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**МІЖНАРОДНО-ПРАВОВИЙ МЕХАНІЗМ ЗАХИСТУ ЕКОЛОГІЧНИХ ПРАВ ДІТЕЙ НА МІЖНАРОДНОМУ УНІВЕРСАЛЬНОМУ РІВНІ**

**АНОТАЦІЯ.** *Вступ.* У статті розглядаються особливості формування та функціонування міжнародно-правового механізму захисту екологічних прав дітей на міжнародному універсальному рівні в межах системи ООН. Автор обґрунтовує актуальність проблеми, зумовлену вразливістю дітей до негативних екологічних впливів, а також відсутністю єдиного обов'язкового міжнародного акту, який би комплексно поєднував права дитини та охорону довкілля.

*Короткий зміст основних результатів дослідження.* Центральним стрижнем системи міжнародного захисту прав дитини є Конвенція ООН про права дитини 1989 р., положення якої у тлумаченні Комітету з прав дитини охоплюють екологічний вимір таких основних прав, як право на життя, здоров'я, розвиток, освіту, відпочинок та належний життєвий рівень. Проаналізовано загальні коментарі Комітету №7, №15, №16, №17 та, особливо, №26 (2023 р.), який уперше визнає право дітей на чисте, здорове й сталие довкілля та конкретизує обов'язки держав у сфері кліматичних змін. Розглянуто приклади з практики Комітету, зокрема справа *Sacchi v. Argentina* та ін., що стала знаковою для визнання транскордонної відповідальності держав за шкоду, спричинену зміною клімату. Висвітлено роль Ради ООН з прав людини, Спеціального доповідача з прав людини та довілля та ініціативи Children's Environmental Rights Initiative (CERI), які сприяють посиленню уваги до участі дітей у прийнятті екологічних рішень і формуванню стандартів екологічного врядування, орієнтованого на дітей.

*Висновок.* Захист екологічних прав дітей поступово стає невід'ємним елементом глобального порядку денного у сфері прав людини. Незважаючи на істотні досягнення у нормативному та інституційному розвитку, реалізація цих прав залишається нерівномірною. Посилення координації між органами ООН, інтеграція екологічних аспектів у політику прав дитини та забезпечення участі дітей у прийнятті рішень є ключовими передумовами перетворення визнаних правових принципів на дієві міжнародні стандарти.

**КЛЮЧОВІ СЛОВА:** *права дитини; екологічні права; Конвенція ООН про права дитини; Комітет з прав дитини; навколишнє середовище; зміна клімату; ООН; міжнародне право; сталий розвиток; права людини.*

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**Statement of the problem.** The Preamble to the 1989 United Nations Convention on the Rights of the Child states that the vulnerability of children is due to their "inferiority" compared to adults due to their physical and mental immaturity [1]. Children are physically weaker, less developed and weigh less than adults. They tend to have fewer cognitive skills, intellectual abilities, less knowledge and limited reasoning ability, and are less competent in socialization, everyday life, etc. As a result, children are

perceived as relatively powerless individuals [2, p. 76]. According to information published by the United Nations Environment Programme (UNEP), air and water pollution and exposure to toxic substances, together with other types of environmental damage, cause 1.5 million deaths of children under 5 years of age each year and contribute to disease, disability and early mortality throughout their lives [3]. In addition, climate change and biodiversity loss have long-term consequences for children's health and lives.

Children, especially from the most vulnerable and marginalized groups, are more exposed to and disproportionately affected by all types of environmental damage than any other group, despite being least responsible for it.

The World Health Organization (WHO) has identified that children are more vulnerable to environmental risks than adults because:

- they are constantly growing and therefore breathe more air, eat more food and drink more water than adults, in proportion to their weight;

- a child's systems (central nervous system, immune system, reproductive system, digestive system) are still developing, so exposure to environmental toxins at certain early stages of development can lead to irreversible damage;

- children behave differently than adults and are therefore exposed to environmental risks differently. For example, young children crawl on the ground, where they may be exposed to dust and chemicals that accumulate on the floor and soil;

- children have less control over their environment. Unlike adults, they may not be aware of the risks and may not be able to make choices to protect their health [4].

