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Human Rights and International Law

THE RIGHTS OF CHILDREN AND YOUTH IN THE CLIMATE CRISIS

ACTION AND LITIGATION

Aoife Daly, Florencia Paz Landeira, and Liesl Muller



The Rights of Children and Youth in the Climate Crisis

The climate crisis is a human rights crisis as health, homes, education, and numerous other areas of human life are affected. In this work, the authors examine how the UN Convention on the Rights of the Child applies to the climate crisis and argue that children and youth are rights-makers, reshaping legal and political norms for everyone. The authors also analyse ways in which children/youth are leading the fight against climate change with rights advocacy. Their climate action at national level, in international forums, and in the courts is examined. It is concluded that children/youth have had distinct impacts across these different arenas in which human rights are shaped. Participation rights for children/youth, then, are bringing tangible change not just for themselves, but for everyone.

The book will be an invaluable resource for academics, researchers, and policymakers working in human rights law, children's rights, environmental law, childhood studies, and social policy. It will also likely benefit climate advocates, litigators, and others as it outlines doctrinal footholds and procedural innovations in the area.

Aoife Daly is Professor of Law at University College Cork and specialises in human rights law. In 2023, she secured a European Research Council Consolidator Grant for her project Youth Climate Justice, to carry out a large-scale research study (2023–2028) on child/youth climate justice – inside and outside the courts – around the world. The project involves an interdisciplinary team working with children, youth, and others to analyse their experiences of youth climate action in climate cases, at COP, and in their communities.

Florencia Paz Landeira is a postdoctoral researcher with the Youth Climate Justice project at University College Cork. Florencia holds a PhD in Social Anthropology from the National University of San Martín, Argentina. Her academic research and teaching focus on childhood policies and children's rights within the context of the climate crisis and situated socio-environmental conflicts.

Liesl Muller is a PhD researcher with the Youth Climate Justice project at University College Cork. She holds an LLM from the University of the Witwatersrand and an LLM in Human Rights and Democratisation in Africa from the University of Pretoria, UP. She is an attorney of the High Court of South Africa, practising at the Centre for Child Law, UP, where she represents children and youth in strategic litigation on social justice issues.

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The Rights of Children and Youth in the Climate Crisis

Action and Litigation

Aoife Daly, Florencia Paz Landeira, and Liesl Muller

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Dedicated to young climate advocates everywhere, and to the most important children in our lives – Joaquín, Cian, and Maeve.



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Foreword: The Rights of Children and Youth in the Climate Crisis

The climate crisis is not only an environmental emergency – it is a global human rights challenge. Among those most affected are children. This book, *The Rights of Children and Youth in the Climate Crisis: Action and Litigation*, brings their voices, experiences, and legal claims to the forefront, offering a compelling and timely exploration of how young people are reshaping the legal landscape in pursuit of climate justice.

During my tenure as chairperson of the UN Committee on the Rights of the Child, I had the honour of leading the Committee in the adoption of General Comment No. 26 on children's rights and the environment with a special focus on climate change. That document was a landmark in international human rights law, affirming that children have a right to a clean, healthy, and sustainable environment, and that States have urgent obligations to protect that right. What this book does so powerfully is to give life to General Comment 26 – through analysis, case studies, and the experiences of children who are not only demanding change but creating it.

The chapters in this volume trace a remarkable journey. Chapter 1 sets the stage by framing climate change as a children's rights crisis. It argues that nearly every right under the UN Convention on the Rights of the Child (CRC) – from health and education to participation and protection – is under threat. This framing is essential. It moves us beyond seeing children as passive victims of environmental harm and towards recognising them as active rights-holders and agents of change.

Chapter 2 deepens this analysis by exploring the evolution of the right to a healthy environment in international law. It shows how the right is now central to human rights discourse, and how children's advocacy has accelerated its recognition. The chapter also highlights the principle of intergenerational equity, a concept that resonates deeply with children's rights and with the spirit of General Comment 26. Children are not only defending their own rights – they are speaking for future generations.

Chapter 3 turns to the CRC itself, unpacking how its provisions – especially Articles 3, 6, 12, and 24 – apply to the climate crisis. It emphasises the importance of participation rights and how children's voices must be heard in decisions that affect their environment and future. This is a theme that

runs throughout the book – participation is not a token gesture, but a legal imperative.

Chapters 4 and 5 explore the rise of youth climate activism and participation in governance. These chapters are particularly inspiring. They document how children and youth are organising, mobilising, and influencing policy – from local climate assemblies in Iceland and Ireland to global forums like COP and the drafting of General Comment 26 itself. The concept of postpaternalism – where children are seen not merely as recipients of adult protection but as co-creators of law and policy – is vividly illustrated here.

As someone with a background in litigation, I found Chapters 6 and 7 especially resonant. These chapters delve into the growing phenomenon of child/youth-involved climate litigation, analysing 81 cases from around the world. The legal analysis is rigorous, but what stands out most is the courage and creativity of the young litigants. They are using the courts to assert their rights, challenge governments and corporations, and demand accountability. The data shows that while many cases face procedural hurdles, those that reach full hearings have a high success rate. More importantly, even unsuccessful cases often lead to policy changes, public awareness, and shifts in legal norms.

Chapter 7 also highlights how these cases are expanding the boundaries of legal doctrine. Courts are beginning to recognise the right to a healthy environment, the principle of intergenerational equity, and the need for child-friendly justice. Cases like *Held v. Montana*, *Billy v. Australia*, and *Future Generations v. Colombia* are not just legal victories – they are milestones in the development of climate and human rights law.

Finally, Chapter 8 brings the book to a powerful conclusion. It reflects on children's extraordinary contributions to human rights. Children and youth are not appendices to the climate movement – they are catalysts. Their activism, litigation, and participation are reshaping our understanding of rights, justice, and democracy.

Throughout this book, the authors make a compelling case for institutional redesign. If we are to realise the right to a healthy environment, we must create systems that genuinely include children – not just as stakeholders, but as leaders. This means enforceable participation rights, child-friendly legal processes, and a commitment to intergenerational justice.

General Comment 26 was born out of a collaborative process that included children and youth as co-drafters. It affirms that children have the right to be heard, to live in a safe and sustainable environment, and to hold duty-bearers accountable. This book shows what that looks like in practice. It is both a scholarly resource and a call to action.

I commend the authors for their meticulous research, their strong children's rights analysis, and their ability to weave legal analysis with human stories. I hope this book will inspire lawyers, policymakers, educators, and advocates to listen to children, learn from them, and work alongside them in the fight for climate justice.

Ann Skelton, Professor of Law, Leiden University
and University of Pretoria;
Former Chairperson of the UN Committee on the Rights of the Child

Introduction

1. Seeing the Climate Crisis through a Children's Rights Lens

The climate crisis is usually described in planetary registers – parts per million of carbon, degrees of warming, megatons of ice lost. Yet for children and youth, it is lived in bodies and neighbourhoods, in the smoke that shuts schools, the floods that empty classrooms, the heat that engulfs playgrounds. It is a children's rights crisis,[1] as a warming world undermines the full architecture of entitlements set out in the Convention on the Rights of the Child (CRC) and related human rights instruments, while at the same time magnifying the structural exclusions that already circumscribe children's lives. UNICEF warned a decade ago that "there may be no greater, growing threat facing the world's children – and their children – than climate change."[2] The World Health Organisation (WHO) has shown that children – especially those under five years of age – are among those most affected by environmental harms, from air pollution to water contamination to vector-borne disease.[3] A landmark WHO–UNICEF–Lancet Commission reinforced the point: climate change, ecological degradation, and commercial pressures combine to jeopardise children's health and futures on a scale without precedent.[4] These grim indicators demonstrate that children stand at the frontline of climate impacts,

1 UNICEF, *The Climate Crisis Is a Child Rights Crisis: Introducing the Children's Climate Risk Index* (New York: UNICEF, 2021), https://www.unicef.org/reports/climate-crisis-child-rights-crisis. Accessed 13 June 2025.

2 UNICEF, *Unless We Act Now: The Impact of Climate Change on Children* (New York: UNICEF, 2015), 6, https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=2161&menu=1515. Accessed 13 June 2025.

3 World Health Organization, *Preventing Disease Through Healthy Environments: A Global Assessment of the Burden of Disease from Environmental Risks* (Geneva: WHO, 2016), https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=2161&menu=1515. Accessed 13 June 2025; World Health Organization, *Don't Pollute My Future! The Impact of the Environment on Children's Health* (Geneva: WHO, 2017), https://www.who.int/publications/i/item/WHO-FWC-IHE-17.01. Accessed 13 June 2025.

4 Helen Clark *et al.*, "A Future for the World's Children? A WHO–UNICEF–Lancet Commission," *The Lancet* 395, no. 10224 (2020): 605–658.

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and that the human rights framework designed to protect them must be mobilised with urgency and ambition.

This book, then, focuses on two interrelated key points. First, the climate crisis is, fundamentally, a children's rights crisis: virtually every substantive right in the CRC is strained by climate disruption. Second, the crisis has opened a transformative space in which children and youth are not merely rights-bearers but rights-makers, reshaping legal and political norms for everyone. The first claim requires us to read the climate emergency through the CRC and other legal standards; the second invites us to take seriously the forms of children's and youth action – legal, political, discursive – through which those legal standards are being progressed.

Situating climate change within a children's rights frame means acknowledging that the core CRC principles are under acute pressure. The principle of nondiscrimination (enshrined in CRC Article 2) is violated when climate harms fall heaviest on children already marginalised by poverty, Indigeneity, disability, race, gender, or geography.[5] The principle of best interests of the child (CRC Article 3) means that children's rights and interests must be a primary consideration in "all actions concerning children." This cannot be reconciled with policy choices that discount children's views and interests in relation to decisions that will define their life course.[6] The right to life, survival, and development (CRC Article 6) is compromised by heat-related mortality, malnutrition linked to crop failures, stunted growth from malnutrition due to food insecurity, and the cascading health impacts of increased zoonotic diseases from increased temperatures.[7] Education rights (CRC Articles 28–29) erode when schools close after cyclones, when displacement becomes chronic, or when children must work to compensate for climate-related loss of family income. Cultural rights (CRC Article 30) and rights to play and leisure (CRC Article 31) suffer as ancestral territories are submerged or burned, and as safe outdoor spaces contract. Children's participation rights (CRC Article 12) are routinely ignored or reduced to symbolic consultations.[8] This is in spite of the fact that decisions about climate mitigation, adaptation, loss and damage, or extractive projects will shape childhoods and adulthoods to come. To ignore

5 See Aoife Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis," in *Treated Like a Child: Children, Equality and International Human Rights Law*, eds. Aoife Daly, Pernilla Leviner, and Rebecca Thorburn Stern (Leiden: Brill, 2025).

6 Francesca Ippolito, "The Best Interests of the Child: Another String to Environmental and Climate Protection Bow?" *Questions of International Law* 89 (2022): 7–27.

7 See further Nick Watts *et al.*, "The 2019 Report of The Lancet Countdown on Health and Climate Change: Ensuring that the Health of a Child Born Today is Not Defined by a Changing Climate," *The Lancet* 394, no. 10211 (2019).

8 See Florencia Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance," *The International Journal of Children's Rights* 33, no. 3 (2025): 733–767.

these intersections is to neglect the CRC in the very arena where its provisions are most needed.

In recent years, it has been increasingly recognised in international governance that climate change greatly affects human rights. The consequences of the crisis – death, illness, displacement, loss of livelihoods, and culture – map onto well-established rights such as life, health, food, water, and housing.[9] The 1972 UN Conference on the Environment in Stockholm positioned the environment as a major global issue. That year, the Stockholm Declaration was adopted, proclaiming the goal of defending and improving the human environment "for present and future generations" (Preamble). The United Nations Environment Programme (UNEP) was also created, and there was agreement that global efforts to promote sustainability and safeguard the natural environment would be coordinated.

Governments, courts, and international bodies have increasingly accepted a human rights-based approach to environmental decision-making. The trajectory towards an explicit right to a healthy environment has been unfolding for decades, through national constitutions and regional instruments, culminating in the UN General Assembly's 2022 resolution recognising "the right to a clean, healthy and sustainable environment."[10] One year earlier, the Human Rights Council had affirmed the same right, reflecting the consolidation of a global norm.[11] In a groundbreaking advisory opinion, the International Court of Justice affirmed in 2025 that countries are legally bound under international law to safeguard the climate for both present and future generations, and that failing to act on climate change could violate human rights.[12]

The right to a healthy environment encapsulates a number of substantive guarantees – freedom from pollution; a safe climate; healthy food and water; adequate sanitation; thriving biodiversity and ecosystems – without which "even the minimum standards of human dignity may well be unattainable."[13] The UN Special Rapporteur on human rights and the environment has been unequivocal: this right is integral to the enjoyment of a wide array of other

9 Susana Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child," *Ethics in Science and Environmental Politics* 13, no. 1 (2013): 1–14.

10 UN General Assembly, Resolution 76/300, "The Human Right to a Clean, Healthy and Sustainable Environment," 28 July 2022.

11 UN Human Rights Council, Resolution 48/13, "The Human Right to a Clean, Healthy and Sustainable Environment," 8 October 2021.

12 *Request for an Advisory Opinion on the Obligations of States in Respect of Climate Change*, 2023, ICJ A/77/L.58, International Court of Justice. See further Liesl Muller and Emily Margaret Murray, "The ICJ Advisory Opinion: A Historical Moment for the Climate and Children's Rights," *Youth Climate Justice*, 24 July 2025, https://www.ucc.ie/en/youthclimatejustice/blog/the-icj-advisory-opinion-a-historical-moment-for-the-climate-and-childrens-rights.html. Accessed 17 September 2025.

13 Francesca Ippolito, *Children's Environmental Rights Under International and EU Law* (London: Springer, 2023), 1.

rights, including life, health, food, water, and sanitation.[14] For children, whose physiological development renders them acutely sensitive to toxic exposures and whose temporal horizon extends furthest into the era of intensified climate impacts, the right to a healthy environment is not a decorative add-on; it is a doctrinal anchor for demanding preventive and remedial state action now.

The right of children to a healthy environment is outlined in some detail in a groundbreaking General Comment No. 26 of the Committee on the Rights of the Child, the implementing body of the UN Convention on the Rights of the Child.[15] General Comment No. 26 includes two points of particular importance for our purposes. Substantively, it asserts that the right to a healthy environment is "implicit in the Convention,"[16] thereby integrating environmental quality into the CRC's interpretive framework. Procedurally, its drafting process involved extensive consultations with children and youth worldwide.[17] That participatory genesis matters: it signals a shift away from paternalistic protectionism – where adults speak for children – to a model in which children/youth co-produce the norms that govern them.[18] If children/youth are recognised as co-authors of an authoritative interpretation of their own rights, participation ceases to be ornamental and becomes constitutive of rights realisation.

The CRC Article 12 right to be heard thus acquires renewed force in the climate context. Decisions about emissions trajectories, adaptation funding, land-use change, or energy transitions will condition the lifetimes of today's children/youth far more than those of today's decision-makers. Children and youth, as crucial stakeholders in the climate crisis, must be part of plans and decisions to combat it. A meaningful implementation of CRC Article 12 requires institutional designs that ensure space, voice, audience, and influence[19] – not merely invitations to speak, but mechanisms through which children's perspectives tangibly shape policy outcomes.

14 Office of the High Commissioner for Human Rights (OHCHR), "About Human Rights and the Environment: Special Rapporteur on Human Rights and the Environment," https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/AboutHRandEnvironment.aspx. Accessed 23 July 2025.

15 Committee on the Rights of the Child, *General Comment No. 26: Children's Rights and the Environment with a Special Focus on Climate Change* (2023), CRC/C/GC/26, 22 August 2023.

