

**Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and the Special Rapporteur on the human right to a clean, healthy and sustainable environment**

Ref.: OL OTH 70/2024  
(Please use this reference in your reply)

12 April 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and Special Rapporteur on the human right to a clean, healthy and sustainable environment, pursuant to Human Rights Council resolutions 54/10 and 55/2.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council.

In this connection, we would like to bring to the attention of your Excellency, the following comments concerning human rights principles and standards with a view to assist the ongoing negotiations of an international legally binding instrument on plastic pollution, including in the marine environment, to strengthen the current draft treaty by integrating the human rights perspectives and particularly the right to a clean and healthy environment. We are sending these comments in advance of the fourth session of the Intergovernmental Negotiating Committee, scheduled for Ottawa, Canada, in April 2024.

The whole cycle of plastics, at its various stages, has become a global threat to human rights.<sup>1</sup> Human rights principles are thus critical to legitimate, equitable and effective responses. A human rights-based approach calls for a vision of plastics policy that aligns with scientific evidence, centers on principles of non-discrimination, transparency, accountability and informed participation and gives special attention to the needs of people in vulnerable situations.

*Preamble:* The preamble of the draft treaty establishes the context of the global plastic pollution crisis and the vision to overcome it, among other elements. Accordingly, explicit reference in the preamble to the **right to a clean, healthy and sustainable environment** is indispensable. In addition, the preamble should refer to: **business responsibilities** to respect human rights; the disproportionate adverse impacts of plastics pollution, at the various stages of the plastics cycle, on individuals and **groups in vulnerable situations**; and the **right to science** as key to achieving alignment between the best available scientific evidence and regulatory measures.

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<sup>1</sup> See UN General Assembly, Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos A Orellana, The stages of the plastics cycle and their impacts on human rights, A/76/150 (22 July 2021).

*Objective:* The **right to a clean, healthy and sustainable environment** is key to informing the objective of the treaty, alongside protection of human health and the environment, ending plastic pollution and enabling a chemically-safe circular economy for sustainable development.

*Principles:* The treaty's provisions on principles should include explicit reference to "**human rights,**" "**non-discrimination,**" "**gender equality,**" "**intergenerational equity**" and the "**UN Guiding Principles on Business and Human Rights.**"

*Chemicals of Concern:* The treaty's provisions on chemicals of concern that are added to plastics should reference the **right to information**. Explicit reference to this right would inform and strengthen the mechanisms for control and disclosure of chemicals added to plastics, as well as chemicals produced by the breakdown of plastics in the environment.

*Just transition:* The treaty's provisions on just transition should reflect the right to a safe and healthy work environment as a fundamental right. In 2022, the International Labour Conference amended the Fundamental Principles and Rights at Work to include this right.

*Reports:* The treaty's provisions on reporting should also reference the **right to information**. These provisions should also reference the right of free, prior and informed consent of Indigenous Peoples, including with respect to their knowledge, even when found in the public domain.

*Means of Implementation:* The treaty's provisions on financial assistance, capacity-building, technology transfer and other means of implementation should reference the **right to development** and the principle of common but differentiated responsibilities.

Several human rights principles are critical to the proper framing of the plastic pollution treaty. The following is an indicative list of principles which we would like to suggest be reflected in the treaty:

*Prevention:* The principle of prevention is a cardinal principle in human rights and the environment. In light of existing scientific knowledge regarding the health and environmental threats posed by plastics, this principle calls for a robust and ambitious framework for reducing production of plastics. It also calls for a similarly robust and ambitious framework for controlling and avoiding toxic additives and chemicals of concern in virgin and recycled plastic polymers. In this regard, given the sheer numbers of toxic chemicals added to plastics, effective prevention calls for controlling groups of chemicals, in accordance with hazard-based criteria. Similarly, the draft treaty should require States to establish robust due diligence obligations for business entities involved in the plastic cycle.

*Precaution:* The principle of precaution is a central principle to protect human health and the environment from the risks associated with plastics where there are gaps in knowledge or uncertainties.

*Transparency:* Access to information, including on toxic additives in plastics, is critical to enabling a chemically-safe circular economy. Disclosures of volumes of

production, chemicals added to plastics, and chemicals released from plastics are also key elements of business responsibilities with respect to human rights.

*Polluter-Pays*: The polluter-pays principle seeks to internalize the otherwise externalized costs of the entire cycle of plastics. This principle calls for effective mechanisms to tax global plastic producers, traders and other businesses that profit from plastics. Revenues collected should be used to clean-up legacy pollution, including the plastic gyres in the Pacific Ocean and shorelines in small-island developing states. They should also be used to support Extended Producer Responsibility programs across boundaries, so that the burden of setting up and operating such programs does not disproportionately burden developing countries that import plastics.

*Meaningful Participation*: This principle seeks to engage the public at all relevant levels of environmental decision-making. One of the fundamental roots of this principle is the right to development, which understands development as a process that is built on an inclusive societal dialogue based on informed participation in decision-making. Another key element of this principle is the deliberate inclusion of groups and individuals in situations of vulnerability or marginalization. This principle is also rooted in the right to science, which calls for open and participatory decision-making processes that are transparent and free from greenwashing or undue influence by entities who stand to profit from disinformation.

*International Solidarity*: One particular implication of this principle lies in strong means of implementation, including effective mechanisms for the transfer of technology. It is often the case that multilateral environmental agreements incorporate technology transfer provisions that remain largely ineffective, thus undermining opportunities and possibilities for international cooperation.

*Accountability*: The draft treaty should incorporate strong mechanisms to ensure that Parties live up to their obligations and commitments. One particular implication of the accountability principle is that the public should be capable of triggering action through the mechanism to support and monitor compliance with the treaty. Another implication is the importance for the plastic pollution treaty to enable access to justice and effective remedies, including in regard to transboundary impacts.

A human rights-based approach to the plastic pollution treaty is critical to its effectiveness, equity and legitimacy, and will ensure that the solutions to be implemented can actually solve the global plastic crisis at its roots and address the legacy plastics burden. A human rights-based approach ensures that solutions do not come at the expense of those most vulnerable in society.

The international community has taken important steps in inserting explicit human rights language and framing in the 2015 Paris Agreement on climate change, the 2022 Kunming-Montreal Global Biodiversity Framework and the 2023 Global Framework on Chemicals – For a planet free of harm from chemicals and waste. The draft treaty on plastic pollution offers an invaluable opportunity to continue this progress and to overcome siloed and linear thinking. Respect for human rights lies at the core of the just transition to a chemically safe circular economy.

We would be grateful for your cooperation by providing any additional information and any comment you may have on the above-mentioned information.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from the negotiators of the plastic pollution treaty will be made public via the communication reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to reiterate our full willingness to share our technical assistance and to support the negotiators of the plastic pollution treaty in their efforts to strengthen the text of the treaty, guaranteeing the enjoyment of human rights for all.

Please accept, Excellency, the assurances of our highest consideration.

Marcos A. Orellana  
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

David R. Boyd  
Special Rapporteur on the human right to a clean, healthy and sustainable environment