Furthermore, due to their age, children cannot fully participate in environmental decision-making processes that could theoretically limit the harmful impacts they experience.

Taking into account the abovementioned, it is important to study the international legal mechanism for protecting children's environmental rights at the universal level, particularly within the framework of the United Nations (hereinafter – the UN), because the UN plays a central role in setting global standards for both human rights and environmental protection. Instruments such as the Convention on the Rights of the Child and the activities of bodies like the UN Committee on the Rights of the Child, UNEP and WHO demonstrate that children's right to a safe, clean, and sustainable environment is an emerging issue of universal concern. However, despite growing recognition, there remains no comprehensive and enforceable UN framework specifically addressing the intersection of children's rights and environmental protection. Studying these mechanisms helps identify legal and institutional gaps, strengthen coordination among UN bodies, and promote the integration of environmental considerations into the implementation of children's rights worldwide.

The state of theme research. In the science of public international law the issue of protection of environmental rights of children at the international universal level has not been the

subject of a separate comprehensive study. Certain issues of protection of the rights children in the environmental sphere were addressed in the works of A. Arkadas-Thibert [11], F. Ippolito [6], T. Kaime [5], G. Lansdown [11; 13], T. Syroid [27] et al.

The purpose of the research. The purpose of this research is to analyse and systematise the international legal mechanisms established within the United Nations framework for the protection of children's environmental rights, with a particular focus on how the 1989 Convention on the Rights of the Child and the practice of the UN Committee on the Rights of the Child contribute to shaping and strengthening them. By examining treaty provisions, General Comments, state reporting procedures, individual communications, and relevant UN Human Rights Council and Special Rapporteur activities, the article aims to identify the evolution, current state, and practical implementation of the concept of children's right to a clean, healthy, and sustainable environment. Ultimately, the research seeks to highlight the role of the UN system in ensuring that environmental protection is fully integrated into the realization of children's rights at the universal level and to outline the remaining legal and institutional gaps that hinder the effective protection of these rights worldwide.

The main results of the study. Recognizing that a healthy environment is a prerequisite for the enjoyment of all human rights, it is important to focus on the environmental aspects of children's rights to understand the role that systems for the protection of their rights can play in managing its quality and mitigating the negative consequences of environmental impact on children [6, p. 6].

Thus, the central pillar of the universal mechanism for the protection of children's rights is, of course, the 1989 Convention on the Rights of the Child. The cornerstone of the entire Convention and one of the guiding principles for children's rights in general is the principle, that the best interests of the child shall be a primary consideration. It is enshrined in Article 3 (1), which provides for an assessment and consideration of the best interests of the child in all actions or decisions concerning or affecting the child, regardless of who is implementing them [1]. The importance of this principle has been evident since the adoption of human rights instruments, and in particular children's rights, which preceded the 1989 Convention, and has been confirmed in subsequent instruments, which define it as "paramount" (Principle 2 of the 1959 Declaration of the Rights of the Child), "primordial" (Art. 5 (b) of the 1979 Convention on the Elimination of

All Forms of Discrimination against Women) and “primary” (Art. 24 (2) of the 2000 Charter of Fundamental Rights of the European Union, Art. 7 of the 2006 UN Convention on the Rights of Persons with Disabilities).

According to F. Ippolito, in those legal systems where there is no clear reference to the “best interests of the child”, this principle has been interpreted in case law based on a human rights approach in accordance with Art. 31 of the Vienna Convention on the Law of Treaties [6, pp. 7-8]. For example, the European Court of Human Rights in its 2010 judgment in the case of *Neulinger and Shuruk v. Switzerland* noted that there is now a broad consensus, particularly in international law, in support of the idea that in all decisions concerning children, their best interests should be a primary consideration (para. 135) [7]. The same applies to the area of environmental protection in the interests of ensuring the relevant rights of children. In general, we note that in international environmental law, references to the rights of “future generations” are more common than to “children’s rights”.

Thus, the 1998 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention) guarantees a number of procedural environmental rights in order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to their health and well-being (art. 1).