16 *Ibid*., para. 63.

17 Aoife Daly *et al*. (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law," in *Routledge Handbook of Young People and Environmental Activism*, eds. Ben Bowman and Sadiya Akhram (Oxfordshire: Routledge, 2025).

18 See Aoife Daly *et al*., "Participation and Postpaternalism: Child/Youth Climate Action and the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 33, no. 3 (2025): 562–593.

19 Laura Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child," *British Educational Research Journal* 33, no. 6 (2007): 927–942.

Acknowledging the climate crisis as a children's rights crisis thus also requires confronting the fact that children/youth are often not heard. This can be seen in the context of structural adultism – the legal, cultural, and institutional architectures that naturalise children's exclusion from decision-making on the basis of presumed incapacity.[20] For decades, scholarship in childhood studies has critiqued these assumptions, positing children/youth as social actors rather than mere *becomings*. Child/youth climate action has made that theoretical insight visible on a global stage; we see a generational subject refusing confinement to futurity. These actors do not simply demand protection; they draft policy proposals, negotiate with ministers and UN officials, build transnational coalitions, and pursue strategic litigation. Concepts such as "freedom rights,"[21] "living rights,"[22] and "climate competence"[23] have emerged to describe this present-tense agency and epistemic authority, underscoring that children/youth are not waiting to inherit rights – they are exercising and redefining them now.

We are in a "postpaternal" time for children's rights. This refers to how, in the climate crisis, children/youth are taking action (for the first time, on a global scale), rather than well-meaning adults giving them their rights.[24] A more exact meaning and definition of postpaternalism is being developed in dialogue with young advocates themselves across the various components of the Youth Climate Justice Project,[25] which aims to research the climate action of children/youth in various forms and locations around the world. The term captures an inversion of the traditional script in which adults alone define the contours of children's rights. Postpaternalism recognises the capacity of children/youth to negotiate, reinterpret, and expand the scope of their entitlements, challenging any lingering notion that rights are gifts bestowed by adults. Rather than celebrating agency in the abstract, the concept points to concrete practices through which children/youth claim – and remake – their

20 John Wall, "Theorizing Adultism: From Adult Domination to Normative Disempowerment," *Childhood* (2025): 09075682251367184.

21 Aoife Daly, *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly* (Leiden: Brill, 2016).

22 Olga Nieuwenhuys and Karl Hanson, "Living Rights Theory," in *Bloomsbury Handbook of Theories in Childhood Studies,* eds. Saranda Balagopalan, John Wall, and Karen Wells (London: Bloomsbury, 2024), 167–179.

23 Aoife Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022): ngac011.

24 Aoife Daly *et al.*, "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights" n 18.

25 Led by Prof. Aoife Daly and funded by the European Research Council (ERC). See Youth Climate Justice website https://www.ucc.ie/en/youthclimatejustice/. Accessed 26 September 2025.

rights in the present: filing constitutional complaints,[26] designing climate education curricula,[27] co-drafting local adaptation plans,[28] or participating in the elaboration of General Comment No. 26.[29] An intersectional lens is indispensable here. Children's ability to enact postpaternalist practices is conditioned by material resources, political contexts, gender norms, racial hierarchies, Indigeneity, disability, and migration status; agency is not evenly distributed, and recognition is not guaranteed. Bringing these threads together, we contend that centring children's rights in climate action strengthens human rights for all. That claim rests not only on doctrinal analysis but also on the lived practices of children and youth who, across the globe, are turning protest into rights-making.

2. From Protest to Rights-Making: How Children and Youth Advance Human Rights for Everyone

If the previous section framed the climate crisis as a children's rights crisis, this part of the introduction follows the children and youth who refuse to inhabit that role solely as victims of the crisis. As outlined in the book, in a short period of time (over scarcely a decade), children and youth have moved from the streets to the courts, to negotiations in halls of power. They are pressing institutions to act and, in the process, transforming law, policy, and the language of human rights itself. What began as protest has matured into rights-making: children are not simply asserting entitlements already inscribed in legal texts, they are actively reshaping those texts' meaning and reach for everyone.[30] This book aims to go some way towards capturing numerous elements of these efforts, and therefore demonstrating the holistic picture of just how many fronts children/youth climate advocates are fighting on.

There is no single point of origin to this story. Indigenous children and youth have defended forests, rivers, and ancestral territories for generations,[31]

26 See further Chapters 6 and 7 and Aoife Daly and Liesl Muller, "Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact," *Washington and Lee Law Review* 82, no. 3 (2025): 1049–1072.

27 See Daly *et al*., "Participation and Postpaternalism: Child/Youth Climate Action and the UN Convention on the Rights of the Child" n 18.

28 Anna Davies and Stephan Hügel, "Just Adapt: Engaging Disadvantaged Young People in Planning for Climate Adaptation," *Politics and Governance* 9, no. 2 (2021): 100–111.

29 Daly *et al*. (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law" n 17.

30 Aoife Daly *et al*., "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights" n 18.

31 See, e.g., Bonnie Freeman, "The Spirit of Indigenous Youth: The Resilience and Self-Determination in Connecting to the Spirit and Ways of Knowing," *Journal of Indigenous Wellbeing* 2, no. 1 (2017): 60–75; Linda Clarkson, Vern Morrissette, and Gabriel Régallet, "Our Responsibility to the Seventh Generation: Indigenous Peoples and Sustainable Development," (International Institute for Sustainable Development, Winnipeg, 1992).

often at great personal risk and largely outside the gaze of Northern media cycles. Local struggles – against pipelines, dams, mining concessions, deforestation – seeded repertoires that later found transnational echoes. The 2018 surge crystallised by Fridays for Future (FFF) provided a recognisable global form: millions of school-aged children walking out of classrooms[32] to confront leaders with the incompatible timelines of childhood and policy inertia. That wave, however, never exhausted the movement's diversity. Alongside strikes came mutual aid and adaptation projects, digital campaigns, community science initiatives, submissions to parliamentary committees, interventions at corporate shareholder meetings, and meticulously crafted legal claims. Scholars have begun to register this multiplicity. As Rogers writes, children are "moving beyond the category of victim and assuming a disparate role and distinctive voice in various climate discourses."[33] Dozsa describes "climate citizenship activities" as participatory forms oriented towards influencing governance and achieving systemic change, driven by a generation that bears the consequences of the climate crisis.[34]

In this context, we contend that the language of children's rights is being reworked from within by those it was designed to protect. This reworking compels a broader understanding of children's political capacity. By intervening in policy debates, forging cross-generational alliances, and directly confronting global power structures, young advocates demonstrate that agency is not postponed to adulthood. They reject temporal assumptions that confine children's social relevance to a deferred future,[35] and they place moral and legal responsibility squarely on adults and institutions. What stands out is less a quest for symbolic recognition than a pragmatic insistence on outcomes: emission reductions, ecosystem protection, safe housing, inclusive decision-making, accessible remedies. The idiom may be moral ("You are stealing our future"), scientific ("The carbon budget for 1.5°C is almost gone"), or legal ("The state is violating our rights"), but the demand is clear and immediate.

Strategic litigation brings further life to the rights claims of child/youth climate advocates. Child/youth-involved cases such as *African Climate Alliance*

32 See, e.g., Gabriela Martinez Sainz and Amy Hanna, "Youth Digital Activism, Social Media and Human Rights Education: The Fridays for Future Movement," *Human Rights Education Review* 6, no. 1 (2023): 116–136; Benjamin Bowman and Sarah Pickard, "Peace, Protest and Precarity: Making Conceptual Sense of Young People's Non-Violent Dissent in a Period of Intersecting Crises," *Journal of Applied Youth Studies* 4, no. 5 (2021): 493–510.

33 Nicole Rogers, "Victim, Litigant, Activist, Messiah: The Child in a Time of Climate Change," *Journal of Human Rights and the Environment* 11, no. 3 (2020): 103–121.

34 Kata Dozsa, *Children as Climate Citizens: A Sociolegal Approach to Public Participation* (Oxfordshire: Routledge, 2023).

35 Florencia Paz Landeira, "Temporalities in Crisis: Analysing the *Sacchi v. Argentina* Case and Children's Rights in the Climate Emergency," *Children and Society* 39, no. 4 (2025): 854–863.

v. Minister of Mineral Resources ('*#CancelCoal*'),[36] *Sacchi v. Argentina* ('*Sacchi*'),[37] *Sharma v. Minister for the Environment*,[38] and *Agostinho v. Portugal*[39] deploy human rights and constitutional arguments to compel more ambitious state action.[40] These cases and applications commonly rest on guarantees – the rights to life, health, equality, and a healthy environment, for example – that apply to everyone. Yet they mobilise children/youth as litigants, and children's specific vulnerabilities, to thicken universal norms. When courts accept the claims (as in *#CancelCoal*) – or even sometimes when they do not fully hear those claims (as in *Sacchi*) – they clarify duties to prevent foreseeable harm, recognise intergenerational equity, expand standing, or interpret existing rights through a climate lens. The progress that is made by the efforts of children and youth however benefits all humans, not just those taking the applications. Even outside courtrooms, the legal mobilisation educates publics, pressures governments, and reframes media narratives.[41]

But litigation is only one venue where protest transitions to rights-making. Children and youth have steadily penetrated formal governance spaces, sometimes by invitation, often by persistence.[42] National youth councils on climate, municipal climate assemblies with adolescent seats, and ad hoc advisory bodies have proliferated. Within the UN climate regime, YOUNGO – once relegated to statements – has developed technical expertise, drafting submissions, coordinating thematic working groups, and co-designing negotiation text. The Youth4Climate process, launched in Milan in 2021, gave hundreds of youth delegates the chance to formulate policy proposals, some of which filtered into COP decisions and national commitments. Several countries now reference children's rights directly in their Nationally Determined Contributions

36 *African Climate Alliance et al. v. Minister of Mineral Resources and Energy et al. ('Cancel Coal')*, 2024, ZAGPPHC 1271, High Court of South Africa.

37 *Sacchi et al. v. Argentina*, CRC/C/88/D/104/2019*; Sacchi et al. v. Brazil*, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, CRC/C/88/D/106/2019*; Sacchi et al. v. Germany*, CRC/C/88/D/107/2019; *Sacchi et al. v. Turkey*, CRC/C/88/D/108/2019, 2021, United Nations Committee on the Rights of the Child.

38 *Sharma et al. v. Minister for the Environment*, 2021, FCA 560, Federal Court of Australia.

39 *Duarte Agostinho et al. v. Portugal et al.*, 2024, App. No. 39371/20, European Court of Human Rights.

40 See Larissa Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-focused Rights-based Climate Litigation Around the World," *Journal of Human Rights and the Environment* 13, no. 1 (2022): 64–89; Elizabeth Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization," *Transnational Environmental Law* 11, no. 2 (2022): 263–289.

41 Daly, "Climate Competence: Children's Climate Activism and International Human Rights Law" n 23.

42 See, e.g., Ippolito, *Children's Environmental Rights Under International and EU Law* n 13*;* Dozsa, *Children as Climate Citizens: A Sociolegal Approach to Public Participation* n 34*;* Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 8; Daly, *Ibid*.

(NDCs),[43] a development likely owing, in part, to sustained child/youth advocacy. Such shifts signal that institutions can be retooled to internalise children's perspectives – unevenly, imperfectly, but demonstrably.

The tension between presence and power remains palpable. Young participants repeatedly describe entry points that translate into tokenism: being heard but not listened to, invited but not resourced, celebrated in speeches but excluded from budget negotiations. Safeguarding protocols designed to protect can turn into instruments of control, subordinating rather than enabling. Adult gatekeeping persists at every turn: who selects "the youth representative"? Who sets agendas? Who decides when "consultation" suffices?[44] These are not minor aspects but structural obstacles. The same adultist logics that limit children's legal standing in courts also limit their influence in policy forums. Overcoming them requires institutional redesign, not merely goodwill.

In this book, we situate child/youth climate action not only as evidence of child participation or agency but as a transformative force that strengthens broader human rights and democratic projects. When children/youth demand that courts apply the precautionary principle (i.e., take preventive action in the face of potential harm, even where scientific evidence is not conclusive) or that parliaments enshrine long-term emission targets, they help generate jurisprudence and legislation that protect everyone. When they insist on participation with impact, they enhance deliberative quality and legitimacy across the polity. When they foreground intergenerational equity, they compel institutions to internalise time horizons usually externalised to "future people."[45] We also insist that this transformation must be analysed through a rights framework: the climate action of children/youth is not only morally compelling protest but legally cognisable participation (under CRC Article 12 and other human rights provisions) that imposes duties on states and other duty-bearers. We also acknowledge constraints facing young climate advocates – adultism, resource inequities, and safeguarding regimes that conflate protection with control are structural, not incidental. Any account that glosses over these constraints risks reinscribing the paternalism it seeks to dismantle.

Ultimately, the struggle for meaningful child/youth participation reveals how children's rights are dynamically evolving in response to the climate crisis – and how that evolution enriches democratic processes themselves. Child/youth-led climate governance, from local councils to international negotiations, forces institutions to reconceptualise participation rights not as

43 Chris Höhne, Christian Kahmann, and Mathis Lohaus, "Continuity and Change in Norm Translations After the Paris Agreement: From First to Second Nationally Determined Contributions," *Global Environmental Politics* 24, no. 2 (2024): 69–97.

44 See, e.g., Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 8.

45 See further Paz Landeira, "Temporalities in Crisis: Analysing the *Sacchi v. Argentina* Case and Children's Rights in the Climate Emergency" n 35.

procedural niceties but as core human rights obligations. Those obligations benefit not only younger generations but also bolster accountability, transparency, and resilience for society as a whole. Conversely, the persistence of tokenism and adult-centric practices shows that achieving authentic climate justice for children and youth demands deeper structural transformation, rooted in human rights principles and intergenerational equity.

3. This Book

This book is about the rights of children/youth in the climate crisis. But it is also about how child/youth advocates have transcended somewhat the human rights frameworks created for them. The climate crisis is a children's rights crisis, with numerous CRC rights affected. Part of the disruption of the crisis is that children/youth are now rights-makers on a global scale, reshaping legal and political norms for everyone.[46] This book does not aim to map the entirety of children's environmental rights, nor to catalogue every article, case, or campaign in the field. Our intention is rather to analyse existing law, practice, and current debates, and in doing so demonstrate that children and youth are transforming and progressing human rights frameworks through their climate action. We write for scholars of law and human rights, as well as childhood and youth studies. We also hope that litigators and policymakers may find useful doctrinal footholds and procedural innovations. We are also optimistic that young climate advocates will recognise their own efforts in these pages and find arguments and information which may help them in their work.

Our research design involves a combination of doctrinal analysis of international, regional, and domestic law with a systematic reading of scholarship across law, sociology, childhood studies, youth studies, and environmental governance. We also draw on close observation of governance spaces in which children and youth participate. A central empirical pillar is our examination of child/youth-involved climate cases, presented in the Youth Climate Justice project's Case Law Database.[47] Our database disaggregates child/youth-involved climate cases through a children's rights lens.

One point to note is the fraught issue of definitions when it comes to climate action for children and youth. "Child" is often defined, as in Article 1 of the CRC, as a person under 18. This book is primarily concerned with those under the age of 18 years, because of the adult-child divide and because the discipline of children's rights applies to those under 18 years. It is important to note, however, that many adolescents do not identify with that label. The

46 Aoife Daly *et al.*, "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights" n 18.

47 See Youth Climate Justice, *Case Law Database*, https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/. Accessed 26 September 2025.

intergenerational nature of young climate advocacy must also be acknowledged. Those under the age of 18 and those over 18 protest, advocate, and litigate together.

