

A Framework for Facilitating Children's Participation in International Processes at the Ocean-Climate Nexus

By Sophie Shields, Elisa Morgera, Mia Strand & Andrea Longo

Children are still largely invisible in decision-making processes on the marine environment, even if they are increasingly recognised as environmental human rights defenders in decision-making processes on climate action. States' international obligations in relation to children's human rights and the protection of the marine environment can and should be read together to offer a starting point to put children's right to be heard at the heart of international decision-making at the ocean-climate nexus.

Children's right to be heard extends to all aspects of their lives – including voicing their views, influencing decisions, accessing justice and remedies, and participating in international law-making and policy-making processes relevant to the marine environment. Building on well-established scholarship and practice on children's participation, we suggest how to create a space for the meaningful inclusion of children in international decision-making at the ocean-climate nexus, which is fun, safe, inclusive, based on inter-generational learning and partnership-building. This is more likely to lead to transformative decisions to the benefit of present and future generations.

Background

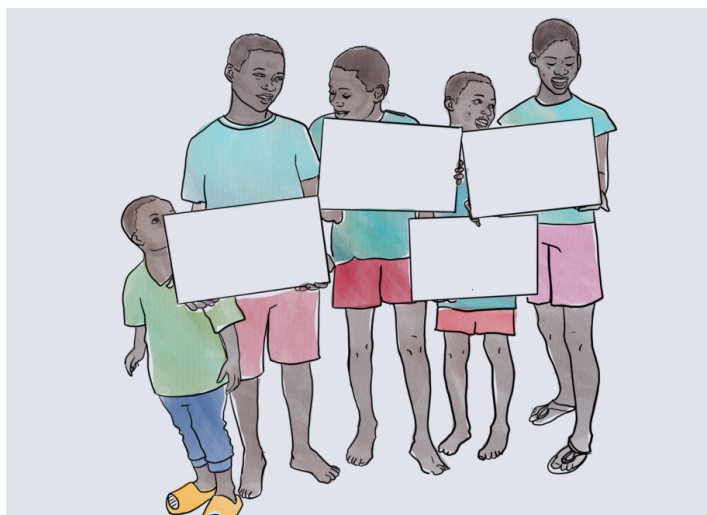


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KEY MESSAGES

States, in international fora on the ocean, climate change and the environment, must:

- give children safe, inclusive and genuine opportunities to form and express views about the ocean, climate change and the environment;
- ensure that children's participation is iterative and founded on fun, trust, relationship-building and inter-generational learning;
- listen and give due weight to the views of children, with a view to prioritising children's best interests in all environmental management decisions; and
- prevent disproportionately negative impacts on children from environmental harm.

Children currently face multiple global crises. The triple environmental crisis (climate change, biodiversity loss, and toxic pollution), and economic and social fragility in the aftermath of the COVID-19 pandemic, pose a real and direct threat to achieving children's human rights and the 2030 Agenda for Sustainable Development. These crises also risk real regression on progress made thus far on global development, health and human rights. Children are amongst the population groups most at risk from environmental harm and climate change, whilst contributing the least to environmental degradation.

The international community has repeatedly asserted the critical importance of children in the realisation of human rights for all, and the effective realisation of a sustainable future. In addition, the link between climate change, ocean degradation and children's human right to a healthy environment, life, homes and culture was raised before the Human Rights Committee in

July 2022.

Furthermore, the Saatchi “climate case” heard by the UN Committee on the Rights of the Child signalled a historic moment in children’s participation in environmental decision-making, propelling Committee action which led to the adoption in 2023 of the UN General Comment No. 26 on children’s rights and the environment, with a special focus on climate change. This has mobilised child environmental human rights defenders and their allies globally, in order to hold States to account for their failure to combat environmental crises and uphold children’s right to a healthy environment.

Action is lagging behind, however, in protecting children’s human rights that are dependent on a healthy ocean, including at the ocean-climate nexus. Notwithstanding children’s concerns about a healthy ocean voiced at UN Climate Summits and the 2022 UN Ocean Conference, children are still largely invisible in decision-making processes on the marine environment.

This Policy Brief outlines relevant State obligations under international human rights law and the law of the sea, and develops a framework to put children’s right to be heard at the heart of international decision-making at the ocean-climate nexus.

