climate change, thereby infringing or threatening to infringe the rights of Filipino children. As the complex, transboundary legal structure of many transnational corporations and their subsidiaries often enables them to avoid accountability, States should cooperate in order to monitor and regulate the activities of parent companies and/or subsidiaries located in their own jurisdictions, and seek opportunities for wider corporate accountability at the transnational level.

The 2011 Maastricht Principles on Extraterritorial Obligations provide an important framework in this context. According to those principles, States should “cooperate to ensure that non-State actors do not impair the enjoyment of the economic, social and cultural rights of any persons”.<sup>58</sup> They should “take action, separately, and jointly through international cooperation, to protect economic, social and cultural rights of persons within their territories and extraterritorially”<sup>59</sup> and create an international enabling environment conducive to the universal fulfilment of those rights.<sup>60</sup>

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<sup>54</sup> CIEL Amicus Curiae Brief, p.23. See at: <https://www.xn--klimasksm1-95a8t.no/wp-content/uploads/2019/10/Brief-of-Amicus-Curiae-CIEL-in-GreenpeaceNaturUngdom-v-Norway-Oct-28-2017.pdf>.

<sup>55</sup> *ibid.* Citing United Nations General Assembly, Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Mapping report, A/HRC/25/53, 30 December 2013, §63.

<sup>56</sup> General comment No. 16 (2013) On State obligations regarding the impact of business on children's rights, para.62. See: <https://resourcecentre.savethechildren.net/node/7140/pdf/7140.pdf>

<sup>57</sup> *ibid.* para.30

<sup>58</sup> *ibid.*, principle 27

<sup>59</sup> Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, principle 23. See: [https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx\\_drblob\\_pi1%5BdownloadUid%5D=23](https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23)  
Last accessed 20th August 2020.

<sup>60</sup> *ibid.*, principle 29.

According to the Maastricht Principles, and in line with their duty to protect the rights of children in its jurisdiction, the Philippines should cooperate with third countries to regulate fossil fuel producing corporations,<sup>61</sup> in order to mitigate their contribution to climate change and facilitate corporate accountability transnationally.

#### **4. The National Inquiry on the impact of climate change on the Human Rights of the Filipino people by the Commission on Human Rights of the Philippines**

In 2015, Greenpeace Southeast Asia (GPSEA) and other members of civil society, filed a petition before the Commission on Human Rights of the Philippines to request that it investigate the responsibility of the Carbon Majors for climate change-related violations of human rights, including the rights of children, due to their contribution to climate change.<sup>62</sup> At the 25th Conference of the Parties to the UNFCCC (COP25) in 2019, the Commission announced the preliminary results of its inquiry. Those initial findings confirmed that climate change constitutes an emergency situation demanding urgent action. The Commission further concluded that the Carbon Majors companies have played a clear role in climate change and its attendant impacts on Filipinos' basic human rights, including *inter alia* the rights to life, water, food, sanitation, adequate housing and self-determination.<sup>63</sup> The Commission concluded that the evidence could support holding such companies legally and morally liable for human rights violations arising from climate change, and that where a company is shown to have engaged in corruption, deception, or fraud, there may be grounds for criminal as well as civil liability.<sup>64</sup> Once the Commission releases its final report, the Philippines should take the findings and recommendations into account as it implements measures to strengthen the corporate regulatory and accountability framework in the country, in line with its international human rights obligations.

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<sup>61</sup> Testimony of John Knox, TSN dated 27-28 September 2018, p. 107, available at <http://chr.gov.ph/wpcontent/uploads/2019/04/NICC-TSN-September-27-to-28-New-York-United-States.pdf> (last accessed on 12 September 2019).

<sup>62</sup> Amended Petition Requesting for Investigation of the Responsibility of the Carbon Majors for Human Rights Violations or Threats of Violations Resulting from the Impacts of Climate Change (May 2016). Greenpeace Southeast Asia and Philippine Rural Reconstruction Movement, including 12 organizations, 20 individuals, and 1,288 Filipinos expressed support for this Petition through a webpage. Document available at <https://storage.googleapis.com/planet4-philippines-stateless/2016/07/213f91ba-amended-petition-may-2016.pdf>

<sup>63</sup> "First-ever finding on corporate responsibility for the climate crisis issued by CHR; Groups hail landmark climate justice victory for communities", Greenpeace. See: <https://www.greenpeace.org/philippines/press/3953/first-ever-finding-on-corporate-responsibility-for-climate-crisis-issued-by-chr-groups-hail-landmark-climate-justice-victory-for-communities/>, Last accessed 15th September 2020.

<sup>64</sup> Groundbreaking Inquiry in Philippines Links Carbon Majors to Human Rights Impacts of Climate Change, Calls for Greater Accountability. CIEL. See: <https://www.ciel.org/news/groundbreaking-inquiry-in-philippines-links-carbon-majors-to-human-rights-impacts-of-climate-change-calls-for-greater-accountability/> last accessed on 17th August 2020. Here, the Commission has taken on the role conferred to it by the CRC, which has previously underlined the importance of National Human Rights Institutions (NHRIs) in providing remedies, through, for instance, inquiries, assessments and possible sanctions of violations against children's human rights, in contexts where their regulatory mandate allows them to. (UN Committee on the Rights of the Child (2013), General comment 16, Op Cit. para 30) Such mandate has also been recognized under Article XIII of the 1987 Philippines Constitution, which confers to the NHRI the power, *inter alia*, to "investigate, on its own or on complaint by any Party, all forms of human rights violations involving civil and political rights" and "monitor the Philippine Government's compliance with international treaty obligations on human rights." (Section 18, Article XIII of the 1987 Philippine Constitution)

## **Conclusion and recommended question**

It has demonstrated that the largest fossil fuel producers are among the biggest contributors to climate change globally, which in turn infringes the human rights of Filipino children. Pursuant to the Convention on the Rights of the Child, the Philippines has an obligation to regulate and hold accountable those corporations and/or their subsidiaries subject to its jurisdiction, to prevent, mitigate, and provide remedy for the adverse impacts of their activities on children's rights. It should also cooperate with third countries, where many of the fossil fuel-producing corporations are domiciled, to improve the regulatory and accountability framework for climate-related human rights harm transnationally.

Once the Commission on Human Rights of the Philippines releases its final report, the Philippines should take its findings and recommendations into account when implementing measures to strengthen the country's framework for corporate regulation and accountability, consistent with its international human rights obligations.

**Taking into account that fossil fuels are the primary driver of climate change, please provide information on:**

**(a) how the State Party is fulfilling its duty to protect children's rights from the adverse impacts of fossil fuel production, marketing, and sale, including information on measures requiring fossil fuel producers subject to the Philippines' jurisdiction to report on their contributions to climate-induced threats to children rights, and to align their business plans and operations with emission pathways consistent with the best available climate science;**

**(b) how the State Party is fulfilling its duty to provide children with access to remedy for climate-induced human rights violations, including information on measures to enhance the accountability of fossil fuel producers, improve the regulatory and accountability framework transnationally, in cooperation with third countries; and**

**(c) how the State Party will implement the recommendations arising from the National inquiry on Climate Change by the Commission on Human Rights of the Philippines.**