Much of the literature about young climate action comes from the discipline of Youth Studies, which frequently examines those from age 14 or 16 years upwards (leaving a clear intersection between children and youth). It is not always possible, therefore, to totally exclude those over 18 years from our enquiry, even if we wanted to (which we do not). Throughout this book, we employ "children/youth" to denote those under the age of 18 years. We are not, however, excluding youth over 18 entirely from the inquiry. If we are including or speaking solely about youth over the age of 18, we will point this out. As we reference the work of other scholars or initiatives, we will use the terminology they use as appropriate, which may be children, youth, or young people. Another point to note is that we will also rely on the commonly used term "children's rights," primarily to denote the discipline concerned with studying the CRC.

It is also important to mention that though the terms "environment" and "climate change" are intersecting, they involve separate concepts. These concepts are considered separately in some areas of this book, but they are often considered together for simplicity. Where relevant, this distinction will be made.

Chapter 2, the next chapter in this book, lays the doctrinal groundwork. It traces how climate change erodes virtually every substantive right in the CRC, from life, health, and development to education, culture, and play, showing how these deprivations are distributed along lines of inequality. It then situates the rapid consolidation of the right to a healthy environment and explains the relevance to children. The international standards that exist and are relevant to the environmental rights of children/youth are outlined. Arguably, the most important is the UN Convention on the Rights of the Child, the background of which is outlined in detail.

In Chapter 3, we examine the rights within the CRC which we deem most relevant to children in the climate crisis, such as those relating to health, life, and participation, although all of these rights are intersecting and interdependent. We argue that, in line with Article 3 of the CRC, as children will be among the worst affected by the climate crisis, their rights and interests should be at the forefront of the creation of climate action plans and policies. We also consider, under the heading of CRC Article 12, the right of children to be heard, the way in which children have moved from recipients of adult care to active environmental human rights defenders, and how this postpaternalism has been revolutionary for children's rights.

Chapter 4 tells the story of how children and youth became central protagonists in global climate politics. It offers a genealogy that begins long before Fridays for Future, tracing Indigenous and local struggles, and then follows the diffusion of tactics – from strikes and mutual aid to digital mobilisation

and knowledge production. The chapter develops the theoretical lenses introduced earlier, showing how they emerge from practice rather than abstract prescription. By the end, climate action is no longer an "extra" to rights discourse but a driver of its evolution, preparing the ground for a closer look at formal governance spaces.

Turning from streets to institutions, Chapter 5 examines how children and youth enter and reshape decision-making arenas – national youth councils, municipal climate assemblies, UNFCCC's Conference of the Parties, and the drafting process of General Comment No. 26. It evaluates both the promise and the pitfalls: moments where participation altered policy trajectories, and moments where children/youth could have been supported further. The analysis underscores that redesigning institutions for children's rights is a substantive rights obligation, not a courtesy. With governance dynamics mapped, the book then pivots to the courtroom, where many of these claims are crystallised.

Based on the Youth Climate Justice Case Law Database, Chapters 6 and 7 analyse 81 children/youth-involved climate cases across numerous jurisdictions. The chapters analyse the types of claims, chart procedural innovations (standing, amicus participation, child testimony), and track outcomes. The focus is on how children's rights are invoked directly or indirectly and how children and youth participate in proceedings. The findings reveal litigation as a participatory practice that both responds to and generates social and legal change. There are some reflections on how "to ensure child-friendly climate justice processes."[48]

The conclusion reflects on the findings of this work. It considers the analysis of various points, such as climate change as a children's rights crisis, youth climate action as rights-making, and the mutual reinforcement of children's rights and broader human rights norms. It proposes an agenda for research, policy, and practice that centres children/youth without instrumentalising them – calling for institutional redesign, enforceable participation, and doctrinal development attuned to intergenerational equity. It closes by returning to the opening claim: empowering children's rights in the climate crisis fortifies human rights for all.

48 Aoife Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 32, no. 3 (2024): 632–661, 652.

2 Climate Change, Children/ Youth, and the Right to a Healthy Environment

1. Introduction

The concept of the Anthropocene aims to capture the profound impact of human activity on Earth's systems, including the climate crisis caused by global warming.[1] It describes the profound impact humans have had on Earth's ecosystems,[2] and suggests that we have entered a new geological era where human activities are the dominant force shaping the environment, posing threats to the type of life as it has been known until now. The climate crisis represents one of the most pressing challenges of the 21st century. While its effects are universally felt, they are particularly pronounced for children and youth. It undermines the gains achieved until now in the field of children's rights.[3]

As is now widely recognised, the climate crisis represents a children's rights crisis.[4] Children and youth find themselves at the intersection of climate vulnerability and broader socio-political inequalities, which often exacerbate their exposure to climate-related harms. Children are not simply vulnerable, however; they are rights-holders and subject to numerous international standards. This chapter examines the international human rights standards which are of relevance to children's rights – the basic entitlements all children deserve by virtue of being human – in the climate crisis. It analyses how the right to a healthy environment has developed and its relevance to children/youth. The UN Convention on the Rights of the Child (CRC) is introduced. In Chapter 3, this examination of the CRC as a standard setter for children's

1 Andreas Malm and Alf Hornborg, "The Geology of Mankind? A Critique of the Anthropocene Narrative," *The Anthropocene Review* 1, no. 1 (2014): 62–69.

2 Paul J. Crutzen and Will Steffen, "How Long Have We Been in the Anthropocene Era?" *Climatic Change* 61, no. 3 (2003): 251–257.

3 Susana Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child," *Ethics in Science and Environmental Politics* 13, no. 1 (2013): 1–14.

4 UNICEF, *The Climate Crisis Is a Child Rights Crisis: Introducing the Children's Climate Risk Index* (New York: UNICEF, 2021), https://www.unicef.org/reports/climate-crisis-child-rights-crisis. Accessed 13 June 2025, 4.

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environmental rights is expanded, with particular attention to children/youth as holders of participation rights in the climate crisis.

In this current chapter, we first provide background on the increasing recognition of the human right to a healthy environment and the value this standard adds to the human rights framework. In Section 3, we then introduce the keystone text for children's rights, the CRC. We introduce the general principles of this instrument and how it relates to the environment. We focus in Section 4 on the general international standards pertaining to the environment, and consider how they relate to children. In Section 5, we consider other crucial issues in relation to children/youth and the climate crisis, such as the unequal distribution of climate harm in accordance with age, and the link between children/youth and future generations. We also consider the intergenerational justice elements of the climate crisis, and position children/youth as rights-holders in this context. We conclude by emphasising that rights standards, rather than charity, are what are necessary for securing climate justice for children and youth.

2. Human Rights and the Environment

2.1 The Human Right to a Healthy Environment

There are clear links between human rights and the climate crisis. Human rights are universal, basic entitlements that we all deserve simply by virtue of being human. The consequences of climate change include death and damage to health, as well as damage to livelihoods, subsistence, and even culture.[5] All of these effects can be linked to well-established human rights such as the right to life, and so there is a strong argument to be made that a human rights-based approach should be taken to the climate crisis. The climate crisis makes it impossible to enjoy numerous human rights. It can be argued that there is no human right whose enjoyment is not affected by the climate crisis, whether directly or indirectly.[6]

International law obliges states and others to take effective mitigation and adaptation measures to uphold human rights and to ensure public participation in climate decisions. When it comes to the environment, however, international law has been described as complex and contradictory in nature.[7] International law does acknowledge that environmental stewardship and protection are important. It aims to address the adverse consequences of

5 Karen E. McNamara *et al.*, "Using a Human Rights Lens to Understand and Address Loss and Damage," *Nature Climate Change* 13, no. 12 (2023): 1334–1339.

6 Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child" n 2.

7 Usha Natarajan and Julia Dehm, "Introduction: Where Is the Environment?" in *Locating Nature*, eds. Usha Natarajan and Julia Dehm (Cambridge: Cambridge University Press, 2022), 1–18.

development on the environment. But it has also been described as framing the environment as a "repository of natural resources" that are there to be commercially exploited rather than protected.[8] Environmental law, as a consequence, focuses primarily on regulating how these resources are exploited, and this can lead to economic interests superseding environmental law.[9]

International environmental law has also been described as focusing on procedural norms and transparency rather than prescriptive, substantial norms.[10] Rajamani and Peel point to the Paris Agreement and its focus on "nationally determined contributions" (NDCs) as goals that focus on procedure – for example, mandating that countries set climate policies – rather than actually prescribing content. Likewise, treaties such as the Aarhus Convention focus on public participation rather than actual environmental outcomes.[11] These instruments are considered in more detail below.

Perhaps then that renders international *human rights law* instruments particularly important for addressing the climate crisis. Human rights can refocus attention on actually ensuring that states take substantive action.[12] Human rights can also be very procedure-focused, and that has actually assisted in progressing climate justice (e.g., through the right to public participation in decisions affecting the environment).[13] International law struggles with the conceptual, practical, and legal challenges associated with the climate crisis, however. It has been pointed out that the climate crisis has a "poly-centric, socio-economically, and socio-politically complex nature."[14] Meguro points to the difficulty of trying to litigate environmental law cases in international forums, because the collective nature of the legal interests at stake – the primary focus of international law is on the bilateral and reciprocal nature of states' rights and duties.[15] When it comes to environmental issues at the international level, however, it seems that international environmental law litigation is more likely to be successful where claims can be "transposed into human rights claims."[16] Meguro states that this is because many jurisdictions

8 *Ibid*., 6.
9 *Ibid*.
10 Lavanya Rajamani and Jacqueline Peel, "Reflections on a Decade of Change in International Environmental Law," *Cambridge International Law Journal* 10, no. 1 (2021): 6–31, 569.
11 *Ibid*.
12 Felix Ekardt, "Freedom, Human Rights, Paris Agreement, and Climate Change: The German Landmark Ruling on Climate Litigation," *Environment: Science and Policy for Sustainable Development* 64, no. 2 (2022): 4–10; Christina Voigt, "The Power of the Paris Agreement in International Climate Litigation," *Review of European, Comparative and International Environmental Law* 32, no. 2 (2023): 237–249.
13 See John H. Knox, "Constructing the Human Right to a Healthy Environment," *Annual Review of Law and Social Science* 16 (2020): 79–95.
14 Maiko Meguro, "Litigating Climate Change Through International Law: Obligations Strategy and Rights Strategy," *Leiden Journal of International Law* 33, no. 4 (2020): 933–951.
15 *Ibid*.
16 *Ibid*.

have rights-based remedies, and that there are better-developed judicial procedures for litigation based on human rights claims.[17] The Paris Agreement has particularly supported the possibility for rights claims to be litigated in court, many of them successfully,[18] as that Agreement points to a goal for reducing emissions. This goal (and the fact that so many states are missing their targets[19]) can be taken together with human rights provisions (e.g., in the European Convention on Human Rights) to argue that governments are failing to uphold human rights.[20]

Governments, courts, international bodies, and others have recognised the validity of a human rights-based approach to environmental decision-making. There are a number of benefits which can be argued to be associated with human rights-based approaches to environmental issues. Where the impacts of climate change on the rights of individuals and communities are emphasised, the human dimensions of climate change can be fully appreciated. Human rights-based approaches can point to systemic discrimination and how systemic discrimination can cause and exacerbate the vulnerability of particular groups, such as Indigenous peoples, elderly people, people with disabilities, and children/youth.[21] Human rights-based approaches to the climate crisis also focus on the obligations of states, private companies, and others, and provide access to remedies that might not otherwise be available.[22]

Human rights-based approaches involve a focus on supporting both rights-holders (such as individuals and communities) and duty-bearers. Duty-bearers are usually considered to be the state and those representing the state, like local politicians, judges, and so on.[23] Lennox and Yaprak Yıldız, however, argue that a critical approach should be taken to the question of who duty-bearers are. They argue that we must look at the power structures from which entities such as private companies benefit, and that we must seek to alter these

17 *Ibid*.

18 See Chapter 7.

19 See, e.g., Niklas Höhne *et al*., "The Paris Agreement: Resolving the Inconsistency Between Global Goals and National Contributions," in *Climate Policy after the 2015 Paris Climate Conference*, eds. Joanna Depledge *et al*. (Oxfordshire: Routledge, 2022), 30–46.

20 For example, *Urgenda Foundation v. State of the Netherlands*, 2019, Case No. 19/00135, Supreme Court of the Netherlands; *Neubauer et al. v. Germany*, 2021, 1 BvR 2656/18, 1 BvR 96/20, 1 BvR 78/20, 1 BvR 288/20, 1 BvR 96/20, 1 BvR 78/20, German Federal Constitutional Court.

21 See Aoife Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis," in *Treated Like a Child: Children, Equality and International Human Rights Law*, eds. Aoife Daly, Pernilla Leviner, and Rebecca Thorburn Stern (Leiden: Brill, 2025) and Refia Kaya, "Challenging Environmental Exposures Through Discrimination Law in Europe," *Ankara Avrupa Çalışmaları Dergisi* 20, no. 1 (2021): 195–219.

22 Sébastien Jodoin, Annalisa Savaresi, and Margaretha Wewerinke-Singh, "Rights-Based Approaches to Climate Decision-Making," *Current Opinion in Environmental Sustainability* 52 (2021): 45–53.

23 Corinne Lennox and Yeşim Yaprak Yıldız, "Activist Scholarship in Human Rights," *The International Journal of Human Rights* 24, no. 1 (2020): 4–27, 17.

power structures. We must therefore ensure that non-state actors are also seen as duty-bearers, because power structures may involve actors other than the state.[24] One benefit of a human rights approach, then, is that it can help with the important task of recognising the crucial position of private corporations as contributors to the climate crisis. Such recognition is increasingly happening at an international level, including through human rights-based climate litigation.[25]

Human rights law, which relates to environmental issues, has developed significantly in the past few decades. In 1999, the Declaration of Bizkaia on the Right to the Environment, proposed by UNESCO and the UN High Commissioner for Human Rights, was adopted. This declaration stated that "[e]veryone has the right, individually or in association with others, to enjoy a healthy and ecologically balanced environment."[26] The journey towards recognition of a stand-alone right to a healthy environment has therefore been unfolding for the past few decades. There are numerous elements to the right to a healthy environment, including freedom from pollution, a safe climate, healthy food and water, adequate sanitation, and healthy biodiversity and ecosystems.[27] The right to a healthy environment, the UN Special Rapporteur on human rights and the environment has stated, "is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation."[28] Without these elements, even the minimum standards of human dignity may well be unattainable.[29]

John Knox, the first UN Special Rapporteur on human rights and the environment, posits that the right to a healthy environment has developed in recent years in three ways.[30] First, there has been widespread adoption of rights in regional treaties and national constitutions relating to the environment. The 1972 UN Conference on the Environment in Stockholm positioned the environment as a major global issue. It resulted in international principles for management of the environment, including the Stockholm Declaration,

24 *Ibid*.

25 See Chapter 5 and Joana Setzer and Catherine Higham, "Global Trends in Climate Change Litigation: 2023 Snapshot," *London School of Economics*, 2023, https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2023-snapshot/. Accessed 1 July 2025.

26 UNESCO, *Declaration of Bizkaia on the Right to the Environment*, adopted 12 February 1999, UNESCO Doc. 30 C/INF.11, Article 1(1).

27 UN Human Rights Council resolution on human rights and climate change (A/HRC/RES/35/20) 22 June 2017.

28 United Nations Office of the High Commissioner for Human Rights (OHCHR), "About Human Rights and the Environment: Special Rapporteur on Human Rights and the Environment," https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/AboutHRandEnvironment.aspx. Accessed 11 June 2022.