States Obligations to protect Children’s Rights at the Ocean-Climate Nexus

Several provisions of the United Nations Convention on the Rights of the Child (UNCRC) are relevant at the ocean-climate nexus.

The UNCRC has been in force since 1989 and is the most widely and rapidly ratified human rights treaty in history: to date 196 countries are parties to it. Children’s human rights include those substantive rights applicable to us all—including health, food and hygiene—as well as procedural rights like information, freedom of expression and access to justice.



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The linkages between children’s human rights and the ocean-climate nexus include:

- Non-discrimination: ‘States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or their parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status’ (Art 12);
- The right to life, survival and development: ‘States Parties recognize that every child has the inherent right to life’ and ‘States Parties shall ensure to the maximum extent possible the survival and development of the child’ (Art. 6.2);
- The right to freedom of expression: ‘The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice’ (Art. 13);
- The right to education: ‘States Parties agree that the education of the child shall be directed to...The development of respect for the natural environment’ (Art. 29.1.a).

On the basis of these rights, the following State obligations have been identified in relation to the environment:

- ensuring that children are not disproportionately affected by environmental harm, including by considering ‘possible future risk and harm’, taking precautionary measures, and adopting, implementing, and effectively enforcing non-retrogressive standards (A/HRC/43/30, para 52–55);
- ensuring that children participate in the implementation of international environment law;
- considering children’s views as expressed by children themselves in the design and implementation of measures

aimed at preventing significant and long-term environmental challenges ([CRC/C/GC/12](#), para 58 and 56);

- **collectively considering the best interests of the child as a primary consideration** when designing, implementing and monitoring substantive non-regressive and precautionary standards for the protection of the marine environment, including at the ocean-climate nexus;
- **protect and restore marine ecosystems;** and
- **preventing marine pollution** by banning the direct or indirect introduction of substances into the marine environment that are hazardous to children's health and marine biodiversity,' ([General Comment No. 26](#)) with marine pollution being widely understood to include climate change¹

Children's Right to be Heard

The UNCRC also protects children's right to be heard: 'Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously' (Art 12).

Children's right to be heard provides a basis to develop inter-generational dialogue in relevant international processes where children's human rights need to be duly taken into account. Children's right to be heard is uniquely procedural and substantive in nature. It applies to all aspects of children's lives² – including children voicing their views, influencing decisions, and accessing justice and redress and remedy mechanisms.

1. E Morgera and M Lennan, 'Ensuring Mutual Supportiveness of the Paris Agreement with other Multilateral Environmental Agreements: A Focus on Ocean-Based Climate Action' in A Zahar (ed), *Research Handbook on the Law of the Paris Agreement* (Edward Elgar, Cheltenham, 2023 forth); available on www.ssrn.com

