

What ocean experts need to know about children's human right to a clean, healthy, and sustainable environment, including a healthy ocean.

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This info sheet is aimed at ocean experts, to clarify the relevance of the ocean for the realisation of children's right to a clean, healthy and sustainable environment, as set out in the recent UN General Comment No. 26 on children's rights and the environment, with a special focus on climate change (GC26). The GC provides authoritative guidance on how the implementation of the UN Convention on the Rights of the Child (UNCRC) depends on progress in environmental protection, and vice versa.

This info sheet outlines the distinct implications for children's human rights, through the lens of the right to a healthy environment, including a healthy ocean.

United Nations Committee on the Rights of the Child: General Comments

The United Nations Committee on the Rights of the Child (the Committee) is responsible for monitoring the implementation of the United Nations Convention on the Rights of the Child (the

Convention), the human rights treaty which considers the civil, political, economic, social, and cultural rights of children - as defined as all persons under the age of 18. The Convention is the most widely and rapidly ratified of all UN human rights treaties, with almost universal ratification. It outlines 54 articles, which outline human rights in the context of their application during childhood. Children's human rights include rights such as the right to life, survival and development, the right to non-discrimination, the right to education, the right to information, freedom of expression and assembly, and the right to be heard. The Committee has issued 26 General Comments to date, which offer interpretations and/or guidance on children's human rights in different thematic contexts. General Comments help to ensure the continued relevance of the Convention, as the world and children's experiences of it evolve. They also serve an important role as a mechanism for the accountability and monitoring of States.

The latest General Comment No. 26 considers children's rights and the environment, with a special focus on climate change. It comes as part of a child-led environmental rights movements which has galvanised attention around the world on environmental crises,

KEY MESSAGES

States must:

- take immediate action to address the triple planetary crises, including protecting and restoring biodiversity, and preventing marine pollution, and the introduction of substances which are alarmingly damaging to children,
- protect children's human rights in light of these environmental crises, including through preventative measures and targeted steps to protect children's human rights,
- include children in environmental impact assessments,
- provide children with appropriate and timely access to justice and remedies, in redress for current and future harms.

Businesses and private actors must:

- pay due diligence to prevent perpetuating environmental crises,
- address their role in children's human rights abuses

through environmental harms and unsustainable practices.

Experts on the environment, ocean and the law of the sea must:

- Utilise existing good practices in the children's human rights community, as their expertise in methods and models to implement the UNCRC,
- Rely on GC26 to provide the strongest platform for the inclusion and awareness of protecting children's human rights at the ocean-climate nexus,
- Uphold the precautionary principle for the realisation of children's human rights and the right to a healthy environment, including measures such as child rights and environmental impact assessments,
- Support the inclusion of children in all relevant decision-making processes and ocean governance actions.

Immediate action from all actors is vital for securing the rights of current generations of children and for future generations, to strengthen intergenerational equity at the ocean-climate nexus.

through mass protests, advocacy and court battles centred around the implications on children and their rights. The General Comment therefore outlines all relevant aspects of the right to a healthy environment, in the context of children's human rights.

A holistic notion of the environment and children's human rights

Significantly, the GC26 incorporated the substantive definition of the right proposed by the Office of the High Commissioner for Human Rights as – 'clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food and non-toxic environments' (paras 63-64).

In line with the Human Rights Council's acknowledgement, GC26 clarifies that 'a clean, healthy and sustainable environment is both a human right itself and necessary for the full enjoyment of a broad range of children's rights. Conversely, environmental degradation, including the consequences of the climate crisis, adversely affects the enjoyment of these rights...' (para 8). For the protection and promotion of the right to a clean, healthy and safe environment, there must be adequate attention on the significant role of the ocean and the vital nature of its protection. As such, the Committee considers that:

- 'While the present general comment is focused on climate change, its application should not be limited to any particular environmental issue' (para 5).
- States must take immediate action to protect children from the triple planetary crisis (climate emergency, biodiversity loss and pervasive pollution) as 'an urgent and systemic threat to children's rights globally' (para 1).

The Ocean in GC26

From an ocean perspective, the General Comment No. 26 clarifies that for the realisation of children's right to a healthy environment, States should take immediate action to:

- conserve, protect and restore biodiversity, which includes marine biodiversity.
- prevent marine pollution, by banning the direct or indirect introduction of substances into the marine environment that are hazardous to children's health and marine ecosystems, where 'substances' can be interpreted to include the introduction into the ocean of greenhouse gases, establishing a link between climate change and the ocean.
- ensure a fair and just transition of energy sources and invest in renewable energy, energy storage and energy efficiency to address the climate crisis;
- transform industrial fisheries to produce healthy and sustainable food aimed at preventing malnutrition and promoting children's growth and development (para 65(c)-(f)).

