Consultation response

Children’s rights and the environment with a special focus on climate change

Consultation details

**Title of consultation:** Committee on the Rights of the Child, Draft General comment No.26 (202x), Children’s rights and the environment with a special focus on climate change

**Source of consultation:** United Nations Committee on the Rights of the Child

**Date:** 21 February 2023

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# Introduction

The Equality and Human Rights Commission (EHRC) is an independent body with a mandate covering both equality and human rights. We are tasked by the United Kingdom (UK) Parliament with encouraging good practice in relation to human rights,and have a responsibility to assess and report on the UK’s progress in achieving the human rights in the treaties it has chosen to ratify.[[1]](#footnote-1)

The UK has ratified the Convention on the Rights of the Child (the Convention), which is monitored by the Committee on the Rights of the Child (the Committee). In fulfilling our role as an ‘A status’ National Human Rights Institution (NHRI), we monitor implementation of the Convention by the UK and Welsh Governments. Our human rights powers in Scotland extend to matters reserved to the UK Parliament. In December 2022 we submitted [our latest report on children’s rights](https://www.equalityhumanrights.com/en/publication-download/children%E2%80%99s-rights-great-britain-submission-un-2023) to the Committee.

Our [Strategic Plan for 2022-25](https://www.equalityhumanrights.com/sites/default/files/about-us-strategic-plan-2022-2025.pdf) commits to ensuring that:

* children and young people have equal opportunities, with equal access to the support and resources they need to succeed in life;
* laws and policies across Britain protect the rights and opportunities of children and young people with different protected characteristics to improve their life outcomes; and
* we understand the risk that climate change might directly or indirectly threaten to reduce people’s human rights, acknowledging that an environmentally sustainable future must enhance equality and human rights in Britain.

We welcome the Committee’s decision to prepare a General Comment on the interaction between children’s rights and the environment. In this consultation document we offer our response to the draft General Comment (the draft), with specific consideration for the equality and human rights implications, and with reference to the corresponding headings in the draft.

# Our response

**Part I: Introduction**

It is our view that the Committee should consider making explicit reference to the need for all States, including those which do not experience the most severe impacts of climate change but may have contributed most to its effects, to address environmental harm and climate change to the maximum extent possible.

We encourage the Committee to include explicit reference in the introduction to the disproportionate impact of environmental harm on children, and that certain groups of children will be affected more severely than others. While the draft acknowledges this elsewhere, for example at paragraph 50, this is done so in the context of one specific Convention right. We believe that the Committee should recognise this as an overarching issue which should influence the interpretation and application of each part of the General Comment.

**Part I (A): A child rights-based approach to the environment**

We welcome the focus on taking a child rights-based approach in the environmental context and acknowledge that “the process of realizing children’s rights is as important as the end result”. To enhance the value of this section, we would advise explicit reference to how this process of realising rights should occur, with reference to, for example, the PANEL principles of participation, accountability, non-discrimination, empowerment and legality.[[2]](#footnote-2) We consider that by noting the importance and relevance of these overarching principles, the specific rights included will be more easily placed within the human rights-based approach framework.

While the draft includes references elsewhere to a child’s right to be heard under Article 12 of the Convention, we believe that the principle of child participation, in particular, should be emphasised as a key pillar of a child rights-based approach. Similarly, while the principle of empowerment is reflected elsewhere, through inclusion of the rights to free expression and to information under Articles 13 and 17 of the Convention respectively, the principle of empowerment is, in this particular context, crucial for the full realisation of children’s rights.

The draft highlights in several places that certain groups of children are disproportionately negatively impacted by environmental damage and climate change. We therefore consider that it would be helpful to include clear reference to the overarching principle of non-discrimination and equality in this section.

This section makes no reference to accountability, which forms another key element of a human rights-based approach. Though accountability is noted elsewhere, it is done more narrowly through the lens of access to remedies. Accountability for environmental degradation can be difficult to ascertain, and for this reason we consider it important that an attempt be made to address this gap. In our role as an NHRI we also note the importance of measurement and monitoring mechanisms in underpinning accountability.

Though distinct from the human rights-based approach, we also consider that this section (or elsewhere, for example at Part VI (A)) should include an obligation on States to ensure that the connected principle of mainstreaming children’s rights in climate policies and strategies is fulfilled.

