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Ensuring a Human Rights–Based Approach to the International Legally Binding Instrument to End Plastic Pollution, Including in the Marine Environment

For the Global Plastics Treaty to adequately reflect the multifaceted impacts of plastic pollution, it must be grounded in human rights. The health and environmental consequences of plastic pollution are not only widespread but also entail serious violations of internationally recognized human rights. The plastics crisis directly infringes upon a wide range of internationally recognized human rights, such as the right to life, to the highest attainable standard of health, to a clean, healthy, and sustainable environment, to adequate housing, to water and sanitation, to food, and to an adequate standard of living. It also perpetuates inequality and discrimination, as highlighted by human rights experts.¹ Despite contributing less to the plastic pollution problem, low-income countries are disproportionately affected, bearing a lifetime economic burden estimated to be several times higher than that of developed countries,² severely undermining their right to development.

States have an obligation to protect, respect, and promote human rights, including in the context of environmental degradation. This entails that States have an obligation to take adequate steps to prevent foreseeable infringements of human rights — including because of policy inaction or conduct by third parties (e.g., corporations). States also have an obligation to uphold procedural rights (i.e., the right to access to information, public participation in governance and the conduct of public affairs, and access to justice and legal remedies if violations occur). These procedural rights are enshrined in numerous

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1. See, e.g., Marcos Orellana (Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes), *The Stages of the Plastics Cycle and Their Impacts on Human Rights*, A/76/207 (July 22, 2021), para. 9, undocs.org/A/76/207.
 2. “Lifetime Cost of Plastic 10 Times Higher for Low-Income Countries than Rich Ones, Revealing Crippling Inequities in Plastics Value Chain,” WWF, November 7, 2023, https://wwf.panda.org/wwf_news/?10004441/lifetime-cost-plastic#:~:text=The%20total%20lifetime%20cost%20for.income%20countries%2C%20at%20US%24200. The cost includes quantifiable costs such as the costs associated with producing virgin plastic, greenhouse gas emissions, ecosystem services of marine ecosystems, and direct waste management.

international and regional agreements: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Aarhus Convention, and the Escazú Agreement. The latter two are particularly relevant as they specify States’ obligations in the context of environmental democracy and apply to 55 countries across Africa, the Caribbean, Central Asia, Europe, and Latin America. Substantial and procedural human rights obligations must inform multilateral environmental agreements (MEAs), both in the process that leads to their adoption and in the obligations and mechanisms enshrined therein.

This brief highlights the importance of a human rights-based approach to the Plastics Treaty. **Incorporating human rights language would not impose new legal obligations upon States but would instead reflect their preexisting obligations under international human rights law.** By harmonizing the Treaty with internationally recognized human rights obligations, States can enhance policy coherence and ensure compliance with their duties to respect, protect, and fulfill human rights, particularly in relation to environmental governance and protection. This approach emphasizes the interconnectedness of substantive and procedural human rights and the interconnectedness between the State’s obligations under international human rights and environmental law. Upholding procedural rights — such as access to information, public participation, and effective remedies — is essential to realize substantive rights such as the right to health, a clean environment, and an adequate standard of living.

The Right to a Clean, Healthy, and Sustainable Environment

The right to a clean, healthy, and sustainable environment (hereinafter, “the right to a healthy environment”) is particularly important in the context of States’ obligations regarding plastic pollution. This right was recognized by the Human Rights Council in 2021³ and subsequently by the UN General Assembly in 2022.⁴ Over 80 percent of UN Member States also recognize this right in constitutions, legislation, and/or regional treaties.⁵ A growing number of MEAs are incorporating it, including the Sharm el-Sheikh Implementation Plan,⁶ the Kunming-Montreal Global Biodiversity Framework,⁷ and the

3. UN General Assembly Resolution 48/13, The Human Right to a Clean, Healthy and Sustainable Environment, A/HRC/RES/48/13 (October 18, 2021),

undocs.org/A/HRC/RES/48/13.

