**Contribution to CRC’s Draft General comment No. 26 on Children’s rights and the environment with a special focus on climate change**

The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes thanks the CRC for an excellent draft and suggests a number of issued for consideration of the Committee.

**B.** **The right to the highest attainable standard of health (art. 24)**

In the current paragraph 24 of the draft GC, the following issue(s) could be considered:

"The best interests of the child in attaining his or her right to the highest standard of health require the prevention of exposure to toxic chemicals and pollution. [...] Adverse health effects from childhood exposure to toxics are often irreversible and may not manifest themselves for years or decades, affecting the full realization of the right to health later in life. Health impacts are linked to industrial activities of the present and to the toxic legacy of past decades that persists in food, water, air and soil — a serious challenge to accountability."[[1]](#footnote-1)

In the current paragraph 25 of the draft GC, the following issue(s) could be considered:

"Children exposed to hazardous substances in the plastics cycle suffer a violation of their rights to life, health and physical integrity, as well as their right to a toxic-free environment, among others. Cancer, endocrine disruption and adverse development are some of the consequences in children that are linked to chemicals used in plastics. The risks and harms to health posed by plastic additives are particularly serious at a young stage of body development. Toxic additives, particularly endocrine-disrupting chemicals, are found in many plastic products used by children, such as bottles and toys. Among them, bisphenols are linked to precocious puberty and obesity. The vulnerability of children is aggravated when they live in poverty or are exposed to dumping sites, or when they work as waste pickers."[[2]](#footnote-2)

**E.** **The right to rest, play, leisure, recreation and cultural and artistic activities (art. 31)**

In the current paragraph 47 of the draft GC, the following issue(s) could be considered:

"Toys imported to Europe are regularly found to contain high levels of toxics. In 2008, a toxic chemical that can cause renal failure was found in tainted milk powder sold in China. Nearly 40,000 children required urgent medical attention, 12,892 of whom required hospitalization. Four children tragically died in that incident, which followed a similar incident in 2003 that killed 12 children."[[3]](#footnote-3)

In his country visit to Germany, the Special Rapporteur on Toxics noted that: "Toys are one of many potential sources of exposure to toxics by children.[[4]](#footnote-4) Recalls of unsafe products such as toys do not provide effective consumer protection because they are often declared late and a means of last resort, whereas the average return rate for toy recalls is very low, meaning that the vast majority will remain with consumers."[[5]](#footnote-5)

**F.** **The right of Indigenous children (art. 30)**

In the current paragraph 49 of the draft GC, the following issue(s) could be considered:

"The increase of disabilities [induced by the exposure to toxics] can impair learning languages and cultural traditions or create mobility and health concerns that reduce involvement in daily routines. Reduction in the birth of indigenous children risks nothing less than the survival of indigenous peoples."[[6]](#footnote-6)

"Indigenous children, like other children, are more sensitive to toxics, owing to the growth and development of their bodies, including their endocrine and immune systems. The increase of disabilities can impair learning languages and cultural traditions or create mobility and health concerns that reduce involvement in daily routines. Reduction in the birth of indigenous children risks nothing less than the survival of indigenous peoples."[[7]](#footnote-7)

"The Committee on the Rights of the Child, in its general comment no. 11 (2009) on indigenous children and their rights under the Convention, notes that for indigenous children the use of traditional land is significant to their development and enjoyment of culture. It calls upon States to “closely consider the cultural significance of traditional land and the quality of the natural environment while ensuring the children’s right to life, survival and development to the maximum extent possible”. The Permanent Forum on Indigenous Issues has called for the full implementation of the Convention by States, with an emphasis on the need to ensure that indigenous children are not exposed to toxics through water, food, air and other sources of exposure."[[8]](#footnote-8)

**K.** **Access to justice and remedies (art. 4)**

In the current paragraph 69 of the draft GC, the following issue(s) could be considered:

"[...] This includes, inter alia, compensation and satisfaction, rehabilitation and guarantees of non-repetition. "[[9]](#footnote-9)

The Special Rapporteur would also like to highlight the importance of prevention:

"Prevention is the best and often only means of ensuring access to an effective remedy. Children exposed are at risk of life-long impacts, many of which are irreversible, for example the impacts on brain function from lead.[[10]](#footnote-10) [...] Businesses that have left the present generation with contamination are often no longer in existence, financially unable or unwilling to pay for complete remediation.[[11]](#footnote-11) [...] Missing information about who manufactures, sells, uses, trades in, releases or disposes of hazardous substances is compounded by information deficits on the health risks and impacts of exposure, enabling perpetrators to evade accountability."[[12]](#footnote-12)

"Businesses have a shared responsibility with the State to realize the right of children to an effective remedy for violations resulting from childhood exposure to toxics. Businesses should help ensure, inter alia, non-recurrence, rehabilitation and compensation, as part of an effective remedy."[[13]](#footnote-13)

