

Key human rights considerations for the negotiations to develop an international legally binding instrument on plastic pollution

Our planet is polluted by plastics which contain chemicals that are seriously harmful to people and the environment. Plastics are accumulating in food chains, contaminating water, soil, and air, and releasing hazardous substances into the environment. Most plastics originate as fossil fuels and emit greenhouse gases from cradle to grave. Recent scientific studies have found microplastics in human [blood](#), [lungs](#), and [placenta](#), as well as in [livestock](#) feed and milk and meat products. Exposure to toxic chemicals often found in plastics can also affect [future generations](#), impacting [fertility](#), shortening gestation periods, and lowering birth weights.¹ Yet, there is still no globally binding agreement to comprehensively address plastic pollution.

The plastics cycle has become a global threat to all human rights, including the rights to a healthy environment, life, health, food, water and sanitation, equality and non-discrimination, and housing. **The true cost of plastic production and use is foisted on everyone**; however, the plastic crisis has disproportionate impacts on persons, groups and peoples in vulnerable situations such as children, women, Indigenous Peoples, coastal communities, people living in extreme poverty, surrounding communities affected by plastic production facilities, and workers at heightened risk of occupational exposure, including waste-pickers. These same communities often lack the means for recourse to adequate access to health care, information, and opportunities to protect themselves from exposure to the impacts of the plastics cycle and access to remedy.² Yet, the cost of production and use of plastics being imposed on us all has been largely unremarked.

On 2 March 2022, at the resumed fifth session of the UN Environment Assembly ([UNEA-5.2](#)), [Resolution 5/14](#) titled “**End plastic pollution: towards an international legally binding instrument**” was adopted, calling for the development of a legally binding instrument on plastic pollution, including in the marine environment, with the ambition to complete the negotiations by the end of 2024. This is a unique opportunity for the international community to stop the contribution of plastics to the triple planetary crisis by establishing a binding framework to protect human rights, including the rights to health and a healthy environment, from plastic pollution.

All people have the right to access information, to participation, and to access effective remedy in the context of the plastics crisis. **Ensuring free, active, meaningful, and informed participation and transparency in the negotiations of the new Plastics Treaty** is critical. UNEA Res. 5/14 stresses the need to ensure the **widest and most effective participation possible** (para. 6). To fulfil this requirement, the Intergovernmental Negotiating Committee (INC) should develop mechanisms for stakeholders to participate and channel their concerns. Rio Principle 10, and environmental sound governance conventions such as the Aarhus Convention and the Escazu Agreement should guide efforts to ensure meaningful and informed participation during the Plastics treaty negotiations and its future implementation.

The Plastics Treaty should:

❖ Advance realization of human rights, including the human right to a clean, healthy, and sustainable environment

The new treaty should protect human rights, including the rights to health and a healthy environment, from plastic pollution. Likewise, procedural rights, including access to information, such as on chemicals added to plastics and generated by plastic production and break down processes, public participation in the design and implementation of plastics policies and in the elaboration of the new treaty, and access to remedies for harm caused by plastics are vital to ensuring that any global agreement on plastics is effective and legitimate.³ Where scientific evidence is not yet conclusive, the new Treaty should call for the application of the precautionary principle, requiring States

¹ <https://particleandfibretoxicology.biomedcentral.com/articles/10.1186/s12989-020-00385-9>

² Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, [UN Doc A/76/207](#)

³ See [2006 Dubai Declaration](#): "22. (...) In making information available, information on chemicals relating to the health and safety of humans and the environment should not be regarded as confidential."

to act cautiously and diligently to avoid steps that may cause harm to human health or the environment. The polluter-pays principle is critical to internalizing costs.

❖ **Safeguard the rights of those who suffer the most from plastic production and pollution**

According to article 3 of UNEA Resolution 5/14, the new Treaty is to be based on a comprehensive approach that addresses the full life cycle of plastic. In doing so, the human rights and health of all persons, particularly of persons, groups and peoples disproportionately affected by plastic pollution must be taken into account in all stages of the plastics cycle including extraction, production, consumption, and waste management. The Treaty on Plastics should also ensure that people in vulnerable situations are able to influence decisions that may affect them.

❖ **Hold business enterprises accountable and protect against conflict of interest**

As recognized in the UN Guiding Principles on Business and Human Rights, States should take appropriate steps to prevent all business-related human rights harms including those related to hazardous substances and, where such harms do occur, to ensure access to effective remedies including through judicial process. The new Plastics Treaty should hold business enterprises accountable for the harms caused by their contributions to the plastics crisis. It should also reflect that States have a pre-existing obligation to protect the rights of those harmed by the production and use of plastics. There is a fundamental and irreconcilable conflict between the interests of the plastics industry and businesses deeply implicated throughout its supply chain and the human rights and policy interests of people affected by the plastics crisis. The plastic industry has disproportionate power and influence over policy relative to the general public. Human rights are needed to counter-balance these powerful interests. Clear boundaries on conflict of interest should be established for the negotiations process and the implementation of the new Plastics treaty drawing from existing good practices under international law, for example, [article 5.3](#) of the WHO Framework Convention on Tobacco Control states that “Parties shall act to protect [their public health policies with respect to tobacco control] from commercial and other vested interests of the tobacco industry...”

❖ **Stop the contribution of plastics to the triple planetary crisis**

Toxics pollution has been identified as one of the three planetary crises that threaten human health and the environment. It is human-induced, and in the case of plastics, directly linked to climate change and biodiversity loss. The rapidly increasing volume of plastic pollution and plastic related greenhouse gas emissions poses a grave threat to human health and wellbeing as well as biodiversity and ecosystem integrity. A new treaty should ensure a transition towards a chemically safe circular economy that addresses all stages of the plastics cycle and is guided by human rights laws, standards and principles. To that end, strict controls (i.e. caps on production, a moratorium on new facilities or expansion of plastics industrial facilities, and a ban on subsidies for plastic production) should be instituted to prevent harmful plastic pollution and its contributions to the triple planetary crisis. Effective measures should be agreed to hold plastics and chemical producers accountable for the damage already caused, support environmental remediation, and ensure access to effective remedy for those already impacted.⁴

Additional Resources:

The latest OHCHR-UNEP Environmental Rights Bulletin (focussed on plastics and pollution)
<https://express.adobe.com/page/ST41U0lhYM8oT/>.

OHCHR-UNEP Key Messages on human rights and hazardous substances
[\[العربية\]](#) [\[中文\]](#) [\[English\]](#) [\[Français\]](#) [\[Русский\]](#) [\[Español\]](#)

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Report on the *Implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*
<https://www.ohchr.org/en/documents/thematic-reports/a76207-stages-plastics-cycle-and-their-impacts-human-rights-report>

Committee on Economic, Social and Cultural Rights, *General Comment 25: Science and economic, social and cultural rights*
<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2020-article-15-science-and>

⁴ For instance, the Basel, Rotterdam and Stockholm Conventions on hazardous chemicals and wastes and the Minamata Convention on mercury share the common objectives of protecting human health and the environment against the adverse effects of hazardous chemicals and wastes.