**Part I (B): Evolution of international human rights law and the environment**

The Committee should consider noting any relevant links with the 2030 Agenda for Sustainable Development in this section, with specific reference to the Sustainable Development Goals, as further evidence of the “growing acceptance…for the wide-ranging interconnections between children’s rights and environmental protection”. The 2030 Agenda is not explicitly acknowledged in the draft, and we consider it valuable to emphasise their complementarity with children’s rights, as outlined in our 2019 briefing on the Sustainable Development Goals.[[3]](#footnote-3)

Recognising that the Committee may not wish to reference the 2030 Agenda to ensure the longevity of the General Comment, we would still encourage the Committee to ensure an emphasis on complementarity between the international human rights legal framework and ongoing international commitments on the need to secure a sustainable future.

**Part II (A): Sustainable development**

See above ‘Part I (B): Evolution of international human rights law and the environment’.

**Part III (B): The right to the highest attainable standard of health**

The Committee should recognise in this section (and in others, where relevant, such as Part III (D): The right to adequate standard of living) that certain groups of children – both within and among States – face existing inequalities and that these may be exacerbated further by environmental harm and climate change. For example, children from poorer households are already at risk of developing respiratory conditions as a result of lack of heating, damp and mould.[[4]](#footnote-4) These conditions may be further exacerbated by environmental harms such as air pollution, compounding these inequalities.

**Part III (C): The right to education**

In 2020 we published research examining good practice in the delivery of human rights education across Great Britain.[[5]](#footnote-5) While human rights education is referenced elsewhere in the draft (see paragraph 57), we consider that this section would be strengthened by explicit reference to the importance of human rights education which encompasses education ‘about’, ‘through’ and ‘for’ human rights – including those rights which relate to the environment. Human rights education is crucial for empowering children and creating inclusive environments for children to understand the links between human rights, dignity and the environment.

**Part III (G): The right to non-discrimination**

This section would benefit from more detail to expand on such a fundamental principle of international human rights. It notes that States should collect disaggregated data on harm caused to different groups of children and that “special measures” should be implemented “as required”. However, we encourage the Committee to consider a preventative approach to harm by, for example, considering a clear duty on States to consider, and address, the impact on these groups specifically when developing and implementing mitigation strategies. These strategies can, themselves, often have negative effects for certain groups, compounding the existing inequalities caused by environmental damage.

**Part V (A): The obligation to respect, protect and fulfil**

In this section, or elsewhere if deemed more suitable, we encourage the Committee to make specific reference to the value of States adopting a coordinated approach to monitoring and implementation of human rights obligations and recommendations from UN treaty bodies. This should include the creation of national mechanisms for implementation, monitoring and follow-up. In doing so, States could, and should, coordinate implementation of their human rights obligations, including the principle of non-discrimination in relation to environmental harms, and their associated obligations with respect to the 2030 Agenda for Sustainable Development.

Similarly we encourage the Committee to make reference to the development of national indicators for measuring progress on human rights impacts.

**Part VI (C): Mitigation**

As above (Part III (C): The right to non-discrimination), we believe that mitigation efforts and strategies must give full consideration to the disproportionate impact of those actions themselves on particular groups of children who already face inequalities with regards to environmental damage. These groups include, but are not limited to: disabled children, children from ethnic minorities, refugee and migrant children, and those from socio-economically disadvantaged backgrounds.

1. [Equality Act 2006](https://www.legislation.gov.uk/ukpga/2006/3/section/9), section 9; [Principles relating to the status of national institutions (the Paris Principles)](https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris). [↑](#footnote-ref-1)
2. European Network of National Human Rights Institutions, [Human Rights-Based Approach](https://ennhri.org/about-nhris/human-rights-based-approach/). [↑](#footnote-ref-2)
3. Equality and Human Rights Commission (2019), [Briefing on Sustainable Development Goals](https://www.equalityhumanrights.com/en/publication-download/briefing-sustainable-development-goals). [↑](#footnote-ref-3)
4. Barrett, C. et al (2021), [Eat or heat: fuel poverty and childhood respiratory health](https://www.thelancet.com/pdfs/journals/lanres/PIIS2213-2600(21)00584-1.pdf), The Lancet Vol 10; Lee, A., et al. (2022), [Fuel poverty, cold homes and health inequalities in the UK](https://www.instituteofhealthequity.org/resources-reports/fuel-poverty-cold-homes-and-health-inequalities-in-the-uk), Institute of Health Equity. [↑](#footnote-ref-4)
5. Equality and Human Rights Commission (2020), [Respect, equality, participation: exploring human rights education in Great Britain](https://www.equalityhumanrights.com/en/publication-download/exploring-human-rights-education-great-britain) [↑](#footnote-ref-5)