29 Francesca Ippolito, *Children's Environmental Rights Under International and EU Law* (The Hague: Springer, 2023).

30 Knox, "Constructing the Human Right to a Healthy Environment" n 13.

which contained 26 principles and marked the start of a dialogue between industrialised and non-industrialised countries on economic growth and the environment. Since 1972, Boyd[31] lists 100 countries that have directly incorporated a right to a healthy environment into their national constitutions in different ways. In 1981, the African Charter on Human and Peoples' Rights (1982) was the first human rights treaty to recognise explicitly that "[a]ll peoples" have a right to a "satisfactory" environment which supports their development.[32] As noted above, in 1989, the CRC was produced, and it included a provision stating that children have a right to an environment free from pollution. Other regional instruments such as the 1981 African Charter on Human and Peoples' Rights, the 2004 Arab Charter on Human Rights, and the 2012 ASEAN Human Rights Declaration also recognised in some way a human right to live in a healthy, clean, and sustainable environment.[33]

The expansion of the relationship between human rights and environmental issues has also taken place through various international and regional court decisions. In the 2010 Pulp Mills case, the International Court of Justice (ICJ) stated that transboundary environmental impact assessment is now part of customary international law.[34] In 2017, the Inter-American Court of Human Rights (IACHR) rendered an advisory opinion on the relationship between human rights and the environment, stating that in certain circumstances, states can exercise extraterritorial jurisdiction in large-scale transboundary infrastructure projects and consequently be responsible for the human rights of the people in the area affected.[35] The UN Committee on the Rights of the Child acknowledged this principle of responsibility for transboundary harm for the first time at the UN level, also in its response to *Sacchi v. Argentina* ("*Sacchi*").[36] In 2019, the UN Human Rights Committee decided in *Cáceres v. Paraguay* that environmental harm amounts to a human rights violation under the International Covenant on Civil and Political Rights (ICCPR), although the Committee did not recognise a general right to a healthy environment itself.[37]

31 David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (Vancouver: UBC Press, 2018).

32 African Charter of Human and Peoples' Rights, Article 24.

33 See further Knox, "Constructing the Human Right to a Healthy Environment" n 13.

34 Sumudu Atapattu and Andrea Schapper, *Human Rights and the Environment: Key Issues* (Oxfordshire: Routledge, 2019).

35 *Advisory Opinion on Human Rights and the Environment*, 2017, OC-23/17 Series A No. 23, Inter-American Court of Human Rights.

36 *Sacchi et al. v. Argentina*, CRC/C/88/D/104/2019*; Sacchi et al. v. Brazil*, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, CRC/C/88/D/106/2019*; Sacchi et al. v. Germany*, CRC/C/88/D/107/2019; *Sacchi et al. v. Turkey*, CRC/C/88/D/108/2019, 2021, United Nations Committee on the Rights of the Child.

37 The Human Rights Committee is the monitoring body for the ICCPR. See the decision *Cáceres et al. v. Paraguay*, 2019, CCPR/C/126/D/2751/2016, UN Human Rights Committee. See further Meguro, "Litigating Climate Change Through International Law: Obligations Strategy and Rights Strategy" n 14, 938.

In 2025, two groundbreaking advisory opinions were released. The IACHR issued an Advisory Opinion on the climate emergency.[38] It affirms that the right to a healthy environment is a human right and details obligations for states and corporations to address the climate crisis. In the same year, in a particularly groundbreaking decision, the ICJ gave an Advisory Opinion on climate justice, recognising that climate change threatens various children's rights, including their right to life, right to health and a healthy environment, and the right to nondiscrimination.[39] The ICJ determined that all states, and particularly the largest emitters, must take adequate mitigation measures in line with the best available science to meet the 1.5°C temperature target, which the court stated is legally binding under the Paris Agreement.

Knox continues that the second development in relation to environmental human rights includes what he refers to as the "greening" of particular human rights provisions, such as the rights to life and health, through their application to environmental issues. This is to be seen in the extensive and expanding jurisprudence, for example, under the European Convention on Human Rights (ECHR). The European Court of Human Rights has frequently remarked that the ECHR contains no explicit right to a healthy environment or to the preservation of the natural environment per se. Yet it has held that breaches of ECHR Article 8, the right to private and family life (as well as rights relating to home and correspondence) include noise, emissions, smells, or other forms of interference.[40] This has led to a widening of the scope of ECHR Article 8 to cover environmental-related human rights. ECHR Article 2, the right to life, has been interpreted to some extent to include the right to the environment.[41] ECHR Article 6, the right to a fair trial, has also proven to be useful in environmental cases before the European Court of Human Rights, for example, where inadequate procedures have been present for infrastructure projects.[42]

Third, the right has developed through inclusion in multilateral environmental instruments, which include entitlements of participation and procedure, that is, rights of access to information, public participation, and access to justice. One key instrument in this regard is the UN Economic Commission for Europe (UNECE – a regional UN body which aims to promote pan-European economic integration) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters – the Aarhus Convention – adopted in 1998. The Aarhus Convention protects the right of every person to live in an environment adequate to each

38 *Advisory Opinion on the Climate Emergency and Human Rights*, 2025, OC-32/25 Series A No. 32, Inter-American Court of Human Rights.

39 *Advisory Opinion on the Obligations of States in respect of Climate Change*, 2025, A/77/L.58, International Court of Justice.

40 See, e.g., *Verein KlimaSeniorinnen Schweiz et al. v. Switzerland*, 2024, App No. 53600/20, European Court of Human Rights.

41 See, e.g., *LCB v. UK*, 1998, App no. 23413/94, European Court of Human Rights.

42 *Kyrtatos v. Turkey*, 2003, App no. 41666/98, European Court of Human Rights.

person's health and well-being. It originates from the 1992 Rio Declaration on Environment and Development, which consists of 27 principles intended to guide states in future sustainable development. In particular, the Aarhus Convention arises from Principle 10 of the Rio Declaration and seeks to put it into practice. Three fundamental rights are set out in Principle 10 of the Rio Declaration: access to information, access to public participation, and access to justice, as key pillars of sound environmental governance.

The Aarhus Convention is therefore an environmental agreement which focuses on government accountability, transparency, and responsiveness to the public. The Convention is groundbreaking in the way that it explicitly links environmental rights and human rights,[43] stating, for example, in Article 1 that states "shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters." It also links environmental protection with government accountability, and emphasises interaction between the public and public authorities on such matters, including obligations regarding access to information, public participation, and access to justice.[44]

Another transformative instrument is the 2015 Paris Agreement – a legally binding international treaty on climate change. The aim of the Paris Agreement is to limit global warming to well below 2°C, preferably to 1.5°C. Signatory countries are to prepare, communicate, and maintain what are referred to as successive NDCs – their post-2020 climate actions – and update their plans every five years. The idea is that these NDCs should become progressively more ambitious over time. This binding agreement has provided an opportunity to engage human rights arguments in relation to the environment at domestic and regional levels.

International human rights bodies, academics, and other professionals have also articulated different definitions of the right. Rodriguez-Rivera, for example, emphasises a life of well-being in one's environment, defining the right as the "human right to live in an environment of such a minimum quality as to allow for the realisation of a life of dignity and well-being."[45] Horn points to healthy living in one's environment, describing the right as "the right to an ecologically balanced and sustainable environment which permits healthy living

43 Áine Ryall, "The Aarhus Convention: Standards for Access to Justice in Environmental Matters," in *Environmental Rights: The Development of Standards*, eds. Stephen J. Turner *et al.* (Cambridge: Cambridge University Press, 2019), 116–146.

44 See further UNECE, *Environmental Policy, Public Participation: Introduction* (undated), https://unece.org/environment-policy/public-participation/aarhus-convention/introduction. Accessed 26 August 2025.

45 Louis E. Rodriguez-Rivera, "Is the Human Right to Environment Recognized Under International Law? It Depends on the Source," *Columbia Journal of Environmental Law and Policy* 12, no. 1 (2001): 113–143.

for all of its inhabitants."[46] The Inter-American Court of Human Rights, in an Advisory Opinion in 2017 on the environment and human rights,[47] expresses, however, that the right protects nature for its own sake:

> [P]rotects nature and the environment, not only because of the benefits they provide to humanity or the effects that their degradation may have on other human rights, such as health, life or personal integrity, but because of their importance to the other living organisms with which we share the planet that also merit protection in their own right.[48]

The UN Human Rights Council states that there are numerous elements to the right to a healthy environment, including freedom from pollution, a safe climate, healthy food and water, adequate sanitation, and healthy biodiversity and ecosystems.[49] The Committee on the Rights of the Child uses in General Comment No. 26 a definition of the human right to a healthy environment which describes the right as involving: "clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food and non-toxic environments."[50]

In a groundbreaking development, the human right to a healthy environment was adopted in 2021–2022 in two UN instruments. In 2021, the UN Human Rights Council adopted resolution 48/13. It recognises that a clean, healthy, and sustainable environment is a human right. It encourages states to build capacities to protect the environment in order to fulfil human rights obligations. It also encourages the adoption of policies to protect the enjoyment of a healthy environment. In 2022, the UN adopted General Assembly Resolution 76/300, which likewise recognises that the right to a clean, healthy, and sustainable environment is a human right. It urges:

> States, international organisations, business enterprises and other relevant stakeholders to adopt policies, to enhance international cooperation, strengthen capacity-building and continue to share good practices in order to scale up efforts to ensure a clean, healthy and sustainable environment for all.[51]

46 Laura Horn, "The Implications of the Concept of Common Concern of a Human Kind on a Human Right to a Healthy Environment," *Macquarie Journal of International and Comparative Environmental Law* 1, no. 2 (2004): 233–268, 240.

47 *Advisory Opinion on Human Rights and the Environment*, 2017, OC-23/17 Series A No. 23, Inter-American Court of Human Rights.

48 *Ibid*., para. 62.

49 UN Human Rights Council Resolution 35/20, *Human Rights and Climate Change*.

50 Committee on the Rights of the Child, *General Comment No. 26: Children's Rights and the Environment with a Special Focus on Climate Change* (2023), CRC/C/GC/26, 22 August 2023, paras. 63–64.

51 G.A. Res. 76/300, The Human Right to a Clean, Healthy and Sustainable Environment, para. 1 (28 July 2022).

These rapid developments indicate a high level of recognition of the right to a healthy environment at the international level.

Chalabi points out, however, that in spite of significant developments at the national and international level, the right to a healthy environment as a human right is still under-theorised and contested.[52] It is not contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR) or the European Convention on Human Rights (ECHR). Rights relating to the environment are argued under existing rights in these instruments, such as the right to life or the right to private and family life,[53] "greening" these rights. Kelleher argues, however, that:

> The problem with "greening" existing rights like the right to life and bodily integrity is that there are many situations where the impacts of environmental harm on humans are scientifically uncertain or the impacts are confined to nature. Existing rights, like the right to life or bodily integrity, cannot be stretched to deal with these kinds of environmental harm.[54]

This points to the added value of a right that specifically deals with these types of circumstances that clearly impact human rights.

There are commentators such as Hannum who argue that human rights should not be introduced in attempts to resolve contentious political issues. The right to a healthy environment, the argument goes, is too vague to result in practicable rights and obligations.[55] Hannum's argument appears to be largely based on the thesis that it is undemocratic to engage in human rights "overreach," and that such overreach is responsible for much of the backlash against human rights. This does not give due attention to the fact, however, that much of this backlash is not due to the overreach of human rights but in fact under-reach – in states such as the UK, where the case has not been made at grassroots level that human rights can be relevant to people's everyday lives, it is perhaps unsurprising that it is a simple task for politicians and the tabloids who are inclined to attack the validity and relevance of the human rights

52 Azadeh Chalabi, "A New Theoretical Model of the Right to Environment and its Practical Advantages," *Human Rights Law Review* 23, no. 4 (2023): ngad023.

53 See, e.g., *KlimaSeniorinnen*, 2024; *Agostinho et al. v. Portugal et al.*, 2024, App. No. 39371/20, European Court of Human Rights.

54 Orla Kelleher, "The Supreme Court of Ireland's decision in Friends of the Irish Environment v Government of Ireland ('Climate Case Ireland')," *EJIL:Talk! Blog of the European Journal of International Law* (9 September 2020), https://www.ejiltalk.org/the-supreme-court-of-irelands-decision-in-friends-of-the-irish-environment-v-government-of-ireland-climate-case-ireland/. Accessed 23 April 2021.

55 See, e.g., Hurst Hannum, *Rescuing Human Rights: A Radically Moderate Approach* (Cambridge: Cambridge University Press, 2019).

framework.[56] And if human rights cannot be made to work and to be made relevant to the greatest threat to humanity – climate change – then human rights will obviously seem to lack legitimacy.

As for the argument that the right to a healthy environment is too vague, Knox makes the point that efforts to define rights such as the right to due process and the right to freedom from cruel, inhuman, or degrading treatment have also been difficult– note the contention in relation to the definition of torture, for example, in the ECHR case of *Ireland v. UK* (1972 and 2018).[57] Furthermore, environmental rights have already been adjudicated perhaps thousands of times by national courts.[58] Atapattu and Schapper, on examination of international standards, conclude that a distinct right to a healthy environment is far from being vague and indeterminate. It, in fact, places obligations on states to secure sustainable development and undertake the monitoring necessary to allow individuals to participate in relevant decisions.[59]

In any case, the rapid deterioration of the environment and the increasing urgency of the climate crisis point to environmental diplomacy having failed to respond to the current challenges.[60] The use of the human rights framework, therefore, and its associated courts, has already begun and has perhaps been inevitable. The human rights framework is about mitigating the abuse of power by states. It is also about ensuring that social movements have a language and a platform from which to seek change,[61] including young climate advocates, as we will examine in and outside the courts in Chapters 4–7.

2.2 The Content of the Right to a Healthy Environment

Defining the right to a healthy environment will involve developing more detailed accounts of the nature of the right, what it is for, its scope, and the state obligations that flow from it.[62] Knox describes the language of GA

56 See, e.g., Aoife Daly and Alan Connolly, "An Emphasis on Social Rights: A Boost for the UK's Popular Rights Discourse?" in *Poverty and Human Rights: Multidisciplinary Perspectives* eds. Suzanne Egan and Anna Chadwick (Cheltenham (UK), Northampton, Massachusetts (USA): Edward Elgar Publishing, 2020).

57 *Ireland v. UK*, 2018, Application no. 5310/71, European Court of Human Rights.

58 Knox, "Constructing the Human Right to a Healthy Environment" n 13, 86.

59 Sumudu Atapattu and Andrea Schapper, *Human Rights and the Environment: Key Issues* n 34.

60 Maria Antonia Tigre and Natalia Urzola, "The 2017 Inter-American Court's Advisory Opinion: Changing the Paradigm for International Environmental Law in the Anthropocene," *Journal of Human Rights and the Environment* 12, no. 1 (2021): 25.

61 Conor Gearty, "Do Human Rights Help or Hinder Environmental Protection?" *Journal of Human Rights and the Environment* 1, no. 1 (2020): 7.

62 Solene Kerisit and Martha F. Davis, "Human Right to a Healthy Environment: Annotated Bibliography," *Northeastern University Law Review* 15, no. 1 (2023): 4.