The UN Convention on the Rights of the Child is not an environmental treaty per se, but a significant number of the rights it protects have a certain environmental context, since they cannot be properly ensured without the guarantee of a healthy and balanced environment. Clarifying the scope of this protection is the task of the Committee on the Rights of the Child, which carries out an expanded interpretation of the provisions of the Convention in its General Comments, while providing relevant recommendations to states on the protection of the specified rights.

Thus, in art. 6 the Convention recognizes the child’s inherent right to life and obliges States parties to ensure, to the maximum extent possible, the survival and development of the child [1].

In its General Comment No. 7 (2005), the Committee noted that the right to life and development can only be implemented in a holistic manner, through the enforcement of all the other provisions of the Convention, including rights to health, adequate nutrition, social security, an adequate standard of living, a healthy and safe

environment, education and play, in accordance with articles 24, 27, 28, 29 and 31 (para. 10) [8].

It is important to note that in General Comment No. 16 on State obligations regarding the impact of the business sector on children’s rights (2013), the Committee identified that the implementation of article 6 can be impacted in various ways by the activities and operations of business enterprises. It is therefore essential that the State provide protection against all types of environmental threats to the survival and development of children and that such measures be applied to all sectors of governance and the economy (section III (C)) [9].

Article 24 of the 1989 Convention recognizes the right of the child to the enjoyment of the highest attainable standard of health, to the treatment of illness and to the rehabilitation of health. The realization of the child’s right to health requires, inter alia, measures to combat disease and malnutrition by “providing adequate nutritious foods and clean drinking water, taking into consideration the hazards and risks of environmental pollution” (art. 24 (2) (c)) [1]. In General Comment No. 15 (2013), which is devoted entirely to the interpretation of art. 24 of the Convention, the Committee recognized the direct link between the state of the environment and its impact on children’s health, noting that States must take measures to address the dangers and risks that local environmental pollution poses to children’s health in all settings, and to regulate and monitor the impact of business activities on the environment and to place children’s health at the centre of their climate change adaptation and mitigation strategies (para. 49-50) [10].

The Convention also guarantees the right of the child to an adequate standard of living (art. 27), which usually refers to the possibility of having clothing, sufficient food and housing, but the presence of a healthy and safe environment is seen as one of the key elements for ensuring the well-being of children and their integration into society. A similar right has already been enshrined in the 1948 Universal Declaration of Human Rights (art. 25) and the International Covenant on Economic, Social and Cultural Rights (art. 11). However, unlike art. 11 of the Covenant, which requires States parties to take “appropriate steps to ensure the realization of this right” and “to the maximum of their available resources”, art. 27 of the Convention formulates the obligation as requiring States Parties to take appropriate measures “in accordance with national conditions and within their means” [1]. A. Arkadas-Thibert and G. Lansdown point out, that this weakened formulation provides for the child’s

right to a minimal, not optimal, standard of living, that supports their holistic development, and reflects the drafters' concerns to limit states' legal obligations [11, p. 228].

It is undeniable that one of the key components of a child's survival and development is education. In this regard, Article 29.1 (e) of the 1989 Convention provides that the education of the child should be aimed, inter alia, at the development of respect for the natural environment [1]. T. Kaime notes that part of the state's obligations to implement this right should include the formulation of an effective legislative and policy framework that will protect children from environmental hazards and degradation that threaten children's survival and development. In addition, states should ensure that school curricula include components of environmental education [5, p. 6].