"States have a duty to prevent recurrence of human rights violations. The inadequate emphasis on prevention and precaution, in favour of an emphasis on risk management without adequate information on which to calculate the risks, has failed to protect human rights, including children’s rights."[[14]](#footnote-14)

**F.** **Children’s rights and the business sector**

In the current paragraph 91 of the draft GC, the following issue(s) could be considered:

"Businesses must pay specific attention to the potential for children to be exposed to toxics by their activities, through the products that they manufacture or sell, and due to emissions into the environment and child labour conditions in upstream supply chains."[[15]](#footnote-15)

In the current paragraph 92 of the draft GC, the following issue(s) could be considered:

Businesses have a responsibility to avoid causing or contributing to impacts on the rights of the child through their activities, and to address such impacts when they occur.[[16]](#footnote-16) They are also required to remediate contamination. In the case of the Chisso Corporation, remediation of extreme levels of mercury contamination took decades to begin and remained insufficient 50 years later. The case of lead pollution in Kabwe, Zambia, shows how difficult this is in countries with few resources to cope with environmental liabilities. Neither the World Bank nor the Government of Zambia have so far been able to find a sustainable solution for the pollution caused by an old lead mine in the city.[[17]](#footnote-17)Lead poisoning has affected the residents of Kabwe, Zambia, for generations. Kabwe is the capital of Zambia’s Central Province, with a population of over 200,000. The city was home to a lead mine from 1904-1994 and smelter. A comprehensive cleanup of Kabwe was never undertaken. More than 25 years after the mine closed, residents live in a lead-polluted environment – schools, play areas, homes, and backyards lie in areas with high lead levels. [...] It is estimated that at least 76,000 people continue to live in lead contaminated areas. Many of these areas are very poor, and some are in informal settlements where lead dust is a particular hazard. The main source of contamination, the old mine, continues to exist and pose significant health damage to the population, including children.[[18]](#footnote-18)

In the case of toxic chemicals produced by the Swedish company Boliden Mineral AB, residents of the city of Arica in northern Chile were exposed to huge amounts of hazardous waste, dumped in the vicinity of the community between 1984 and 1985. Over the years, the waste site(s) have caused and continue to have a detrimental impact on the health of affected populations and the surrounding environment. In 1998, the Chilean Government estimated that approximately 5,000 people had been exposed to dangerous toxins. Today, an estimated 12,000 people have been affected. Many have since lost their lives due to their medical conditions.[[19]](#footnote-19)

Businesses also have a responsibility to prevent and mitigate adverse child rights impacts that are linked to their operations, products or services by their business relationships, including upstream suppliers, and after products are sold.[[20]](#footnote-20) Reports describe children in Indonesia and Peru poisoned by mercury and suffering from birth defects due to small-scale gold mining. Companies that purchase or invest in such commodities have a responsibility to ensure that child rights are not violated as a result of their demand.[[21]](#footnote-21)

"The responsibility of businesses for products sold is highlighted by the persistent problem of children poisoned by highly hazardous pesticides, particularly in developing countries. Businesses continue to export to or manufacture in developing countries hazardous pesticides whose use is prohibited in various industrialized countries. Such industrialized countries often have more resources to ensure that hazardous pesticides are used in a safe and sound manner, but still have determined that the risks are unmanageable."[[22]](#footnote-22)

In addition, the Special Rapporteur notes that the GC could refer to child labour and wishes to highlight the following points:

**Child Labour**

"The Special Rapporteur remains concerned that millions of children around the world continue to engage in the worst form of child labour, where they use or are exposed to hazardous substances. Particularly grave is the situation of child labour in mining and agriculture. The Special Rapporteur has had discussions with various stakeholders from States and businesses regarding the existence of this problem in global supply chains, as well as communications regarding child labour on tobacco farms in [Zimbabwe](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23765). It was alleged that, in the tobacco industry in Zimbabwe, children are involved in work on farms and other parts of the production process and do so in hazardous conditions, often performing tasks that threaten their health and safety or interfere with their education, including pesticide exposure.[[23]](#footnote-23)

Tens of millions of children are engaged in hazardous work, where they are often exposed to toxic chemicals. UNICEF has estimated that 40,000 children toil in mines, extracting cobalt.[[24]](#footnote-24) Children are also found working at toxic waste dumps, and are involved in manual dismantling and burning of electronic products at e-waste sites.[[25]](#footnote-25)

Under the Convention on the Rights of the Child, States have an obligation to protect children from performing any work likely to be hazardous or harmful to their health or development. The ILO Worst Forms of Child Labour Convention, 1999 (No. 182), in article 3, describes work that harms a child’s health as one of the worst forms of child labour. This has been further clarified to include “work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes... damaging to their health”.[[26]](#footnote-26)