Resolution 76/300 as "straightforward." It states simply, "The General Assembly … Recognises the right to a clean, healthy and sustainable environment as a human right."[63] During the process, Costa Rica emphasised hope that recognition of this right "will catalyse transformative changes in our societies." Drafters wanted to indicate that the right is autonomous in that it does not simply derive from other rights. Knox states that the right is not simply an empty vessel waiting to be filled, but rather its nature and its relationship with other human rights have already been examined extensively by national courts and international bodies.[64] Gonzalez argues that the right to a healthy environment has deep roots in the Global South (despite being fiercely resisted in the Global North). Tribunals in the Global South, she states, have imbued it with communitarian values and ecocentric (nature-focused, rather than solely human-focused) interpretations. This highlights that the Global South is an important site of production of international legal interpretation.[65] It has also been pointed out that the right to a healthy environment involves recognition that environmental defenders (a group who are particularly at risk in Latin America) are human rights defenders, and that they are entitled to protection by states.[66]

There is a broad discourse on the matter of whether the right to a healthy environment is a stand-alone right or whether it derives from the nature and characteristics of other, more established rights. A study undertaken by Fatma Zohra Ksentini, then UN Special Rapporteur on Human Rights and the Environment,[67] involved an examination of whether an environmental right could be seen as a fundamental human right in its own right, or whether protection of the environment must be claimed indirectly through other, more established rights. She advocated for a stand-alone right because it "would take up more completely the ecological challenges confronting mankind, while giving the beneficiaries of those rights the legal means of protection that any recognised right confers."[68] She argued that the concept of environmental rights was developing and taking shape. Ksentini also opined that it was not simply the right of an *individual* to a quality environment, and that it could

63 John H. Knox, "Introduction to Symposium on UN Recognition of the Human Right to a Healthy Environment," *American Journal of International Law* 117, no. 1 (2023): 162–166, 164.

64 *Ibid*.

65 Carmen G. Gonzalez, "The Right to a Healthy Environment and the Global South," *American Journal of International Law* 117, no. 1 (2023): 173–178, 173.

66 Maria Antonia Tigre, "United Nations Recognition of the Right to a Healthy Environment: What Is the Added Value for Latin America and the Caribbean?" *American Journal of International Law* 117, no. 1 (2023): 184–188, 184.

67 Preliminary Report on Human Rights and the Environment, prepared by Mrs Fatma Zohra Ksentini, Special Rapporteur, UN Commission on Human Rights, pursuant to Resolutions 1990/7 and 1990/27 of Sub-Commission on Prevention of Discrimination and Protection of Minorities, UN Doc. E/CN.4/Sub.2/1991/8, para 25.

68 *Ibid*.

not be separated from economic and societal development more broadly. The rights involved, she stated, relate to duties and responsibilities at both national and international levels, and such duties include the prevention of environmental harm and the conservation of nature for future generations.

Kerisit and Davis point out the various elements of the right. including:

> access to safe potable water; environmental conditions that allow for sufficient food production; adequate preservation of key resources to enable the realisation of groups' cultural rights and to allow everyone to enjoy the beauty of the natural environment; and more.[69]

But they also outline that the right can function as a "coordinating right," bringing together rights that are related to each other, such as rights relating to food, water, and housing. It can impose a mandate on states to progress the enjoyment of an environment sufficiently healthy for one to enjoy these other rights.

Human rights – even environmental human rights – can be argued to be individualistic and focused only on humans *per se*, rather than having a focus on the environment itself. Engstrom and Powers argue for a shift in worldview from one that is more human-centric to a worldview that is "eco-social" – that takes into account the global connections of humans in a global ecosystem.[70] Another related term is "ecocentric" – where nature is valued for its own sake apart from any utilitarian value to humans.[71] Such a worldview focuses on injustice and can therefore be "beneficial to and healing for both the planet and the people living in it."[72] It has been suggested that the right to a healthy environment can go beyond an understanding of rights that is solely about humans. An anthropocentric construct of rights can be overcome via the right to a healthy environment, Kerisit and Davis suggest. They make the argument that it can be seen as an "ecocentric right" in that it can aim for a healthy ecosystem for all living beings rather than solely humans.[73] There is existing guidance from a regional judicial body indicating that this is the case. The IACHR in Advisory Opinion OC-23/17[74] states that the right protects nature and

69 Solene Kerisit and Martha F. Davis, "Human Right to a Healthy Environment: Annotated Bibliography," *Northeastern University Law Review* 15 (2023): 4.

70 Sandra Engstrom and Meredith C. F. Powers, "Embracing an Ecosocial Worldview for Climate Justice and Collective Healing," *Journal of Transdisciplinary Peace Praxis* 3, no. 1 (2021): 120–144.

71 Open Global Rights, *Ecocentrism: A Refusal to Compromise on Ecological Integrity* (8 February 2024), https://www.openglobalrights.org/ecocentrism-refusal-to-compromise-ecological-integrity/. Accessed 27 July 2025.

72 Engstrom and Powers, "Embracing an Ecosocial Worldview for Climate Justice and Collective Healing."

73 Kerisit and Davis, "Human Right to a Healthy Environment: Annotated Bibliography" n 69.

74 *Advisory Opinion on Human Rights and the Environment*, 2017, OC-23/17 Series A No. 23, Inter-American Court of Human Rights.

the environment, not only for the benefit of humans but also because of the inherent value of nature itself.[75] Daly argues that child/youth climate advocates are also bridging the human-nature gap in human rights law with their climate activism – they are reminding us that we cannot exist separate from our environment.[76] Murray further argues that children/youth are bridging this gap through a relational approach which stems from their relationships with nature and focuses on emotion, care, reciprocity, and interconnectedness.[77]

The right to a healthy environment, it could be argued, should indeed be protected for its own sake, as a stand-alone right. It certainly appears to bring added value to human rights frameworks, in that there are novel aspects which can progress human rights enjoyment, and bring emphasis on nature for its own sake. However, it also should be recognised that it intersects with and encompasses several other human rights. It can be said that it is part of a "rights tapestry."[78] Recognising and ensuring the enjoyment of the right to a healthy environment can only be achieved by realising these other connected rights, and vice versa.[79]

3. The Children's Rights Framework: The UN Convention on the Rights of the Child

One instrument which is crucial for understanding the right to a healthy environment is the CRC, not just because it is the only UN human rights instrument to directly reference the environment, but also because it exists for the purpose of respecting, protecting, and fulfilling the rights of a crucial group who constitute 25% of the world's population[80] – children. This international human rights instrument is the most ratified in the world. It has been ratified by every country except the US (which generally does not ratify international human rights instruments as a rule),[81] indicating a very broad level of acceptance of those rights, even if just in theory. The CRC contains 42 substantive

75 *Ibid*.

76 Aoife Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022): ngac011.

77 Emily Margaret Murray (Forthcoming, 2025), "Challenging Anthropocentrism in Human Rights Law: Young Climate Activists' Relational Approach to the Right to a Healthy Environment," See also Emily Murray, PhD research, at the Youth Climate Justice website, at https://www.ucc.ie/en/youthclimatejustice/research/doctoralresearch/. Accessed 23 August 2025.

78 Maria Antonia Tigre *et al*., "White Paper on the Right of the Child to a Safe, Clean, Healthy and Sustainable Environment," *Global Network for Human Rights and the Environment*, 2022, 8.

79 *Ibid*.

80 UNICEF, "How Many Children Are There In the World?" (undated), https://data.unicef.org/how-many/how-many-children-under-18-are-in-the-world/. Accessed 18 June 2025.

81 See the American Civil Liberties Union website, https://www.aclu.org/issues/human-rights/treaty-ratification. Accessed 19 June 2025.

rights spanning the broad spectrum from civil and political rights to economic, cultural, and social rights, as well as a number of rights specific to children.

Children, of course, share many of the same rights as adults, but there are a number of reasons for the creation of their own rights instrument. Because of poor attitudes to (and even simply a lack of understanding about the diversity of) children and childhoods, it may have to be emphasised that they are indeed entitled to some rights with which they are not typically associated, such as freedom of assembly.[82] Furthermore, they are entitled to a number of specific rights as well, which are necessary for their development, such as the right to play and the right to education.[83] Furthermore, they are in a comparatively vulnerable position as opposed to the average adult – they are usually dependent on adults' care. That they have rights, therefore, may need to be emphasised for those who may see them as the property of adults, or at least see them as subject to the whims, desires, and beliefs of the adults who are supposed to care for them.

In this section, a background to the CRC will be provided to set the scene for the analysis of children's rights and climate action in this book. The CRC was not designed to protect children from the consequences of climate change, as most UN human rights treaties were concluded before the threat of the climate crisis was widely known. As a consequence, these international human rights instruments do not address the matter of human rights abuses raised by the phenomenon. States have the responsibility, however, to take action to protect against threats which may arise, such as the climate crisis.[84]

In the past century, children have made an extraordinary legal journey. The perception of children as a distinct group of rights-bearers is relatively new. In the past, legal systems failed to recognise children as separate legal persons from their parents.[85] The turning point for children was industrialisation, which decreased the need for child labour.[86] In the industrialised world, children's full-time work was outlawed and compulsory schooling was introduced. The roles of adults (e.g., parents and teachers) came to be seen as protective ones, whereby the principle of the "best interests" became prevalent. This principle means that in all matters affecting children, their best interests must be a primary consideration. This is typically taken to mean that when courts are making a decision about a particular child, the court is to make that decision

82 Aoife Daly, *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly* (Leiden: Brill, 2016).

83 Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child" n 2.

84 *Ibid*.

85 Philippe Aries, *Centuries of Childhood: A Social History of Family Life* (New York: Knopf Doubleday Publishing Group, 1962).

86 Geraldine Van Bueren, *The International Law on the Rights of the Child* (Leiden: Martinus Nijhoff Publishers, 1995).

on the basis of what is in the best interests of that child.[87] Things have developed even further beyond the best interests principle, however. In the *Gillick*[88] case (decided in the jurisdiction of England and Wales, but used as a basis for decisions across the common law world), it was decided that children may exercise rights separately from their parents in some scenarios. The US Supreme Court has recognised in a limited number of areas that children have constitutional rights relating, for example, to schools, reproductive rights, and criminal justice.[89] Children had by the 1980s gained recognition as individuals, (somewhat) separate from parents and carers, with certain rights claims.

In academia, too, prevailing attitudes to children began to change. The "new sociology of childhood"[90] was developed by James and Prout, who argued that childhood is largely socially constructed and that children's roles vary across historical periods and cultures. The notion of the "agency" of children became increasingly emphasised. This refers to the ability of children to affect changes within the environments in which they live, rather than simply being passively affected by those environments.[91] This conceptualisation of children as competent actors has extended, at least to some extent, beyond academia to public consciousness – to schools, families, governments, and others.[92]

In the period 1979 to the 2000s, the CRC was drafted, came into effect, and "set the dominant narrative on norms for children, at least at international level."[93] In 1989, the UN General Assembly adopted the Convention. Three optional protocols to the CRC have also been approved. The first relates to the involvement of children in armed conflict. The second is on the matter of the sale of children, child prostitution, and child pornography. The third established a communications procedure, whereby children can petition directly to the monitoring body of the Convention, the UN Committee on the Rights of

87 Aoife Daly, *Children, Autonomy and the Courts: Beyond the Right to Be Heard* (Leiden: Brill, 2018).

88 *Gillick v. West Norfolk and Wisbech Area Health Authority*, 1986, EWCA Civ J1220-3, Court of Appeal (Civil Division).

89 Anne Dailey, "Children's Constitutional Rights," *Minnesota Law Review* 95 (2010–2011): 2099–2179.

90 Alan Prout and Allison James, "A New Paradigm for the Sociology of Childhood? Provenance, Promise and Problems," in *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood*, eds. Allison James and Alan Prout, 2nd ed. (Oxfordshire: Routledge, 2015).

91 Allison James and Alan Prout, "Strategies and Structures: Towards a New Perspective on Children's Experiences of Family Life," in *Children in Families: Research and Policy*, eds. Julia Brannen and Margaret O'Brien (London: RoutledgeFalmer, 1996).

92 Tobias Samuelsson *et al.*, "The Active, Competent Child, Capable of Autonomous Action: An Inherent Quality or the Outcome of a Research Process?" *AnthropoChildren* 5, no. 1 (2015): 2–20, 2–3.

93 Daly, *Children, Autonomy and the Courts: Beyond the Right to be Heard* n 87.

the Child (the Committee), where they wish to argue that their CRC rights have been violated.

The CRC reflected the Cold War politics of the time, containing as it does both the equal component of civil and political rights on the one hand and economic, social, and cultural rights on the other.[94] It contained a strong emphasis on this new defining principle for children – the principle of the best interests of the child. There are 42 substantive rights contained within the CRC, and the Committee emphasises the interrelated nature of its provisions.[95] Yet there are certain CRC rights which the Committee has chosen as particularly prominent. The Committee refers to these as "general principles" of the CRC. They are of such importance that all other CRC rights must be interpreted bearing them in mind.[96]

The first cross-cutting principle is the aforementioned principle of the best interests of the child (CRC Article 3). It is arguably the most prominent principle of the CRC as it seeks to ensure that children's interests – which are often forgotten in law and policy – are protected. This could be said to be the main aim of the CRC itself. Its significance is to be seen in the fact that it is the CRC right most incorporated into national legal systems.[97] The principle of nondiscrimination (CRC Article 2) is a common principle of international human rights law that aims to protect disadvantaged groups from detrimental treatment.[98] The right to life, survival, and development (CRC Article 6) is based on one of the most prominent rights in international human rights law – the right to life. In its iteration within CRC, however, it has been expanded, in recognition that the right to life, particularly for children, involves not just staying alive but also reaching one's full potential (hence the reference to survival and development).[99] Thus, as the Committee notes above, education is a key component of the child's survival and development. Finally, the right of children to be heard in all matters affecting them (and for their views to be given due weight) is likely the next most impactful CRC right after the principle of the best interests of the child. It is the second most incorporated CRC right

94 Van Bueren, *The International Law on the Rights of the Child*.

95 Committee on the Rights of the Child, *General Comment No. 12: The Right of the Child to be Heard* (2009), CRC/C/GC/12, 20 July 2009, para. 18.

96 Committee on the Rights of the Child, *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child* (2023), CRC/GC/2003/5, 27 November 2003.

97 Laura Lundy *et al.*, *The UN Convention on the Rights of the Child: A Study of Legal Implementation in 12 Countries* (UNICEF, 2012), 4.

98 Aoife Daly, Rebecca Thorburn Stern, and Pernilla Leviner, "UN Convention on the Rights of the Child, Article 2 and Discrimination on the Basis of Childhood: The CRC Paradox?" *Nordic Journal of International Law* 91, no. 3 (2022): 419–452.

99 Manfred Nowak, *A Commentary on the United Nations Convention on the Rights of the Child, Article 6: The Right to Life, Survival and Development* (Leiden: Brill, 2005).

in national legal systems, after the best interests principle.[100] The Committee requires that states take these rights as the primary focus for reporting, so that relevant information about children's rights matters is provided under the headings of these general principles.[101]

The principles have also been divided into the "3 Ps," of provision, protection, and participation;[102] a useful shorthand to denote rights which require that resources are provided to children (e.g., social security, CRC Article 26), rights which deal with the protection of children (e.g., the best interests principle under CRC Article 3), and rights which require children's participation in various matters (e.g., the right to be heard, Article 12). The "3 Ps," the CRC guiding principles, and the 42 substantive articles have inspired a significant amount of research, writing, and critical debate. Commentators such as Quennerstedt argue that the "3 Ps" in fact result in disadvantageous rights for children, for example, replacing long-established civil and political rights with the vague notion of "participation." Byrne and Lundy argue that there tends to be undue focus on only two articles – Articles 3 and 12 – and raise the question as to whether this may be distorting our overall understanding of children's rights.[103] It has also been argued that children's rights are still not necessarily implemented globally, even where they are embedded in national systems, not least because it is assumed that rights are a matter of interpretation in local contexts.[104]

Nevertheless, there have undoubtedly been positive, perhaps even transformative, effects due to the advent of the CRC and its global influence. There has been a strong recognition of the importance of gaining children's views on matters affecting them, for example.[105] Children's parliaments, which bring children's views to policymakers, have been established all over the world. It has provided a tangible standard by which the treatment of children can be measured, for example, via impact assessments.[106] It is even likely that the influence of CRC Article 12 is what sparked the groundbreaking phenomenon of

100 Lundy *et al.*, *The UN Convention on the Rights of the Child: A Study of Legal Implementation in 12 Countries.*

101 Committee on the Rights of the Child, *General Comment No. 5* (2003), n 96, para. 12.

102 Thomas Hammarberg, "The UN Convention on the Rights of the Child – And How to Make It Work," *Human Rights Quarterly* 12, no. 1 (1990): 97–105.