Within the context of our research, it is important to pay attention to the fundamental right of the child to rest and leisure (art. 31 of the 1989 Convention), since it is through games, entertainment and creativity that children reveal their identity, form relationships and learn about the world around them [5, p. 6]. The Committee on the Rights of the Child's Comment No. 7 on implementing child rights in early childhood (2005) states that the full realization of this right is often hindered by a shortage of opportunities to meet, play and interact in a child-centred, secure, supportive, stimulating and stress-free environment (para. 34) [8]. This position was developed in a separate General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, in which the Committee paid more detailed attention to the threats posed by poor environmental conditions and the lack of green spaces to the realization of the rights set out in article 31 [12]. In this context, G. Lansdown notes that States parties to the Convention should introduce support for parents in creating an appropriate environment for children's recreation and leisure, which would take into account children's changing abilities and their developmental needs [13, p. 288]. At the same time, despite the above considerations and the interpretation by the Committee on the Rights of the Child of certain aspects of children's rights in the context of the environment, there was no comprehensive coverage of the connection between the impact of the environment and children's rights enshrined in the 1989 Convention on the Rights of the Child until General Comment No. 26 adopted on 28 August 2023, which aimed to: 1. emphasize the urgent

need to eliminate the negative impact of environmental damage and climate change on children; 2. promote a holistic understanding of children's rights related to environmental protection; 3. to clarify the obligations of States Parties to the Convention and to provide authoritative guidance on appropriate measures to be taken in relation to environmental problems, with particular attention to climate change. The document became the quintessence of all previously adopted comments on the provisions of the 1989 Convention that had been considered through the prism of the environment, consolidating and developing them, and para. 63 explicitly stated that "children have the right to a clean, healthy and sustainable environment", the obligation to ensure which lies with States (para. 68), and that all environmental standards, policies or measures that may affect the rights of the child should comply with the precautionary principle and be subject to a child rights impact assessment (para. 69) [14].

According to K. Bakker, Comment No. 26 provides a clear and comprehensive overview of the interrelationships between children's rights, the environment and climate change, and how the rights and obligations set out in the Convention on the Rights of the Child should be interpreted in light of the global environmental situation and climate-related challenges [15].

The relationship between the state of the environment and the rights of children have also been directly or indirectly addressed in a number of "soft law" instruments. By their nature, they mainly define only general aspirations for the promotion of children's environmental rights and outline relevant directions for national policies and strategies. It should be noted, in particular, the World Declaration on the Survival, Protection and Development of Children of 1990, the World Programme of Action for Youth to the Year 2000 and Beyond of 1995, the UN General Assembly Declaration "A World Fit for Children" of 2002, the Declaration on Children, Youth and Climate Action of 2019, the 2030 Agenda for Sustainable Development, etc.

It is important to emphasize that the UN Committee on the Rights of the Child also accepts periodic reports from states on national progress in promoting the rights enshrined in the 1989 Convention, and provides its Concluding Observations with relevant recommendations. A selective analysis of comments on State reports over submitted during the five years preceding the adoption of the General Comment No. 26 showed that environmental rights were previously mentioned in them sporadically in the context of

respect for the views of the child (Greece, 2022, Bolivia, 2023), environmental education (Jordan, 2022, Tunisia, 2021), provision of clean drinking water (Rwanda, 2020), the impact of business on the environmental rights of the child (Niger, 2018) or were not mentioned at all (North Macedonia, 2022). However, after the adoption of General Comment No. 26 in August 2023, the Committee's Concluding Observations for the first time began to contain a separate section on the environmental rights of the child, in which these rights are linked to the SDGs, in particular targets 3.9, 13.1, 13.2, 13.3, 13 (b), etc.

Thus, in the Concluding Observations on the combined 5th to 7th periodic reports of Brazil in 2025, the Committee expressed concern about the adverse impact of environment degradation and climate change on children's rights, mostly affecting children living in rural and peripheral urban areas, emphasizing the high vulnerability of children to climate-induced extreme events, highlighting the lack of child participation in the elaboration and implementation of climate policies and stressing insufficient measures to ensure children's right to a clean, healthy and sustainable environment (para. 48) [16]. At the same time, the Observations on the report of Norway, in particular, recommended the State Party to ensure that children are heard and that their vulnerabilities, needs and best interests are taken into account in the development and implementation of national policies and programmes on disaster risk management, climate change and alternative energy, including national policies related to the granting of new licences and decisions concerning new extraction of fossil fuels (para. 32 (d)) [17].

