

Submission on the Draft Guidelines on Human Rights and the Environment

Submitted by the Child Rights International Network - CRIN (www.crin.org)

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Child Rights International Network (CRIN) is a rights-based organisation that advocates for the full realisation of all children's rights. Our submission aims to contribute to the Special Rapporteur's guidelines on human rights and the environment. We acknowledge the benefit of such guidelines in order to give clear, effective and practical guidance to States in relation to their obligations for the enjoyment of a safe, clean, healthy and sustainable environment. However, we believe that these guidelines would have more weight if they directly referred to the legally binding international instruments in which the obligations of States are embedded. Our submission will focus on state obligations related to children's rights.

Obligations in relation to those who are most vulnerable to environmental harm

The Special Rapporteur has chosen to dedicate a section of the guidelines to "Obligations in relation to those who are most vulnerable to environmental harm". We recognise the value of analysing the specific applications of rights to all, including minority groups, but are concerned that the separation of these groups in the analysis can sideline these groups within the discussion of the application of their rights. Children are discriminated doubly, first because of their age (and all barriers associated with age discrimination) and second, because of possible vulnerabilities such as disability, gender, minority. Recognising the intersectional nature of discrimination and the application of rights is key to addressing the concerns of these vulnerable groups.

We therefore recommend the Special Rapporteur to reconsider this section, looking more effectively at the rights involved and referring directly to them in the guidelines.

While all children's rights apply in some respect in the context of the environment, we would like to highlight some that underlie and enable the realisation of all rights in the context of the environment: access to information, the right to be heard and to participate and the right to access justice.

Access to information

Children have a right to access to appropriate information on all aspects of health. The Convention includes a general obligation to ensure that children have access to information and material from diverse sources, especially those aimed at promoting well-being and physical and mental health, to enable them to make informed choices.¹ States have an

¹ UN Convention on the Rights of the Child, articles 17 and 24 (2) (e)

obligation to ensure that children are well informed about their health and specific health issues. Furthermore, this information should be ‘physically accessible, understandable, and appropriate to children’s age and educational level’.²

This international framework on the right to information is relevant to environmental issues and we recommend the Special Rapporteur recalls this core principle of the CRC in the guidelines.

Participation

Children’s rights to be heard is enshrined in article 12 of the Convention on the Rights of the Child. It is a right in itself and a tool to interpret and apply all other rights under the Convention.³ In order to be fully realised, this principle requires children’s views to be heard and given due weight in legislation, policy debates and before courts and complaint mechanisms.

We would recommend the Special Rapporteur recall this core principle in the guidelines on human rights and the environment to which it is fully relevant. For more details and to avoid duplication, we refer the Special Rapporteur to our previous submission for his report on the environment and the rights of the child.⁴

Access to justice

Access to justice, a fundamental right itself, is essential to ensure the protection and promotion of all other human rights.⁵ This right is crucial in environmental debates, as the impact of contemporary environmental problems, such as pollution, environmental degradation and resource depletion will profoundly affect the quality of life of current and future generations of children.⁶

State obligations relevant to ensuring children’s access to justice for violations of their rights in the context of the environment are set out in a number of binding international treaties.⁷

While the CRC does not explicitly mention children’s access to justice, the Committee on the

² Committee on the Rights of the Child, General Comment N0. 15 (2013), para. 58

³ Committee on the Rights of the Child, General Comment No. 12 (2009), para. 6

⁴ CRIN’s submission, 14 September 2017, available at:

<https://www.crin.org/en/library/publications/childrens-rights-and-environment-crins-submission-special-rapporteurs-report>

⁵ OHCHR, *Report of the United Nations High Commissioner for Human Rights: Access to justice for children*, A/HRC/25/35, 16 December 2013, para. 3

⁶ Also see CRIN’s submission to the UN Committee on the Rights of the Child in advance of its Day of General Discussion on “Children’s rights and the environment”, available at:

<https://www.crin.org/en/library/publications/environment-crin-submission-crins-day-general-discussion-childrens-rights-and>

⁷ Among others, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC)

Rights of the Child has affirmed that this is an implicit obligation of States parties.⁸ Access to justice for children requires that children are able to use and trust the legal system to protect their human rights and the legal system provides them with the means to obtain a quick, effective and fair response to protect their rights.

With regard to violations of children's rights resulting from the activities of private enterprises, States still have an obligation to provide for effective remedies and reparations of violations of children's rights. For States to meet this obligation, they must adopt measures to ensure that business enterprises respect children's rights.⁹

*We recommend the Special Rapporteur to recognise this fundamental right to access justice in the guidelines and recall the corresponding obligation of States to ensure that their legal system is adapted to enable children's participation through the justice system.*¹⁰

⁸ CRC General Comment No. 5 on General measures of implementation, para. 24

⁹ UN Committee on the Rights of the Child, General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, CRC/C/GC/16, 17 April 2013, paras. 62 and 63.

¹⁰ For more details on access to justice for children in relation to the environment, see CRIN's submission to the UN Committee on the Rights of the Child in advance of its Day of General Discussion on "Children's rights and the environment", available at:

<https://www.crin.org/en/library/publications/environment-crin-submission-crcs-day-general-discussion-childrens-rights-and>

Also see CRIN, Rights, Remedies and Representation: A global report on *access to justice for children*, January 2016. Available at:

<https://www.crin.org/en/library/publications/rights-remedies-and-representation-global-report-access-justice-children>