Legislative, enforcement and other measures must be taken by States to prevent children from handling hazardous substances or working in hazardous conditions. Each State party to ILO Convention No. 182 is required to “take immediate and effective measures” to prohibit and eliminate labour practices harmful to the health or development of child workers.[[27]](#footnote-27) ILO recommendation No. 190 states that criminal penalties should apply for violations. States must also protect and fulfil the right of parents to safe work, especially women and girls of reproductive age, as exposure to hazardous materials can affect the development of the child.[[28]](#footnote-28)

Child labour is endemic in most small-scale gold mining locations. Extreme poverty, lack of education and economic opportunities, and expectations of supporting family who work in the mines tend to lock children into small-scale gold mining.[[29]](#footnote-29) Tens of thousands of children are engaged in small-scale gold mining across the globe. They risk disease, mercury poisoning, drowning and myriad injuries from rock falls, explosions, tunnel collapse, machinery accidents and falls into disused pits and shafts. Other risks include poor ventilation, water-filled shafts, loud machinery and dust and vapour exposure. The International Labour Organization (ILO) has noted that the combined effects of such exposure coupled with fatigue or exhaustion can lead to serious respiratory conditions such as silicosis, headaches, hearing and sight problems, joint disorders and various dermatological, muscular and orthopaedic ailments and wounds, jeopardizing both their mental and their physical long-term health.[[30]](#footnote-30) In Burkina Faso and the Niger, 30 to 50 per cent of the entire small-scale gold mining sector (estimated at between 200,000 and 500,000 across the two countries) are aged under 18 years, while approximately 70 per cent of the children are aged under 15 years. Contaminated water and malnutrition exacerbate diseases such as dysentery, diarrhoea, malaria, meningitis, measles, tuberculosis and other parasitic and viral infections. It is estimated that up to 10,000 children may be involved in gold mining in Ghana, performing low-skilled tasks, including building trenches, carrying loads of gold ore on their heads to washing sites (mostly girls), washing the ore (mostly boys), amalgamating the gold using mercury, and selling the product.[[31]](#footnote-31)

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1. [A/HRC/33/41](https://www.ohchr.org/en/documents/thematic-reports/ahrc3341-report-rights-child-and-hazardous-substances-and-wastes), para. 46 [↑](#footnote-ref-1)
2. A/76/207, para. 41. [↑](#footnote-ref-2)
3. A/HRC/33/41, para. 88 [↑](#footnote-ref-3)
4. [A/HRC/33/41/Add.2](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/203/77/PDF/G1620377.pdf?OpenElement), para. 95 [↑](#footnote-ref-4)
5. A/HRC/33/41/Add.2, para. 112 [↑](#footnote-ref-5)
6. A/HRC/33/41, para. 87 [↑](#footnote-ref-6)
7. A/77/183 para 87. [↑](#footnote-ref-7)
8. A/77/183, para. 115 [↑](#footnote-ref-8)
9. A/HRC/33/41, para. 39 [↑](#footnote-ref-9)
10. A/HRC/33/41, para. 41 [↑](#footnote-ref-10)
11. A/HRC/33/41, para. 42 [↑](#footnote-ref-11)
12. A/HRC/33/41, para. 7 [↑](#footnote-ref-12)
13. A/HRC/33/41, para. 98. [↑](#footnote-ref-13)
14. A/HRC/33/41, para. 43 [↑](#footnote-ref-14)
15. A/HRC/33/41, para. 78. [↑](#footnote-ref-15)
16. A/HRC/33/41, para. 80. [↑](#footnote-ref-16)
17. A/HRC/33/41, para. 86 [↑](#footnote-ref-17)
18. AL ZMB 2/2021. [↑](#footnote-ref-18)
19. AL SWE 2/2021 [↑](#footnote-ref-19)
20. A/HRC/33/41, para. 90. [↑](#footnote-ref-20)
21. A/HRC/33/41, para. 93. [↑](#footnote-ref-21)
22. A/HRC/33/41, para. 94 [↑](#footnote-ref-22)
23. [A/75/290](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/205/17/PDF/N2020517.pdf?OpenElement), para. 47. [↑](#footnote-ref-23)
24. A/HRC/33/41, para. 15. [↑](#footnote-ref-24)
25. A/HRC/33/41, para. 96. [↑](#footnote-ref-25)
26. A/HRC/33/41, para. 54 [↑](#footnote-ref-26)
27. A/HRC/33/41, para. 55 [↑](#footnote-ref-27)
28. A/HRC/33/41, para. 56 [↑](#footnote-ref-28)
29. A/HRC/51/35, para. 73. [↑](#footnote-ref-29)
30. A/HRC/51/35, para. 74. [↑](#footnote-ref-30)
31. A/HRC/51/35, para. 75. [↑](#footnote-ref-31)