103 Bronagh Byrne and Laura Lundy, "Children's Rights-Based Childhood Policy: A Six-P Framework," *International Journal of Human Rights* 23, no. 3 (2019): 357–373.

104 Liebel M. Duhn, *Childhoods of the Global South* (Bristol: Policy Press, 2023).

105 Laura Lundy *et al.*, "What If Children Had Been Involved in Drafting the United Nations Convention on the Rights of the Child?" in *Law in Society: Reflections on Children, Families, Culture and Philosophy: Essays in* Honour *Michael Freeman*, eds. Alison Diduck, Noam Peleg, and Helen Reece (Leiden, the Netherlands: Brill Nijhoff, 2015).

106 Aida Kišūnaitė and Ly Hai Bui, "Operationalising Children's Rights Principles: An Indicator Framework for Policy Analysis," *Revista Sobre la Infancia y la Adolescencia* 20 (2021): 1–21.

child/youth climate action, although it would be hard to make such a cause-and-effect link in relation to this.[107]

There are only two CRC articles with direct references to the environment (Articles 24 and 29, which cover the rights to health and to education), and no articles make reference to climate change. As we will see, however, the UN Committee on the Rights of the Child has increasingly focused on environmental issues and climate change as children's rights issues.[108] The Committee has been able to engage in interpretations and adaptations to address this previously unforeseen rights issue for children. The Committee, for example, devoted its 2016 Day of General Discussion to the issue of children's rights and the environment. The objective was to promote understanding of the relationship between children's rights and the environment and to identify what action is required to achieve laws, policies, and practices that are based on children's rights when it comes to the environment.

The Committee then went on to produce, in 2023, General Comment No. 26 on children's rights and the environment with a special focus on climate change,[109] as noted above. This facilitated the Committee to expand on and clarify its understanding of environmental Convention rights. In this General Comment, the Committee elaborates on numerous elements of children's environmental rights, including their rights to participate, to access justice, and the obligations of states and private businesses to observe children's rights in relation to the environment. The CRC then provides significant opportunities for supporting and developing the right of children to a healthy environment. Some of the CRC rights most relevant to children's environmental rights are examined in detail in Chapter 3.[110]

4. Other International Standards Relating to Children and the Environment

There are numerous provisions of the CRC which are particularly crucial for children's rights in the climate crisis. The CRC is not the only instrument or standard setter relevant to children's environmental rights, however. General international human rights law also applies to children, unless it has been established that it does not. The ICCPR is considered to be a legally binding document. The Human Rights Committee has emphasised that "children benefit from all of the civil rights enunciated in the Covenant." Children enjoy the protection of provisions in general human rights instruments unless otherwise

107 Aoife Daly *et al*., "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights," *Youth* 4, no. 4 (2024): 1387–1404.

108 Fiona MacDonald, "Environmental Rights and the Impact of Climate Change Within the Committee on the Rights of the Child Concluding Observation Reports," *The International Journal of Children's Rights* 32, no. 3 (2024): 585–610.

109 Committee on the Rights of the Child, *General Comment No. 26* (2023), n 50.

110 General Comment No. 26 is considered further in Chapters 3 and 5.

specified by a relevant authority. The right to vote under the ICCPR has, for example, been understood by the Human Rights Committee not to apply necessarily to those under the age of 18.[111] The point is, however, that where children benefit from rights enshrined in general international law instruments, they will of course enjoy the environmental rights elements of them.

There are also child-specific provisions in instruments other than the CRC. The Universal Declaration of Human Rights is the foundational (though arguably aspirational in many ways) UN human rights document. In Article 25, it states that childhood is entitled to special care and assistance. The ICCPR also contains provisions specifically referring to children (ICCPR Article 24 states that each child will have "the right to such measures of protection as are required by his status as a minor"). The ICESCR contains several child-specific provisions relevant to children and the environment, for example, the right to education.[112] Regional instruments such as the ECHR have also been invoked to defend children's rights, as demonstrated in the *Duarte Agostinho v. Portugal* petition to the European Court of Human Rights. In this petition, six Portuguese youth argued that 32 states were violating various rights (primarily the right to life (Article 2 ECHR) and the right to private and family life (Article 8 ECHR[113])) by failing to adequately mitigate the climate crisis.[114] The IACHR has been particularly mindful of the rights of children in relation to climate change. In its 2025 *Advisory Opinion on the Climate Emergency and Human Rights*, it established extensive obligations for states, and particularly pointed to obligations to protect vulnerable groups, including children.[115] It should also be noted that in the ICJ's *Advisory Opinion on the Obligations of States in Respect of Climate Change*, numerous references were made to the CRC.[116] These many examples point to the ways in which judicial bodies and monitoring bodies that are not child-specific can still progress children's rights.

111 See further Daly, *Children, Autonomy and the Courts: Beyond the Right to be Heard* n 87.

112 Katharina Ruppel-Schlichting and Sonia Human, "Climate Change and Children's Rights: An International Law Perspective," in *Climate Change: International Law and Global Governance* (Nomos Verlagsgesellschaft mbH & Co. KG, 2013), 349–378.

113 In the original application, the applicants also invoked the right to freedom from discrimination (ECHR Article 14). In its request for states to respond to the application, the Court asked states to also respond under the heading of ECHR Article 3, the right to freedom from torture and inhuman, degrading treatment and punishment. See further the petition at the Global Legal Action Network website: https://youth4climatejustice.org/case-documents/. Accessed 3 August 2025.

114 *Duarte Agostinho et al. v. Portugal et al.*, 2024, App. No. 39371/20, European Court of Human Rights.

115 *Advisory Opinion on the Climate Emergency and Human Rights*, 2025, OC-32/25 Series A No. 32, Inter-American Court of Human Rights.

116 *Advisory Opinion on the Obligations of States in Respect of Climate Change*, 2025, A/77/L.58, International Court of Justice.

A number of international policy responses have occurred in relation to children and the environment, particularly in relation to health. The Declaration of the Environment Leaders of the Eight on Children's Environmental Health was issued in Miami in 1997 by the G8 (a group of industrialised nations). These nations expressed in the Miami Declaration that they were committed to children's environmental health, and they made various environmental commitments. These included the removal of lead from petrol, as well as the improvement of air quality and drinking water. States are also committed to ensuring that scientific risk assessments (to be conducted in relation to environmental regulations) would explicitly consider children.[117] It further commits to international cooperation for more research on particularly dangerous chemicals. It contains a section entitled "Impacts of Global Climate Change to Children's Health," indicating awareness of the crucial nature of that issue. It is striking, however, that there is no mention of children's participation, nor is there a reference to children as important active agents in tackling environmental issues like change.

Another important initiative relating to children and the environment was launched by the World Health Organisation in 2002. The environmental protection of children had been a prominent issue at the World Summit on Sustainable Development in South Africa that year.[118] "A World Fit for Children" was adopted at the UN General Assembly's Special Session on Children by heads of states and governments. In this non-binding document, they acknowledged that numerous environmental problems, such as global warming, affect children, and they pledged to "give every assistance to protect children and minimise the impact of natural disasters and environmental degradation on them." They also pledged to take measures to protect and conserve the environment and "to educate all children and adults to respect the natural environment for their health and well-being." They further urged the private sector to assess the impact of its policies and practices on children. The Healthy Environments for Children Alliance brought together stakeholders such as states, international organisations, and NGOs.[119] The aims of the initiative were "Ensuring effective advocacy and awareness raising to create healthy environments for children; Providing knowledge, information exchange and expertise for effective policies and action; Supporting communities in creating and maintaining healthy environments for children; Monitoring and evaluating progress." Kaime points out that these commitments are merely

117 Thoko Kaime, "Children's Rights and the Environment," in *International Human Rights of Children*, eds. Ursula Kilkelly and Ton Liefaard (New York: Springer, 2018).

118 United Nations, "A World Fit for Children," Resolution, adopted by the General Assembly (27th Special Session: 2002).

119 WHO Media Centre, Harlem Brundtland G (2002), http://www.who.int/mediacentre/news/releases/who66/en/. Accessed 17 April 2017.

aspirational however, which is very problematic considering the urgent nature of environmental threats faced by many children.[120]

The UN Framework Convention on Climate Change (UNFCCC) is a crucial instrument to consider. It is a legally binding agreement resulting from the 1992 UN Conference on Environment and Development, also known as the Rio Summit or Earth Summit. The UNFCCC aims to combat "dangerous human interference with the climate system," primarily by limiting the increase in greenhouse gases in the atmosphere (outlined in Article 2 of the UNFCCC), and was signed in 1992 by 154 states, entering into force on 21 March 1994. The name of the Secretariat charged with supporting the operation of the Convention is also called "UNFCCC," and its work currently focuses on implementing the Paris Agreement, which, as noted above, aims to limit global warming to well below 2°C, preferably to 1.5°C. COP is the main decision-making body of the UNFCCC.

One particular focus of the agreement can be seen in the reference to the rights of states referred to in the instrument; for example, in preambular paragraph 8, there is reference to "the sovereign right [of states] to exploit their own resources pursuant to their own environmental and developmental policies." UNFCCC Article 3(4) states that states parties to the UNFCCC "have a right to, and should, promote sustainable development." This arguably indicates the state-centric nature of the instrument and the emphasis on the economic interests of states. Unfortunately, the same prominence is not given to children and youth in the UNFCCC.

The UNFCCC makes reference to the human impact of climate change, but it does not explicitly mention children/youth in particular. Article 3(1) of the UNFCCC, however, states that "the Parties should protect the climate system for the benefit of present and future generations of humankind." The terms "humankind" and "present and future generations" can of course be interpreted to include children or youth. There is also reference in the document to public participation – Article 6(a)(ii) and (iii) refers to the state obligation to promote and facilitate "public participation in addressing climate change and its effects and developing adequate responses" and "public access to information on climate change and its effects." Vaghri points out that the UNFCCC Guidelines for National Communications, which guide reporting on states' implementation of the terms of the UNFCCC, likewise do not reference reporting on developments that disproportionately affect children. She argues that this demonstrates how children are excluded from climate change initiatives at a global level.[121] Furthermore, the UNFCCC document guiding reporting on implementation of the terms of the UNFCCC by states,

120 Kaime, "Children's Rights and the Environment" n 117, 566.

121 Ziba Vaghri, "Climate Change, An Unwelcome Legacy: The Need to Support Children's Rights to Participate in Global Conversations," *Children, Youth and Environments* 28, no. 1 (2018): 104–114.

the Guidelines for National Communications, does not require reporting on developments that affect children in particular. This indicates how children can be excluded from climate change conversations at a global level.[122]

Greater progress in terms of direct attention for children and youth has been achieved since the UNFCCC, however. Although the UNFCCC does not mention children, the Paris Agreement states that:

> [W]hen taking action to address climate change, [states parties should] respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.[123]

The UNFCCC secretariat, together with UN entities and youth organisations, has also established the UN Joint Framework Initiative on Children, Youth and Climate Change. This initiative aims to empower young people to take action and participate in climate change policy decisions, working with youth organisations globally.[124]

The Intergovernmental Panel on Climate Change (IPCC) was created to ensure that policymakers have regular scientific assessments on climate change, as well as the implications and future risks of climate change.[125] IPCC reports are considered the most authoritative documents relating to climate change knowledge. These reports have significant implications for scientific and popular understandings of climate change. They also influence law, policy, and funding agendas.[126] Donger et al. have found that references to children and youth in IPCC reports were very low in the first report (in 1990) and had increased substantially by the 2022 report (although the frequency of references varies across Working Group (WG) reports and chapters),[127] perhaps indicating the influence of young climate advocates in the years leading up to 2022, and the consequential increase in regard for their interests to be seen in national and international forums.[128]

122 *Ibid.*

123 Arts 46 Preambular paragraph 11.

124 United Nations Youth, "Youth and Climate Change," https://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-climatechange.pdf. Accessed 17 September 2025.

125 IPCC, https://www.ipcc.ch/. Accessed 17 September 2025.

126 See further Elizabeth Donger *et al.*, "Inclusion of Children and Youth in the Intergovernmental Panel on Climate Change Assessment Reports (AR1-AR6)," *Nature Communications* 16, no. 1 (2025): 6159–6171.

127 *Ibid.*

128 See Daly *et al.*, "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights" n 107.

The Sustainable Development Goals (SDGs) are another crucial international initiative to note in relation to international standards on climate change. They constitute an urgent call for action by all countries in a global partnership. They focus on ending poverty and other deprivations, recognising that this must involve strategies to improve health and education, reduce inequality, and aim for economic growth; and that this relates to tackling climate change and preserving oceans and forests. Sustainable development is defined as development "that meets the needs of current generations without compromising the ability of future generations to meet their own needs."[129] The SDGs were established in 2015 to guide policies and initiatives across governments, intergovernmental organisations, companies, and others. Key development challenges are addressed, such as combating climate change and achieving gender equality. Seventeen goals are outlined that can be grouped into four interdependent pillars. These four pillars are: the social dimension, the economic dimension, the environmental dimension, and the governance pillar.[130]

The 13th SDG focuses on climate change, making reference to the intention of states to "[t]ake urgent action to combat climate change and its impacts." As Sanson and Burke point out, climate change is also relevant to most of the other SDGs.[131] The text of the SDGs document also makes frequent reference to children via terms such as child, children, youth, young, girl, boy, and age – 66 times in total.[132] The SDGs cannot be said to have an explicitly human rights emphasis. The term "children's rights" does not appear in the document, although the term "right" appears a total of six times.[133] Goal 13 highlights the urgency of action on climate change, and Target 13(b) refers to the need to promote "capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on … youth."

There is significant political momentum and support in relation to the SDGs. Nolan notes a growing tendency in favour of integrating the SDGs actions to implement children's rights, giving the example of the UN Committee on the Rights of the Child starting to refer to SDGs and related targets in

129 United Nations, "Report of the World Commission on Environment and Development: Our Common Future," UN Doc. A/42/427 (4 August 1987), 24.

130 Orin Gusta Andini and Muhammad Ryan Kachfi Boer, "Indonesia's Safeguarding of Human Rights to Achieve Sustainable Development Goals: Insights from Australia's Experience," *Journal of Sustainable Development and Regulatory Issues (JSDERI)* 3, no. 1 (2025): 1–28.

131 See Ann V. Sanson and Susie E. L. Burke, "Climate Change and Children: An Issue of Intergenerational Justice," in *Children and Peace: From Research to Action*, eds. Nikola Balvin and Daniel J. Christie (London: Springer, 2020), 343–362.

132 *Ibid*.

133 *Ibid*.

its assessment of states' actions to implement the UNCRC.[134] There is an accountability gap, however, in relation to the SDGs, as they are not binding. There is no formal accountability process for those states that do not meet SDG standards. In contrast, for example, the CRC implementation process (specified under CRC Article 44) involves regular reporting to the Committee on the progress of states on children's rights implementation, along with NGO supplemental reports, which may raise issues that state reports do not cover. The Committee then provides concluding observations and recommendations that it expects states to implement.