4. UN General Assembly Resolution 76/300, The Human Right to a Clean, Healthy and Sustainable Environment, A/RES/76/300 (August 1, 2022),

undocs.org/A/RES/76/300.

5. David R. Boyd (Special Rapporteur on the Human Right to a Clean, Healthy and Sustainable Environment), *The Right to a Healthy Environment: A User’s Guide* (UN Human Rights Special Procedures, 2024), 8, <https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2024-04-22-stm-earth-day-sr-env.pdf>.

6. UNFCCC, Decision 1/CP.27, Sharm el-Sheikh Implementation Plan, FCCC/CP/2022/10/Add.1 (March 17, 2023), undocs.org/FCCC/CP/2022/10/Add.1.

7. UN CBD, COP15 Decision 15/4, Kunming-Montreal Global Biodiversity Framework, CBD/COP/DEC/15/4 (December 19, 2022), para. 7(g), <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-04-en.pdf>.

Bonn Declaration for the Sustainable Management of Chemicals and Waste.⁸ This right encompasses both **substantial** (e.g., a safe climate, clean air, safe and sufficient water, healthy and sustainable food, healthy ecosystems and biodiversity, and a non-toxic environment) and **procedural elements** (e.g., access to information, public participation, and access to justice).⁹

The Plastics Treaty, in line with other MEAs, must recognize and operationalize the right to a healthy environment. Numerous international and regional human rights institutions and mechanisms continue to elaborate on it, specifying its content and how it applies to various groups that are particularly vulnerable to plastic pollution,¹⁰ such as women and girls,¹¹ children,¹² workers,¹³ and Indigenous Peoples.¹⁴

A Human Rights–Based Approach to the Plastics Treaty

A human rights-based approach to the Plastics Treaty is crucial to achieving the goals outlined in UNEA Resolution 5/14.¹⁵ This approach requires that actions against plastic pollution be aligned with human rights principles emphasizing inclusivity, transparency, and equity. Many UN Member States supported a reference to all the principles contained in the Rio Declaration on Environment and Development (the “Rio Principles”) in the instrument in their INC-3 submissions.¹⁶

However, Member States now need to ensure that these rights are operationalized in the operative parts of the instrument. The Compilation of Draft Text of the Plastics Treaty (hereinafter, the “Compilation Draft”) incorporates several references to human rights

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8. UNEP, Bonn Declaration for a Planet Free of Harm from Chemicals and Waste, March 14, 2024, para. 2, <https://www.chemicalsframework.org/sites/default/files/documents/The%20Bonn%20Declaration%20ENG.pdf>.
 9. Boyd, *Healthy Environment*, 13.
 10. Phillip J. Landrigan et al., “The Minderoo-Monaco Commission on Plastics and Human Health,” *Annals of Global Health* 89, no. 1 (2023), <https://doi.org/10.5334/aogh.4056>.
 11. David R. Boyd (Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy, and Sustainable Environment), *Women, Girls and the Right to a Clean, Healthy and Sustainable Environment*, A/HRC/52/33 (January 5, 2023), undocs.org/A/HRC/52/33.
 12. UN Committee on the Rights of the Child, General Comment No. 26 (2023) on Children’s Rights and the Environment, with a Special Focus on Climate Change, CRC/C/GC/26 (August 22, 2023), undocs.org/CRC/C/GC/26.
 13. International Labour Organization, ILC.110 Resolution I, Resolution on the Inclusion of a Safe and Healthy Working Environment in the ILO’s Framework of Fundamental Principles and Rights at Work (June 10, 2022), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_848632.pdf.
 14. Maria Antonia Tigre, “Inter-American Court Recognizes the Right to a Healthy Environment of Indigenous Peoples in First Contentious Case,” IUCN, May 4, 2020, <https://iucn.org/news/world-commission-environmental-law/202005/inter-american-court-recognizes-right-a-healthy-environment-indigenous-peoples-first-contentious-case>; Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, *The Right to a Clean, Healthy and Sustainable Environment: Non-Toxic Environment*, A/HRC/49/53 (January 12, 2022), undocs.org/A/HRC/49/53.
 15. UNEP Assembly Resolution 5/14, End Plastic Pollution: Towards an International Legally Binding Instrument, UNEP/EA.5/Res.14 (March 7, 2022), undocs.org/UNEP/EA.5/Res.14.
 16. UNEP, *Synthesis Report on the Submissions Received on Elements Not Discussed at the Second Session, Such as Principles and Scope of the Instrument*, UNEP/PP/INC.3/INF/1 (October 26, 2023), <https://wedocs.unep.org/bitstream/handle/20.500.11822/43802/SynthesisPaper.pdf>.

