

Advocacy Brief

CHILDREN'S ENVIRONMENTAL RIGHTS AND CLIMATE JUSTICE IN SOUTH AFRICA

Impacts of Coal-Related Air Pollution

2023



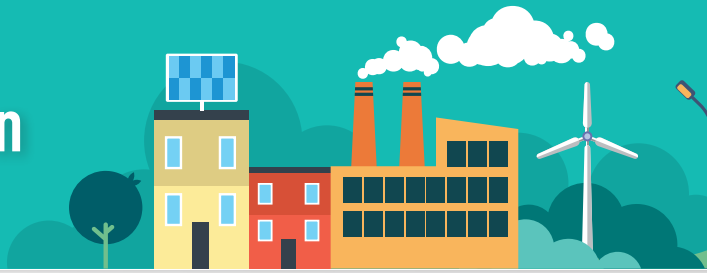
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Introduction



THIS ADVOCACY BRIEF IS A RESPONSE TO A PRESSING CONCERN: THE IMPACT OF COAL-RELATED AIR POLLUTION ON THE RIGHTS OF CHILDREN IN SOUTH AFRICA. IT ADDRESSES A CRITICAL GLOBAL ISSUE, PARTICULARLY RELEVANT TO THE NATION, AIMING TO FILL A LEGAL AND POLICY GAP IN THE PROTECTION OF CHILDREN'S ENVIRONMENTAL AND HEALTH-RELATED RIGHTS. THE STUDY IS A DIRECT RESULT OF A CALL TO ACTION BY THE COMMITTEE ON THE RIGHTS OF THE CHILD IN 2016, EMPHASIZING THE NEED FOR AN INDEPENDENT EVALUATION OF ENVIRONMENTAL POLLUTION'S EFFECTS ON CHILDREN'S HEALTH CAUSED BY THE BUSINESS SECTOR.

THE FOCUS OF THIS STUDY IS A COMPREHENSIVE LEGAL AND POLICY ANALYSIS OF THE IMPACT OF COAL-RELATED AIR POLLUTION ON CHILDREN'S RIGHTS IN SOUTH AFRICA

The focus of this study is a comprehensive legal and policy analysis of the impact of coal-related air pollution on children's rights in South Africa, particularly concerning their health. It also aims to outline the specific obligations of the government at the national, provincial, and local levels, as well as the business sector, in safeguarding children from the harmful consequences of air pollution and climate change. In doing so, this study serves as a foundational step toward addressing the challenges and obstacles that children encounter and proposes a way to empower and empower them through advocacy and litigation to secure environmental justice.



While the consequences of environmental degradation and climate change are not confined by geographical borders, this study concentrates on South Africa, with a specific focus on children as a vulnerable group. It seeks to examine the extent to which South African law and policy protect children from environmental harm associated with coal-related pollution, air pollution, and climate change. Furthermore, the study investigates the tangible impacts of coal-related air pollution on children's health and well-being within South Africa.

It is vital to recognise that the South African Constitution mandates the utilisation of International and African regional human rights and environmental law and policy to interpret state obligations, as stipulated in section 39 of the Constitution. South Africa is also a State Party to international agreements related to children's rights and environmental rights and has a legal obligation to uphold and comply with the standards these agreements set, with a fundamental aim to ensure the well-being of children.



**THE STUDY
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Key Findings



The Centre for Child Law’s research has highlighted several critical issues:



Coal Dependency and Lack of Political Commitment

South Africa’s excessive reliance on coal-generated power, as evidenced in the 2019 IRP, has raised concerns. Despite commitments to transition to renewable energy sources, political will for a just energy transition remains inadequate. The development of new coal-powered electricity generation further exemplifies this lack of commitment.



Air Pollution’s Impact on Children

Coal-powered energy generation is the largest contributor to air pollution in South Africa. Air pollution has immediate, short-term, and long-term effects on children’s health, including respiratory and cardiovascular issues. Furthermore, air pollution during pregnancy can lead to developmental challenges in children.



Legal Frameworks

South Africa is bound by international and regional legal frameworks that mandate the protection of children’s environmental rights. The South African Constitution, aligned with international and African standards, explicitly emphasizes the right to a clean and healthy environment, including the protection of children’s health.

Recommendations



In the development of this research paper and recommendations, active engagement was undertaken with children from mining-affected communities in South Africa as part of the international consultations on General Comment No.26. Their concerns were shared with the CRC, emphasising their concerns regarding the impact of climate change on regular school attendance, access to electricity to study at home, and the need to be protected from natural disasters. The insights provided by them are at the core of this research paper, underscoring the urgency of safeguarding their rights.

Their voices call for continued engagement with young people, especially those in underprivileged communities where environmental challenges are most pressing and the impacts of air pollution are most concerning. These voices represent the interests of both the current and future generations. Their perspectives are vital in the pursuit of environmental and climate justice, and the protection of children's rights in South Africa.

Business Sector must

Child Rights in Business Operations:
Develop a framework to ensure businesses respect children's rights through effective legislation, regulation, and enforcement.



Respect and Responsibility

Respect human rights, avoid causing or contributing to environmental harm, and take measures to prevent and mitigate harm linked to business operations.



Compliance

Comply with applicable human rights and environmental laws, conduct child rights impact assessments, and account for environmental impacts on children.

Government must

Mainstream a Rights-Based Approach: Implement a rights-based approach to address real and potential rights violations due to air pollution, environmental degradation, and climate change, in line with international and constitutional obligations.



Cooperative Governance

Prioritize preventive and protective measures in collaboration with different government branches at national, provincial, and local levels, ensuring cooperation within the government.



Invest in Prevention

Allocate resources for preventive measures to mitigate and address air pollution, climate change, and environmental degradation, reducing the burden on the healthcare system.



Data Collection

Support the collection of disaggregated data to understand the impacts of air pollution, climate change, and environmental degradation on children. Collaborate with partners, civil society, and research institutions.



Child Participation

Create opportunities for children to actively participate in energy governance, climate change, and environmental governance. Include child representatives in decision-making bodies.



Access to Environmental Information

Ensure children have access to environmental information, enabling them to understand their rights and participate in governance.



Enforcement

Strictly enforce existing regulatory frameworks against the business sector. Consider amendments and reforms to improve laws and policies.

Civil Society Organisations should



Support Government Efforts

Advocate for the mainstreaming of children's rights in environmental and climate governance. Monitor and evaluate government obligations.



Data Collection and Dissemination

Collect data and disseminate information to inform policy development. Simplify materials for children and translate them into various languages.



Advocacy and Accountability

Advocate for law and policy reform and hold governments and businesses accountable for children's environmental rights violations.



Child-Led Initiatives

Support child-led initiatives and safe activism. Provide capacity development and peer-to-peer education on climate change and environmental rights.



Support Services

Offer technical support, healthcare, and psychosocial support to children affected by environmental harm.



Children should



Embrace Rights

Understand and assert your rights and engage with the government and business sector to hold them accountable.



Use Technology

Utilise technology and social media platforms to amplify your voices and advocate for your rights and those of future generations.



Demand Participation and Inclusion

Demand a seat at decision-making tables and engage with various levels of government, regional forums, and global platforms.

The Centre for Child Law and other organisations advocating for children's environmental rights and climate justice are crucial in ensuring a sustainable future for South Africa.

By implementing these recommendations and fostering cooperation among stakeholders, we can work towards a cleaner, safer, and healthier environment for all, especially our children and future generations.



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