Another interesting aspect of child/youth climate action is the involvement of children and youth at the UN level. There are few structured chances for young people to be heard in the sphere of environmental governance. The aforementioned UNFCCC gives young people, and civil society broadly, the opportunity to share their views, experiences, and perspectives, and feed into the process. Children and youth are engaged in justice claims-making in climate change governance spaces. Thew, Middlemiss, and Paavola studied between 2015 and 2018 the work of a group of young participants at this framework Convention. The researchers found that youth participants first focused on injustices which they anticipated in the future that pose risks to their generation. Over time, however, they focus more on "solidarity claims about injustices experienced by other groups in the present" rather than focusing on children/youth.[135] This may point to the sidelining of issues particular to children and youth in this forum. As with other researchers both at the UNCCC[136] and elsewhere, the researchers emphasised that children and young people experienced their participation as a tokenistic exercise.[137]

International standards have also been engaged through applications and cases taken to various regional and international bodies. As discussed extensively in Chapters 6 and 7, these applications and cases have put children/youth

134 Aoife Nolan, "Is Sustainable Development Bad News for Children's Rights?," Provocation Paper, 2021, https://medium.com/reframing-childhood-past-and-present/is-sustainable-development-bad-news-for-childrens-rights-13b78e3b30ce. Accessed 17 September 2025.

135 Harriet Thew, Lucie Middlemiss, and Jouni Paavola, ""Youth is Not a Political Position": Exploring Justice Claims-Making in Climate Change Negotiations," *Environmental Education Research* 61, no. 102036 (2020): 1–10.

136 Corrie Grosse and Brigid Mark, "A Colonized COP: Indigenous Exclusion and Youth Climate Justice Activism At the United Nations Climate Change Negotiations," in *From Student Strikes to the Extinction Rebellion*, ed. Benjamin J. Richardson (Cheltenham: Edward Elgar Publishing, 2020), 146–170.

137 Thew, Middlemiss and Paavola, "'Youth is Not a Political Position': Exploring Justice Claims-Making in Climate Change Negotiations" n 135.

and their human rights centre stage in discussions about the climate crisis,[138] for example, via the 2025 ICJ opinion outlined above.[139] The initiative to request this Advisory Opinion came from the Pacific Islands Students Fighting Climate Change, a coalition formed in 2019 by a group of 27 students from the University of the South Pacific who campaigned to convince their government to take action.[140]

Although children's rights are not prominent in international documents relating to the environment, they are increasingly relevant to international efforts to mitigate the climate crisis. Part of this relates to a strong focus in recent years on future generations.

5. Childhood and Intergenerational Justice

Children and youth appear to be increasingly prominent in efforts to mitigate the climate crisis and in the evolving international standards outlined above. As climate justice movements and scholars have argued, the climate crisis is a global phenomenon, but its causes and consequences are unevenly distributed. From this perspective, children's experiences of the climate crisis must be situated in the context of our age-stratified societies, where children as a group are commonly not regarded as equals to adults.[141] There is an age-equality concern related to the climate crisis. In addition to their heightened exposure and vulnerability to the effects of the climate crisis, children and youth face structural exclusion from the decision-making processes that determine climate policies. This exclusion is particularly problematic given the fact that the climate crisis disproportionately affects children and future generations. It has been argued that modern democracies are characterised

138 See also Elizabeth Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization," *Transnational Environmental Law* 11, no. 2 (2022): 263–289; Aoife Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC," *Netherlands Quarterly of Human Rights* 41, no. 3 (2023): 132–154; Larissa Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-focused Rights-based Climate Litigation Around the World," *Journal of Human Rights and the Environment* 13, no. 1 (2022): 64–89.

139 *Advisory Opinion on the Obligations of States in Respect of Climate Change*, 2025, A/77/L.58, International Court of Justice.

140 See Liesl Muller and Emily Margaret Murray, "The ICJ Advisory Opinion: A Historical Moment for the Climate and Children's Rights," *Youth Climate Justice*, 24 July 2025, https://www.ucc.ie/en/youthclimatejustice/blog/the-icj-advisory-opinion-a-historical-moment-for-the-climate-and-childrens-rights.html. Accessed 17 September 2025.

141 See further Daly, Thorburn Stern, and Leviner, "UN Convention on the Rights of the Child, Article 2 and Discrimination on the Basis of Childhood: The CRC Paradox?" n 98.

by "presentism," the prioritisation of current voters' interests over long-term global sustainability.[142]

Brown Weiss elaborated a concept of "intergenerational equity" (taken here to be interchangeable with intergenerational justice[143]) in *Fairness to Future Generations* in 1988,[144] and it has become prevalent in international discourse. She describes that the basic premise of the principle is that "all generations are partners caring for and using the Earth. Every generation needs to pass the Earth and our natural and cultural resources on in at least as good condition as we received them."[145]

The concept of intergenerational equity is sometimes taken to refer to "future generations," which is often taken to mean those "yet to be born." There are strong arguments for the equivalence.[146] Yet future generations can be argued to also include children. Then UN Special Rapporteur on human rights and the environment, John Knox, stated in a 2018 report that "[w]e do not need to look far to see the people whose future lives will be affected by our actions today. They are already here."[147]

The Maastricht Principles on the Human Rights of Future Generations of 2023[148] outline that "future generations are those generations that do not yet exist but will exist and who will inherit the Earth. Future generations include persons, groups and Peoples."[149] The Principles recognise that children and youth are "proximate" to future generations, and that their participatory rights must be protected,[150] but they do not outline the specifics of the relation-

142 Danielle Zwarthoed, "Political Representation of Future Generations," in *Towards the Ethics of a Green Future: The Theory and Practice of Human Rights for a Future People,* eds. Marcus Düwell, Gerhard Bos, and Naomi van Steenbergeneds (Oxfordshire: Routledge 2018), 81; Julie Fraser and Laura Henderson, "The Human Rights Turn in Climate Change Litigation and Responsibilities of Legal Professionals," *Netherlands Quarterly of Human Rights* 40, no. 1 (2022): 3–11.

143 See further Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 138.

144 Edith Brown Weiss, *In Fairness to Future Generations* (New York: Transnational Publishers Inc, 1989).

145 Edith Brown Weiss, "Climate Change, Intergenerational Equity, and International Law," *Vermont Journal of Environmental Law* 9, no. 3 (2008): 615–627.

146 See further Aoife Nolan, "Children and Future Generations Rights Before the Courts: The Vexed Question of Definitions," *Transnational Environmental Law* 13, no. 3 (2024): 522–546.

147 John Knox, "Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, Statement," Statement, Human Rights Council 37th Session, 5 March 2018, https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/37thHRC_Knox_statement.pdf. Accessed 18 June 2022.

148 Maastricht Principles on the Human Rights of Future Generations, adopted on 3 February 2023, https://www.rightsoffuturegenerations.org. Accessed 17 September 2025.

149 *Ibid.*

150 Principle 22(c).

ship between the rights of children and those of future generations. Likewise, the Committee in General Comment No. 26 did not engage in attempting to provide a definition of future generations. The Committee simply stated that it recognises the principle of intergenerational equity and the interests of future generations, and recognised that the children consulted for the General Comment referred frequently to future generations.[151] The Committee also stated that "children constantly arriving" on Earth are entitled to the realisation of their rights to the maximum extent, and that states have a duty to anticipate future needs.[152] As Nolan notes, the Committee is not clear whether these constantly arriving children are part of "future generations" or whether the Committee is simply highlighting that children attain rights as they are born "against a backdrop in which the interests of [future generations] are taken into account in an unspecified way."[153] Daly argues that the children's rights framework can be seen as an invaluable bridge between the rights of present people and future generations.[154]

In any case, children and youth have been prominent in their calls for international justice, and this has been essential to the climate justice movement.[155] The principle of the rights of future generations has proven useful in climate cases because it is enshrined in the laws of many countries.[156] It seems that numerous climate cases have a mix of children's legal entitlements, and a focus on generational issues (such as making arguments in climate cases about discrimination against "young" generations and/or "future" generations).[157] The US *Juliana* case, for example (which influenced so many subsequent children/youth-involved climate cases), had such arguments.[158]

The intergenerational injustice of the climate crisis is certainly striking, and it focuses attention on the future. One of the most profound impacts of the climate crisis on children and youth is the way it disrupts their ability to imagine the future. For many young people today, the future is fraught with uncertainty and despair. The escalating severity of climate disasters, coupled

151 Committee on the Rights of the Child, *General Comment No. 26* (2023), n 50.

152 *Ibid*.

153 Aoife Nolan, "Children and Future Generations Rights Before the Courts: The Vexed Question of Definitions," *Transnational Environmental Law* 13, no. 3 (2024): 522–546.

154 Aoife Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 138, 145.

155 *Ibid*.

156 The German Basic Law of the German Federal Republic, Article 20a (added 1994). English translation at: https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html. Accessed 6 May 2024.

157 See further Aoife Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis" n 21.

158 See *Juliana et al. v. United States of America, et al.*, 2018, No: 6:15-cv-01517 proceeding no. 292, District Court of Oregon.

with the slow violence of environmental degradation,[159] makes it increasingly difficult for children to imagine a liveable world in the decades to come. The concept of "climate precarity," which draws on the work of Butler, captures this sense of uncertainty and instability that characterises children's lives in the age of climate crisis.[160] Butler defines precarity as a condition of existential vulnerability, where certain groups – such as children – are disproportionately exposed to harm, insecurity, and even death.[161] The climate crisis amplifies this precarity, not only by threatening children's physical well-being but also by undermining their capacity to imagine and project into the future.

The climate crisis amplifies children's precarity by destabilising the very temporal frameworks through which we understand development and progress. This is because we are unsure of whether children will be able to develop at all in a world of climate chaos. In its essence, the climate crisis is a profoundly temporal phenomenon, one that accelerates the usual rhythms of environmental change and places unprecedented pressure on ecosystems and societies to adapt. The pace at which climate patterns are shifting threatens the stability of our planet, jeopardising not just physical habitats but also the temporal spaces in which children grow, learn, and imagine their futures.

To understand how the climate crisis disrupts children's relationship with the future, it is crucial to reflect on how we construct the idea of childhood itself. Modern childhood, as a temporal and social construct, has historically been framed through a linear, chronological, and progressive model of time, one heavily tied to the notion of development. As discussed by Balagopalan,[162] normative ideas of time, which dominate modern constructions of childhood, often position children as beings in a state of "not-yetness." That is, children are seen as individuals in a constant process of becoming – of moving towards adulthood, which is framed as a more complete or finished state of being. This model emphasises growth and progress, both biologically and socially, relegating children to a liminal space in the present while projecting their value primarily into the future. The CRC went a great distance to position children as rights-holders, but we still see the traditional model of the child to some extent, where they are considered to have "evolving capacities" (in the words of CRC Article 5) to exercise their own rights as time goes on, as they approach the age of majority.

Moreover, children are often treated as the "others" of adulthood, lacking the autonomy, rights, or agency that adult citizens possess, as Hanson[163] points

159 Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (United States: Harvard University Press, 2011).

160 Arita Holmberg and Aida Alvinius, "Children as a New Climate Precariat: A Conceptual Proposition," *Current Sociology* 70, no. 5 (2022): 781–797.

161 Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London: Verso, 2006).

162 Saranda Balagopalan, "On Racialized Linear Time and Temporal 'Othering,'" *Childhood* 31, no. 2 (2024): 143–151.

163 Karl Hanson, "Reinventing Children's Rights," *Childhood* 29, no. 2 (2022): 149–156.

out. This construction is sustained by the biological essentialisation of age and is legitimised by the paternalistic view that adults must guide and protect children as they progress through fixed developmental stages. Such views assume a predictable, stable future in which children will eventually mature into fully realised adults – a future that, as the climate crisis continues to unfold, appears increasingly fragile and uncertain. This model of childhood is closely tied to modernity's understanding of time as linear and universal. It envisions the future as a better and more prosperous place, grounded in the ideology of progress. It has been argued that the CRC is "part of the political imaginary of a post-war era that sought to strengthen civic societies in the aftermath of fascism and totalitarianism,"[164] reflecting a vision of steady, peaceful, democratic progress towards a stable and predictable future that ensures prosperity and security through the mechanisms of a powerful economic system. This modern heritage in international human rights law is increasingly inadequate, however, in the face of the challenges posed by the climate crisis. As Burke[165] contends, the climate crisis demands that we rethink human rights in this new era. The very notion of progress – central to much of our thinking about childhood and rights – becomes problematic when the future itself is threatened by the accelerating pace of environmental collapse.

In response to the prevailing view of children as "becomings" whose primary value lies in their future potential, both childhood studies and children's rights theory have made important strides in recognising children as "beings" in the present. This theoretical shift challenges the developmentalist paradigm, emphasising that children are already full social actors with valuable perspectives and experiences. Children are not simply waiting to become adults; they are actively shaping and participating in the world, here and now.[166] While this shift has been crucial in advocating for children's agency and rights in the present, it has also had the unintended consequence of over-emphasising the present, leaving the relationship between childhood and the future undertheorised. As Spyrou[167] highlights, this tendency to focus on children's current experiences has somewhat neglected the processual and dynamic nature of childhood, which remains intimately connected to notions of futurity. This oversight is particularly problematic in the context of the climate crisis, where children's futures are at risk, and their ability to imagine those futures is

164 Iris Duhn, "Rethinking Children's Rights in Relation to Planetary Rights: A Relational Perspective in the Era of Climate Change and Other Crises," *Global Studies of Childhood* 15, no. 1 (2025): 72–83.

165 Anthony Burke, "Interspecies Cosmopolitanism: Non-Human Power and the Grounds of World Order in the Anthropocene," *Review of International Studies* 49, no. 2 (2023): 201–222.

166 Allison James, "To Be (come) or not to Be(come): Understanding Children's Citizenship," *The Annals of the American Academy of Political and Social Science* 633, no. 1 (2011): 167–179.

167 Spyros Spyrou, "Children as Future-Makers," *Childhood* 27, no. 1 (2020): 3–7.

severely compromised. Children are growing up in a world where climate tipping points are regularly surpassed and where environmental degradation is a daily reality. In light of the precarious futures that today's children face, there is an urgent need to reimagine our relationship with the future. Moving away from the temporality that has historically guided our ideas about progress is essential, as is rethinking how we conceptualise both childhood and children's rights in the climate era. Instead of imagining the future as a linear progression towards a pre-determined goal, we must recognise that any future emerges from the actions, decisions, and imaginations of the present.

The climate crisis fundamentally alters the temporal frameworks that shape childhood, disrupts the ability of children to imagine the future, and amplifies their existential precarity. As Duhn[168] argues, the call to reimagine liveable futures requires a fundamental shift in how we engage with time and futurity. This reimagining is not only a matter of creating new political or legal frameworks for children's rights but also about fostering a new sense of collective imagination that allows us to envision alternative futures – ones that are not based on the same notions of progress that have contributed to the current climate crisis. Instead, we must cultivate futures that are more sustainable, equitable, and uncertain, acknowledging that our relationships with the planet, with each other, and with time itself must fundamentally change. Addressing these challenges requires a radical rethinking of how we understand time, development, and progress. By moving beyond the linear models of the past, we can begin to foster new hopes for the future – ones that are more inclusive, just, and liveable for children, now and in the future.

6. Conclusion

In this chapter, the international human rights standards which are of relevance to children's rights in the climate crisis were examined. International human rights law instruments are becoming particularly important for addressing the climate crisis. This has been for a number of reasons, including the fact that international environmental law can be a difficult landscape to progress climate mitigation, not least because of the focus on the economic rights of states. There have been great leaps in progress in the past two decades, including the creation of the Paris Agreement, which has provided an accepted standard – to keep global warming below 1.5°C or at least below 2°C.