2. Engaging at least six UNCRC Articles: 12, 13, 14, 15, 17, and 29(1)(e).

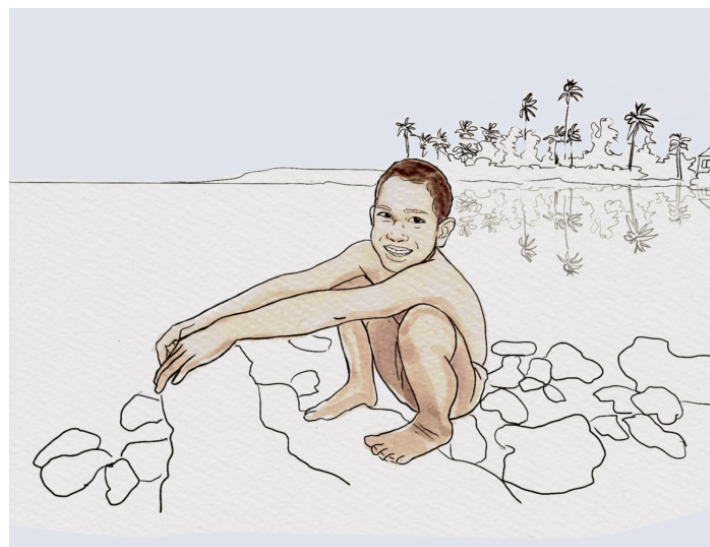


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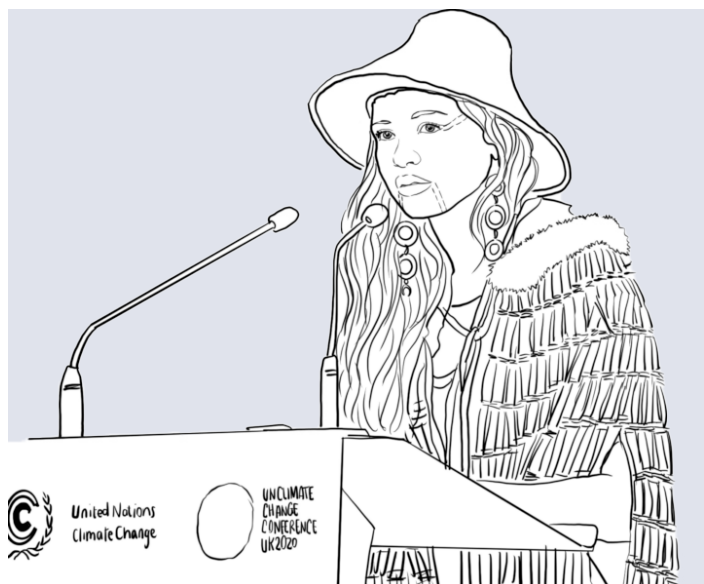


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Respecting and fulfilling children's right to be heard requires special consideration of children's reliance on adults to facilitate their participation. So, adults must consider children's evolving capacity and provide access to age-appropriate, child-friendly and accessible materials and avenues for children's participation.³

In the context of ocean governance, children's participation extends to all law-making and policy-making processes relevant to the marine environment ([CRC/C/GC/12](#), paras 50-67).

A Framework for Facilitating Children's Participation in International Ocean Decision-Making

Here we present a framework for States and [UN officers](#) to operationalise the meaningful participation of children in ocean decision-making, as a means of further strengthening both the global and national implementation of intergenerational equity. The proposed framework can support implementation of Target 22 of the [2022 Global Biodiversity Framework](#):

ensur[ing] the full, equitable, inclusive, effective and gender-responsive representation and participation in decision-making, and access to justice and information related to biodiversity by ... children and youth.

The framework is based on the latest research on children's right to be heard, and good practices in the children's rights community. It considers research findings on balancing children's best interests and their right to be heard, and on children's meaningful participation in decisions which affect their lives.

3. S Shields, J Davidson and E Webster, 'United Nations Convention on the Rights of the Child incorporation in Scotland: Participation and Beyond, Inspiring Children Futures Learning Report (University of Strathclyde, Glasgow, unpublished manuscript. Copy on file with authors).

Proposed framework:

Space: Children must be given safe, inclusive opportunities to form and express views about the ocean.	<ul style="list-style-type: none">• Children's views about the ocean must be actively sought out and shared in a safe place where children feel free to express their views.• Consideration must be given to ensure all children's voices are heard in ocean decision-making, particularly those facing adversity, in a manner which considers cultural sensitivity, and the contribution of culture to sustainable development.• Children must be provided access to information and inclusive opportunities to share views in their own languages and dialects, and through a variety of modes (e.g., writing, storytelling, drawing, conversation).• Participation should be iterative and cyclical, founded on principles which may include fun, trust and relationship-building, and eradication of intergenerational power dynamics.
Voice: Careful consideration must be given to facilitation in order for children to express their views about the ocean.	<ul style="list-style-type: none">• Children must be given information about the ocean in a holistic manner that is everyone-friendly and age-appropriate, so that they are able to share informed views, highlighting the importance of vernacular access and equity of participation.• Children must be aware that they are expressing their views in a voluntary capacity and can stop sharing at any time.• Children must also be presented with a range of options to choose from about how to express their views about the ocean, including opportunities to engage through a variety of means, including art- and play-based methodologies and strength-based approaches.• To avoid paternalistic approaches, children should also be offered opportunities to engage in children-led initiatives and on children-led platforms.
Audience: Adult facilitators must listen and give due weight to the views of children on the ocean.	<ul style="list-style-type: none">• Processes for communicating children's views must be transparent, inclusive and informed by training on children's rights.• Children must be aware of who their views are/will be communicated to, and if/what power that person or entity has to effect change in ocean governance processes.• Where possible, children should be provided the opportunity to voice their concerns through appointed representatives that will promote their interests during international and national fora.
Influence: Children's views on ocean governance processes must be acted upon, as appropriate.	<ul style="list-style-type: none">• Children's views on the ocean must be considered by change-makers, including policy makers and researchers, through peer-to-peer engagement with child environmental and human rights defenders. Change-makers must work together with child defenders across different languages and regions to influence decisions at different levels (from local advocacy to global movements).• Processes must be in place to ensure that children's views have been taken seriously by decision-makers.• Finally, children must be involved in feedback processes to explain what decisions are made on the ocean, including the reasons for those decisions and how and where their views were considered in emerging policies, practices and programmes.