The Committee also has experience in examining individual complaints of violations of the right to a healthy environment through the 2011 Optional Protocol to the Convention on the Rights of the Child on a communications procedure. In particular, in 2021 the Committee issued a landmark decision in the communication *Sacchi, et al. v. Argentina, et al.* on the harmful effects of climate change on children's rights, brought by 16 children from 12 countries against Argentina, Brazil, Germany, Turkey and France in 2019. The applicants alleged that the States concerned, which had historically been sources of emissions and had recognised the competence of the Committee to receive communications, had failed to take the necessary preventive measures to protect and fulfil the right to life, health and culture of children who had suffered both physically and psychologically as a result of the climate crisis [18].

The Committee, referring to the Advisory Opinion of the Inter-American Court of Human Rights OC 23/17, found that the States concerned had exercised effective control over the activities that were the source of emissions and were therefore responsible for the consequences of these negative impacts originating on their territory on the rights of children, even those who may be outside the territory of the state (para. 10.7). However, it was unable to rule on whether the States parties had violated their obligations under the Convention on the Rights of the Child in this particular case because the applicants had not exhausted domestic remedies under article 7 (e) of the Optional Protocol and because there was no specific information from the applicants to show that such remedies were ineffective or unavailable (paras. 10.20-10.21) [19].

The value of this judgment lies in several aspects: firstly, the courage and determination of the authors ensured that the issue was brought before a single universal complaints procedure specifically addressing children's rights. Secondly, the Committee recognized that children's rights to life, health, culture and to have their best interests taken into account in decision-making related to climate change. Thirdly, the Committee decided that it could consider similar cases in the future, provided that all procedural requirements were met. It is important to emphasize that this decision also serves as a message to States on the need to ensure that children in every State have the opportunity to submit similar complaints and that they are properly addressed [20].

It should also be noted that the UN Human Rights Council has repeatedly emphasized the impact of climate change on children's rights. For example, in its Resolution 32/33 (2016), it recognized the particular vulnerability of children to climate change and the impact it may have on a number of their fundamental rights, calling, in particular, for the elimination of the negative impact of climate change on children's right to a safe, clean, healthy and sustainable environment [21]. In the preamble to Resolution 35/20 (2017), the Council highlighted that climate change affects some children disproportionately, such as children with disabilities, migrant children, children living in poverty, children separated from their families and indigenous children [22]. Furthermore, the UN Human Rights Council Resolution on the realizing of the rights of the child through a healthy environment (45/30, 2020) called on States to ensure that the best interests of the child are a primary consideration in environmental decision-making, calling for a

broad range of ambitious measures to ensure that children can grow, learn and play in a healthy environment [23]. In this context, it is important to note the work of the Special Rapporteur on human rights and the environment, who, following country visits, prepares relevant reports on the local situation with respect to environmental rights. For example, in 2017, Fiji was recommended to implement the recommendations of the Convention on the Rights of the Child on the need to protect children's rights from environmental hazards and to include children's voices in climate policy and action [24], and in 2023 Chile was recommended, *inter alia*, to create an action plan for implementing the State obligations set forth in general comment No. 26 and to consistently appoint child and youth representatives to national advisory bodies and national delegations to international environmental meetings, including conferences of the parties to conventions on the climate, biodiversity, desertification and toxics [25].

Also in 2018, the Special Rapporteur presented a comprehensive study on the link between children's rights and environmental protection (A/HRC/37/58). In it, the mandate holder sets out specific recommendations, building on the work of other special rapporteurs of the UN Human Rights Council, the Committee on the Rights of the Child, the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNICEF, WHO and many others who made oral and written submissions during the preparation of the report. Particular attention is paid to the educational and procedural rights of children, with an emphasis on the need for States to include environmental issues in educational curricula to enhance children's understanding of them and their ability to respond to environmental challenges; to ensure children's access to environmental information, participation in environmental issues and environmental justice, and to conduct a prior assessment of the impact of proposed measures on children's rights, etc. [26]. Following this report, the Special Rapporteur, in collaboration with UN agencies and other partners, launched the Children Environmental Rights Initiative (CERI). CERI identifies the lack of clear normative and practical guidance on the application of children's rights in the environmental context as a major challenge, and also emphasizes the general lack of awareness of the multiple links between a safe and healthy environment, on the one hand, and children's rights, on the other [27, pp. 74-75]. In order to address this gap, CERI provides free training for children and young people to inform them about