GC26 also clarifies cross-cutting obligations for States that are relevant to the protection of the marine environment, namely to:

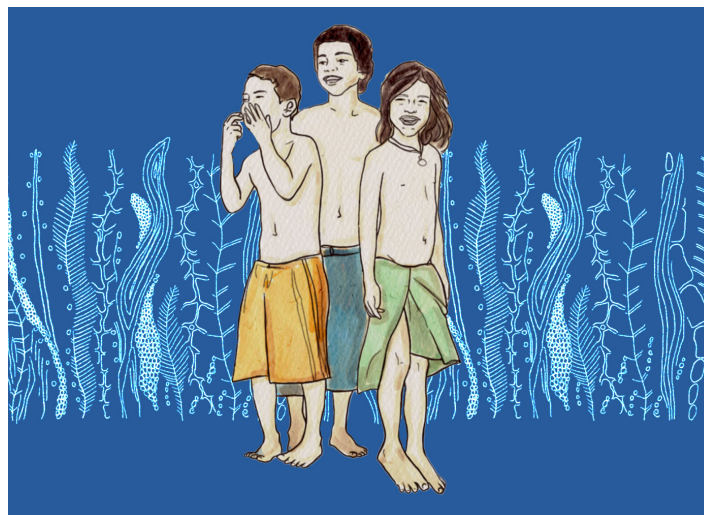


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- take appropriate preventive measures to protect children against reasonably foreseeable environmental harm, paying due regard to the precautionary principle;
- assess the environmental impacts of policies and projects, mitigating foreseeable harm if it is not preventable;
- provide for timely and effective remedies to redress both foreseeable and actual harm;
- take deliberate, specific and targeted steps towards achieving the full and effective enjoyment of children's right to a healthy environment;
- develop legislation, policies, strategies or plans that are science-based and consistent with relevant international guidelines related to environmental health and safety;
- refrain from taking retrogressive measures that are less protective of children; and
- set and enforce environmental standards that protect children from disproportionate and long-term effects, considering that children are far more likely than adults to suffer serious harm, including irreversible and lifelong consequences and death, from environmental degradation (paras 69, 71 and 73).

The General Comment also makes explicit reference to ocean acidification, and its implications for biodiversity loss (see Hub legal research papers on the ocean-climate nexus [here](#) and [here](#)).

Considering ocean plastic pollution, the General Comment underscores that 'exposure to toxic pollutants, even at low levels, during developmental windows of increased vulnerability can easily disrupt the maturational processes of the brain, organs and the immune system and cause disease and impairments during and beyond childhood, sometimes after a substantial latency period. The effects of environmental contaminants may even persist in future generations. States should consistently and explicitly consider the impact of exposure to toxic substances and pollution in early life' (para 24).

All these clarifications are relevant for the ongoing international processes on clarifying States' obligations to address climate change, including at the ocean-climate nexus.



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Precautionary Principle

Another key element of GC26 relevant to the ocean is the introduction of the precautionary principle:

‘States have a due diligence obligation to take appropriate preventive measures to protect children against reasonably foreseeable environmental harm and violations of their rights, paying due regard to the precautionary principle. This includes assessing the environmental impacts of policies and projects, identifying and preventing foreseeable harm, mitigating such harm if it is not preventable and providing for timely and effective remedies to redress both foreseeable and actual harm’ (para 69).

Applying the precautionary principle to children’s human rights at the ocean-climate nexus can be interpreted to include measures such as: conducting child environmental rights impact assessments, using the best available science as a primary consideration in decision-making, measures focused on prevention and reversal of environmental harms, and involving children in decision-making processes to understand their concerns and views on their human rights at the ocean.

Intergenerational Equity & Future Generations

GC26 also makes mention of the concepts of intergenerational equity and future generations, also significantly relevant to the protection of the marine environment. The Committee underscores that:

- While the rights of children who are present on Earth require immediate urgent attention, the children constantly arriving are also entitled to the realization of their human rights to the maximum extent.
- As well as their immediate obligations already highlighted in regard to the environment, States bear the responsibility for foreseeable environment-related threats arising as a result of their acts or omissions now, the full implications of which may not manifest for years or even decades (para 61).
- This is especially relevant in the context of the new Maastricht Principles on Future Generations, and their significance for children in the context of the marine environment.

- Also, in recognising the importance of strengthening intergenerational equity at the ocean-climate nexus.

Business responsibility to respect children’s human rights

The UN General Comment underscores that ‘business activity is a source of significant environmental damage, contributing to child rights abuses’ with ‘unsustainable fishing practices’ as a specific example (para 71). Other examples mentioned can also be related to ocean activities, such as offshore oil and gas extraction, and disposal at/into the sea of toxic substances.

In addition, in 2023 the UN Special Rapporteur on Human Rights and the Environment report and the UN Working Group on Business and Human Rights have underscored the negative impacts on the environment and human rights from foreign investment in offshore energy projects, deep-seabed mining and other blue economy initiatives, following on the Hub’s contribution highlighting

‘the significant and frequently underestimated contributions of blue economies and other ocean-related economic development planning... to the overall human rights adverse impact of global energy transition policies and projects’.

The 2023 report from the UN Special Rapporteur on Human Rights and the Environment recommends that foreign investors should be subject to enforceable human rights responsibilities, in addition to the ongoing negotiations on a new international treaty on transnational corporations and human rights. Therefore, business activity related to fishing practices, offshore oil and gas extraction, disposal at/into the sea of toxic substances, and other activities which contribute to child rights abuses must be immediately addressed through similar actions to States Obligations:

- take appropriate preventive measures to protect children against reasonably foreseeable environmental harm, paying due regard to the precautionary principle;
- assess the environmental impacts of policies and projects, mitigating foreseeable harm if it is not preventable;
- take deliberate, specific and targeted steps towards achieving the full and effective enjoyment of children’s right to a healthy environment;
- refrain from taking retrogressive measures that are less protective of children; and
- set and enforce environmental standards that protect children from disproportionate and long-term effects, considering that children are far more likely than adults to suffer serious harm, including irreversible and lifelong consequences and death, from environmental degradation (paras 69, 71 and 73).