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It takes inspiration from Daly's research on children's autonomy to explore avenues to support children's participation to the greatest extent possible (in the absence of significant risk), so that children are free to make choices and decisions in their own lives.⁴

The proposed framework also draws on Lundy Model for Child Participation,⁵ which has been contextualized for international processes at the ocean-climate nexus. The Lundy Model has been the most transformative to date in its promotion, adoption, and implementation across a number of international organisations (e.g., UNICEF) and national governments (including Ireland, Taiwan and New Zealand). It allows for systematic planning, monitoring and evaluation of children's participation, a rational and chronological approach to provide both adults and children with the tools they need to effectively contribute to create opportunities for organisations to hear children's contributions, and to incorporate those views to the greatest extent possible.

Inter-generational dialogue for transformative change

The proposed framework for intergenerational dialogue provides a potentially transformative approach to decision-making. First, children's imagination is very different from adult cognition, as their experiences of time and place are distinctive, and can thus provide innovative thinking for improved environmental decision-making.⁶ This is particularly important to consider when it comes to marine areas beyond national jurisdiction, as they are in many ways largely unknown. Second, embracing fun in participatory processes, including in the use of play- and art-based

approaches, is central to building relationships with children and can 'disrupt normative ways of understanding'.⁷ Third, children can act as environmental rights defenders, who are increasingly recognised as agents of change.⁸

The proposed framework could improve the accessibility of ocean science and challenge vested interests, power asymmetries and tendencies for short-term decision-making that prevents transformative change. The protection of children's right to be heard can contribute to 'empower[ing] those whose interests are currently not being met and represent transformative sustainability values', recognize different knowledge systems and include underrepresented knowledge in decision-making, which are all considered elements of transformative governance.⁹ Ultimately, the protection of children's right to be heard can encourage imagination, which is increasingly considered necessary to develop a deeper comprehension of the decisions we need to make towards a better future for the planet and for people.¹⁰

7. LHV Wright, K Tisdall and N Moore, 'Taking emotions seriously: Fun and pride in participatory research' (2021) 41 *Emotion, Space and Society* 100836.

8. A Nah et al., 'A research agenda for the protection of human rights defenders' (2013) 5(3) *Journal of Human Rights Practice* 522.

9. IJ Visseren-Hamakers and MTJ Kok, 'The urgency of transforming biodiversity governance' in IJ Visseren-Hamakers and M Kok (eds), *Transforming Biodiversity Governance* (Cambridge University Press, Cambridge, 2022) 3, at p. 12.

10. C Wyborn et al., 'Imagining transformative biodiversity futures' (2020) 3 *Nature Sustainability* 670.

* This brief is based on Sophie Shields, Andrea Longo, Mia Strand and Elisa Morgera, 'Children's Human Right to be Heard at the Ocean-Climate Nexus' (2023) 38(3) *IJMCIL*. If you wish to discuss these proposals, please email elisa.morgera@strath.ac.uk and sophie.shields@strath.ac.uk

4. A Daly, 'Climate competence: Youth climate activism and its impact on international human rights law' (2022) 22(2) *Human Rights Law Review* 1–27, at p. 8.

5. L Lundy, 'Voice is not enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33(6) *British Educational Research Journal* 927.

6. D McGarry, 'Empathy in the Time of Ecological Apartheid: A Social Sculpture Practice-led Inquiry into Developing Pedagogies for Ecological Citizenship' (PhD Thesis, Rhodes University, South Africa, 2014).