their environmental rights and how to assert them. The Platform also developed the Guidelines for Reporting to the UN Committee on the Rights of the Child and the 2018 Escazú Accord Handbook for Youth and Children. In addition, CERI conducted a series of regional consultations with children, youth and other stakeholders around the world, resulting in the publication of the guidelines "Our Planet, Our Rights, Our Voices: A Global Charter for Children", which builds on the input of children and youth to General Comment No. 26 and complements it as a tool for persuading governments to implement children's environmental demands [28].

Conclusion. Summarizing the above mentioned, it should be noted, that the protection of children's environmental rights has become an integral part of the modern international human rights agenda, largely shaped and advanced through the United Nations system. Although the 1989 Convention on the Rights of the Child was not originally conceived as an environmental treaty, its provisions – interpreted by the UN Committee on the Rights of the Child – establish a clear normative link between the environment and such fundamental rights as life, health, development, education, play, and an adequate standard of living. The adoption of General Comment No. 26 in 2023 marked a milestone in the recognition of children's right to a clean, healthy, and sustainable environment, consolidating earlier interpretations and providing states with detailed guidance on their obligations in the context of climate change and environmental degradation.

Nevertheless, despite significant progress in standard-setting and interpretation, implementation remains uneven. Many states still lack comprehensive mechanisms for integrating children's rights into environmental decision-making, education, and policy development. The Committee's evolving practice, the work of the UN Human Rights Council, and the Special Rapporteur on human rights and the environment demonstrate a growing institutional awareness of these challenges and a shift toward more child-centered environmental governance.

Therefore, the universal level of protection – anchored in the UN system – plays a crucial role in promoting coherence, accountability, and shared responsibility among states. Strengthening cooperation between UN bodies, enhancing state reporting and monitoring, and ensuring children's active participation in environmental matters are key to transforming the recognition of children's environmental rights from declarative principles into enforceable international legal standards.

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**INTERNATIONAL LEGAL MECHANISM FOR PROTECTING CHILDREN'S ENVIRONMENTAL RIGHTS AT THE INTERNATIONAL UNIVERSAL LEVEL**

**ANNOTATION.** *Introduction.* The article examines the peculiarities of the formation and functioning of the international legal mechanism for protecting children's environmental rights at the international universal level within the framework of the United Nations. The author justifies the relevance of the topic by emphasizing children's particular vulnerability to environmental harm and the absence of a unified binding international instrument that comprehensively integrates children's rights and environmental protection.

*Summary of the main research results.* The central element of the international system for the protection of children's rights is the 1989 UN Convention on the Rights of the Child, whose provisions – interpreted by the Committee on the Rights of the Child – include the environmental dimension of such fundamental rights as the right to life, health, development, education, rest, and an adequate standard of living. The article analyses General Comments Nos. 7, 15, 16, 17, and especially No. 26 (2023), which for the first time explicitly recognizes the right of children to a clean, healthy, and sustainable environment and clarifies states' obligations regarding climate change. It also reviews the Committee's practice, including the landmark *Sacchi v. Argentina et al.* case, which affirmed the cross-border responsibility of states for the harmful effects of climate change. The study highlights the role of the UN Human Rights Council, the Special Rapporteur on Human Rights and the Environment, and the Children's Environmental Rights Initiative (CERI) in strengthening child participation in environmental decision-making and developing standards for child-centred environmental governance.

*Conclusion.* The protection of children's environmental rights has gradually become an integral part of the modern international human rights agenda. Despite notable normative and institutional progress, implementation remains uneven. Strengthening coordination among UN bodies, integrating environmental considerations into child rights policies, and ensuring children's participation in decision-making are key prerequisites for transforming recognized legal principles into enforceable international standards.

**KEYWORDS:** *children's rights, climate change, Committee on the Rights of the Child, environment, environmental rights, human rights, international law, sustainable development, Convention on the Rights of the Child, the United Nations.*

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