that provide an opportunity to integrate internationally recognized human rights-based provisions into the Plastics Treaty.

How Does the Compilation Draft Address Human Rights?

Parties should find an agreement to ensure that the Plastics Treaty facilitates the fulfillment of States’ substantial and procedural human rights obligations with regard to environmental degradation and environmental decision-making.

Overall, while the Compilation Draft marks progress over the Revised Zero Draft in integrating human rights-based language, Member States should strengthen the final text by cross-referencing human rights obligations to affirm and uphold Parties’ obligations under existing international laws and treaties. Existing references are inadequate to reflect the existing obligations of States to respect, protect, and fulfill human rights.

Furthermore, the heavy bracketing of text that proposes the participation of crucial rights holders in several obligations raises concerns. While **public participation and access to information** have been integrated into some parts of the Compilation Draft, they are referred to as a **voluntary measure and are not accompanied by the qualifier “right to”** (as the text urges Parties to “promote” and “cooperate”). This fails to reflect States’ internationally recognized human rights obligations to uphold procedural rights. Similarly — and even more concerning — **the right to effective remedy and access to justice finds no references throughout the text, despite its importance in the context of environmental pollution.**¹⁷

How Can Human Rights Be Integrated into the Plastics Treaty?

The following recommendations are based on the text presented in the Compilation Draft released by the INC Secretariat on July 1, 2024. Notwithstanding the fate of this draft as the basis for future negotiations, several direct and indirect references in the text uphold human rights and should be preserved or reintroduced should the Chair’s non-paper¹⁸ be chosen as the basis for negotiations, with opportunities for further improvement. The recommended pathways for the integration of human rights in the instrument include ensuring transparency and public participation in decision-making processes, prioritizing the protection of communities and groups in situations of

17. Access to justice and effective remedy is particularly relevant in the context of “sacrifice zones,” where a wide range of human rights are violated due to the high levels of pollution. See, e.g., Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, *Non-Toxic Environment*, para. 52.

18. UNEP, “Non-Paper 3 of the Chair of the Committee,” October 30, 2024, <https://wedocs.unep.org/bitstream/handle/20.500.11822/46483/INC%20Chair%20Non%20Paper%203%20-%202029.10.2024.pdf>.

marginalization, upholding the right to a healthy environment, and ensuring accountability for those actors responsible for human rights violations throughout the life cycle of plastics.

Integrating a human rights-based approach into the Plastics Treaty is an ethical imperative and a necessary step to ensure its effectiveness in addressing the multifaceted impacts of plastic pollution and a requirement to ensure synergies between the different branches of international law. While we refrain from proposing specific text due to the uncertainty surrounding the source text, we emphasize that **human rights language should be explicitly incorporated into the Treaty's preamble and operative sections**. This would clearly affirm States' preexisting obligations under international law (thus facilitating synergies) and ensure that substantive and procedural human rights are upheld throughout the Treaty's implementation. CIEL experts are available to offer further guidance and specific textual recommendations.

About CIEL

Founded in 1989, the Center for International Environmental Law (CIEL) uses the power of law to protect the environment, promote human rights, and ensure a just and sustainable society. CIEL is dedicated to advocacy in the global public interest through legal counsel, policy research, analysis, education, training, and capacity building.

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