The right to a healthy environment has developed rapidly over the decades and is a prominent feature of the human rights landscape, although its meaning and application can be contested. The right is also highly relevant to children. The normative framework relating to the environmental rights of children is ever-expanding. The right to a healthy environment emerged as a

168 Iris Duhn, "Rethinking Children's Rights in Relation to Planetary Rights: A Relational Perspective in the Era of Climate Change and Other Crises" n 164.

means to bridge this gap and to show that the human and the natural world are inextricably linked.[169] Climate change threatens children's lives, health, family life, safety, and environment. The rights of children depend on the protection of their environments.[170]

The CRC is a powerful instrument for children's rights. Children as rights-holders have come a long way in the past few decades. They have moved from recipients of charity to rights-holders to crucial actors in relation to climate action. The CRC, as an instrument, is also proving crucial in the development of the right to a healthy environment. This is in part due to the status of children as important climate advocates, as will be seen in the coming chapters. Standards such as those within the SDGs and the UNFCCC contain insufficient reference to children's rights, but children are increasingly prominent when it comes to international efforts to mitigate the climate crisis.

A crucial part of the picture of young climate advocacy has been the link between children, youth, and future generations. Both younger people and future generations are in jeopardy in the future due to the worsening climate crisis. This invokes issues of equality and nondiscrimination, as the interests of children, youth, and future generations are insufficiently taken into account where states fail to adequately mitigate the climate crisis. This point has proven powerful both in the public sphere and in climate cases. It has been a particularly important feature in the phenomenon of children and youth becoming powerful climate advocates – the reference to future generations seems particularly helpful in focusing society, courts, and others on the future harms that can be expected from the climate crisis.

169 Murray (Forthcoming, 2025), "Challenging Anthropocentrism in Human Rights Law: Young Climate Activists' Relational Approach to the Right to a Healthy Environment" n 77.

170 Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child" n 2.

3 From Protection to Participation

Climate Change and Children's Rights Under the CRC

1. Introduction

In Chapter 2, the many international standards which aim to protect environmental human rights were outlined. It was pointed out that there are also international standards which aim to protect the environmental rights of children in particular. These standards are evolving and progressing rapidly as UN documents are created, such as General Comment No. 26,[1] and as climate cases are taken by children/youth and others. We will now turn to examine in greater detail some of the most important provisions of the UN Convention on the Rights of the Child (CRC), which relate to children's rights and the environment. In this chapter, we analyse how the climate crisis affects children and youth in unique and exacerbated ways. We interrogate the CRC provisions and consequent state legal obligations that relate to the climate crisis. We examine the rights that children have, whereby adults must give primary consideration to their rights and interests. But we also examine how their engagement with their participation rights around the climate has led to children/youth becoming agents of human rights progress. In Chapters 4 and 5, the phenomenon of children/youth as climate advocates is examined in greater detail. This ensures a thorough analysis and examples of the extraordinary development of children/youth as human rights leaders in the climate crisis.

In this chapter, we consider in Section 2 some important elements of children's rights and the climate crisis, such as climate justice. We then turn to individual CRC rights in the climate crisis, although all of these rights are intersecting and interdependent. CRC Article 24 concerns the right of children to health, and as part of that, the right to a healthy environment. In Section 3, we consider how health and a healthy environment have been framed in the CRC and approached by the Committee, particularly through General Comment No. 26.

1 Committee on the Rights of the Child, *General Comment No. 26 on Children's Rights and the Environment with a Special Focus on Climate Change* (2023), CRC/C/GC/26, 22 August 2023.

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In Section 4, we consider how the right to life, survival, and development under CRC Article 6 is based on the right to life under international human rights law. Article 6, however, also contains specific emphasis on development for children, a crucial consideration in the climate crisis. Closely linked to this are the right to education and the right to play, which are examined in Section 5. We then turn in Section 6 to Article 3 of the CRC, which requires that the best interests of children are a primary consideration in all matters affecting them. It will be argued that, as children will be among the worst affected by the climate crisis, their rights and interests should be at the forefront of the creation of climate action plans and policies.

We finally turn to CRC Article 12, the right of children to be heard and to have their views given due weight in all matters affecting them. We consider how this groundbreaking right has transformed how children and youth are seen. The intersections of Article 12 with freedom rights, such as freedom of assembly and association, are highlighted. We reflect on its relevance to access to justice for children. We also consider the way in which children have moved from recipients of adult care to active environmental human rights defenders, and how this has been revolutionary for children's rights.

There are numerous CRC rights affected by the climate crisis, of course (likely all of them). It is not possible here to give a thorough consideration to all 42 substantive CRC rights, so we have chosen to focus on some of the most relevant rights to provide illustrations of the serious rights issues at play for children in the climate crisis.

2. Children's Rights in the Climate Crisis

There are a number of spheres through which children's rights in the climate crisis can be understood. There is the area of child/youth-friendly climate justice.[2] Climate justice has been described by Aliozi as a "flexible umbrella," which can be understood to mean using law and human rights to tackle the climate crisis.[3] Climate justice literature is a relatively new frontier, and there has been little reflection on the position of children within it.[4] There have been calls for "enrichment" of the international literature "with scholarly studies of the highest possible standards, aimed to develop a better, stronger and more effective climate justice field."[5] Climate justice is crucial for those in non-

2 Aoife Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 32, no. 3 (2024): 632–661.

3 Zoi Aliozi, *Climate Justice and Human Rights, in a World in Climate Emergency* (Venice Lido: Global Campus Europe, 2021), https://repository.gchumanrights.org/server/api/core/bitstreams/2eba3de1-1427-481b-a2d6-07818e00a53b/content. Accessed 29 September 2025.

4 Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child" n 2.

5 Aliozi, *Climate Justice and Human Rights, in a World in Climate Emergency*, n 3, 7.

industrialised, postcolonial countries who suffer the worst effects of climate change, while industrialised countries disproportionately use resources, which result in harmful emissions.

There is a clear intragenerational component to climate justice, then. As Gibbons argues:

> [C]limate justice also has a dimension beyond geographic space: it has a dimension of time, across generations. Children alive today, and those to be born in the future, have a claim to climate justice within their own countries, be they rich or poor as well as among countries.[6]

Politicians today are making decisions that affect today's children and also the future of generations yet to be born.[7] Arts makes the point that it is both justifiable and crucial that a child-focused approach is taken to the problem of climate change.[8] It is children who will disproportionately suffer from the consequences of climate change, long after today's adults are gone, because, on average, children have longer to live than adults.

The CRC does not explicitly mention the children's right to a healthy environment, as noted in Chapter 2. It does provide legal standards for protection in several ways, however. It is important to remember the striking level of support and ratification for the CRC. Every state in the world, save one, has ratified this instrument[9] and therefore agreed to abide by its provisions, which are understood to be the minimum level of human rights for children that states are expected to respect, protect, and fulfil.

The CRC is notably the only UN human rights treaty that explicitly references the connection between children's rights and the environment.[10] It references, for example, the link between children's rights to the highest attainable standard of health (e.g., food and water), and the link with environmental pollution.[11] It also references children's right to information on environmental health issues and identifies environmental education as one of the goals of education (CRC Article 29). The Committee is an important

6 Elizabeth D. Gibbons, "Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice," *Health and Human Rights Journal* 16, no. 1 (2014): 19, 20.

7 *Ibid*., 23.

8 Karin Arts, "Children's Rights and Climate Change," in *Children's Rights and Sustainable Development: Interpreting the UNCRC for Future Generations*, ed. Claire Fenton-Glynn (Cambridge: Cambridge University Press, 2019), 219.

9 See, e.g., Márta Benyusz, "The Role of National Human Rights Institutions, the UNICEF, and Non-Governmental Organisations in the Implementation of the United Nations Convention on the Rights of the Child," in *International Children's Rights*, eds. Márta Benyusz and Anikó Raisz (Budapest: CEA Publishing, 2024).

10 For a more detailed overview of the CRC and the environment, see Francesca Ippolito, *Children's Environmental Rights Under International and EU Law* (The Hague: Springer, 2022), 73.

11 United Nations Convention on the Rights of the Child (1989), Article 24.

source of standard-setting, as evidenced in the environmental rights context in relation to General Comment No. 26, which provides authoritative legal guidance for states on their obligations to address environmental harm and climate change. Yet the Committee has been making significant progress in the area of children's environmental rights for decades. In 2013, the Committee noted the relevance of the environment to children's health. It stated that climate change should be addressed as "one of the biggest threats to children's health."[12] It also recommended that states consider children's health issues as central to efforts to mitigate and adapt to climate change.[13]

The Committee refers to the right of children to a healthy environment in its state reporting procedures, noting the impact of climate change on children's rights. The Committee also emphasises children's special vulnerabilities and states that their interests and views should be included in national strategies and actions addressing climate change.[14] In *Sacchi v. Argentina et al.*,[15] in 2021, although the application to the Committee did not proceed to a full hearing, the Committee made incredibly significant findings impacting children's rights and also human rights more broadly. It found that children can be seen to be victims of risks to various of their rights, including the right to life, the right to health, and the right to culture; and that sufficient links exist between the violations alleged by the applicants (caused by climate change) and the acts of the states in preventing it.[16] The Committee also held that states could potentially be held legally responsible for the effects of carbon emissions originating in their territory on those both inside and outside their territory, confirming at UN level a finding of the Inter-American Court of Human Rights (IACHR) in its 2017 *Advisory Opinion on Human Rights and the Environment*.[17]

It is clear that although the CRC does not explicitly reference the climate crisis, the document contains strong grounds on which to base legal claims about this crisis as it pertains to children's rights. Children's environmental rights are referenced explicitly in relation to the right to health and the right to education. Added to this, the Committee has been arguably bold

12 Committee on the Rights of the Child, *General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art. 24)* (2013), CRC/C/GC/15, 17 April 2023, para. 50.

13 *Ibid*.

14 See the Committee's concluding observations to: Cameroon (CRC/C/CMR/CO/2); Brazil (CRC/C/BRA/CO/2-4); Australia (CRC/C/AUS/CO/5-6); and Tuvalu (CRC/C/TUV/CO/2-5).

15 *Sacchi et al. v. Argentina*, CRC/C/88/D/104/2019; *Sacchi et al. v. Brazil*, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, CRC/C/88/D/106/2019; *Sacchi et al. v. Germany*, CRC/C/88/D/107/2019; *Sacchi et al. v. Turkey*, 2021, CRC/C/88/D/108/2019, 2021, United Nations Committee on the Rights of the Child.

16 *Ibid*.

17 *Advisory Opinion on Human Rights and the Environment*, 2017, OC-23/17 Series A No. 23, Inter-American Court of Human Rights.

and far-reaching in its efforts to build on and progress understandings of state obligations in relation to children's environmental rights, including rights in the climate crisis. In the following sections, we will consider some of the key effects of the climate crisis on children through the children's rights lens provided by the CRC.

3. CRC Article 24: The Right to Health and the Right to a Healthy Environment

As outlined in Chapter 2, the right to a healthy environment has made an impressive evolution in the past few decades. It has made the journey from being a contested "third generation" right to being a right that is embedded in the laws of most countries and has been affirmed by resolutions of both the UN General Assembly and the UN Human Rights Council. One might ask why it is important to outline rights specific to children when the right to a healthy environment should be seen to apply to everyone. Similar questions can be asked about human rights generally. Why are instruments specific to particular groups necessary when human rights are basic entitlements that apply to all?

Just as with human rights generally, there are specific elements of the right to a healthy environment that are particularly pertinent to children. The right to play is a prime example of this. The activity of playing is now understood not just to be a pleasant pastime, but rather a developmental process which is absolutely necessary for the healthy development of children. The CRC was progressive in enshrining the right to play for children.[18] Play raises issues such as freedom, safety, choice, and inclusion.[19] It stands to reason, therefore, that the right to play will again be very important for children when it comes to environmental rights (see further on this below at Section 3). Sanson *et al.* point out that children generally spend more time than adults outdoors, closer to the ground, playing. They are more likely, therefore, to be affected by toxins in the environment, such as those found in soil and water sources contaminated by climate change-related events.[20] As children play in nature, therefore, and perhaps closer to nature,[21] than adults do, it is clear that there is a need

18 See Naomi Lott, *The Right of the Child to Play: From Conception to Implementation* (Oxfordshire: Routledge, 2023).

19 Ciara Davey and Laura Lundy, "Towards Greater Recognition of the Right to Play: An Analysis of Article 31 of the UNCRC," *Children and Society* 25, no. 1 (2011): 3–14.

20 Ann V. Sanson *et al.*, "Young People and Climate Change: The Role of Developmental Science," in *Developmental Science and Sustainable Development Goals for Children and Youth*, eds. Suman Verma and Anne Peterson (New York, NY: Springer, 2018), 115–138; See also Emily Murray, PhD research, see Youth Climate Justice website, at https://www.ucc.ie/en/youthclimatejustice/research/doctoralresearch/. Accessed 23 August 2025.

21 Murray, PhD research, n 20.

for the international human rights framework to explicitly deal with this in the interests of children's rights.

In the CRC, the environment is explicitly linked with the right to health, and specifically in relation to the health threats to children caused by pollution. Article 24 states that:

1. States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: […]
   (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

Ippolito states that the CRC "marks an innovation, compared to other human rights treaties" because of this explicit connection of the right to health and the harmful effects of environmental pollution, and the consequently more holistic approach to children's health and well-being.[22] The right to health is frequently framed as a right to access medical care. As can be seen from the text, however, CRC Article 24 is much broader than such an interpretation. If one considers the underlying determinants for good health, it is clear that it is much more varied than access to medical care.[23] Circumstances in which children find themselves – poverty, perhaps, or pollution – have a significant impact on their health, long before a need for medical care arises. As noted above, children are affected, on average, far worse than adults when it comes to pollution. This is for numerous reasons: their relatively small height, the amount of physical and mental development they have yet to do, and many other reasons. The 2022 report of the Intergovernmental Panel on Climate Change, for example, shows the disproportionate effects of climate change on people born in 2020.[24] The effects of pollution on children are more likely to have lifelong repercussions as compared with an adult.

22 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 84.

23 See further Thoko Kaime, "Children's Rights and the Environment," in *International Law on the Rights of the Child*, eds. Ursula Kilkelly and Ton Liefaard (Singapore: Springer, 2018).

24 See Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Geneva: IPCC, 2023), figure SPM.1, 7. https://www.ipcc.ch/report/ar6/syr/summary-for-policymakers/. Accessed 29 September 2025. See also Committee on the Rights of the Child, *Report of the Day of General Discus-*

Another point which has been emphasised by the Committee is that "(h)ealth is more than absence of illness." Children should be able to develop "their full capacity, enjoy quality of life and clean environments."[25] This is another strong contribution of CRC Article 24, which explicitly requires that states take into account the harm that can be caused to children's right to health by contaminated food and water, as well as pollution.

The Committee on the Rights of the Child produced in 2013 General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health.[26] The Committee recognised these points, emphasising the dangers of local environmental pollution to children's health, writing that states should take measures to address these dangers to children's health in all settings.[27] The Committee in General Comment No. 15 was emphasising climate change as early as 2013, pointing to "the relevance of the environment, beyond environmental pollution, to children's health" and stating that:

> Environmental interventions should, inter alia, address climate change, as this is one of the biggest threats to children's health and exacerbates health disparities. States should, therefore, put children's health concerns at the centre of their climate change adaptation and mitigation strategies.[28]

The Committee also emphasised that children's health is impacted by numerous factors, which change rapidly, including mental health care, disease, the global economic and financial situation, poverty, unemployment, migration, and war. The Committee then stated: "There is also a growing understanding of the impact of climate change and rapid urbanisation on children's health," as well as noting numerous other modern phenomena which have crucial impacts on children today, whereas they might not have in the past.[29]

A crucial element of the right to health in the climate crisis relates to the rights of children as regards their mental health. Research indicates that the psychological and mental health impacts of climate-related disasters can be

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sion and Recommendations: Children's Rights and the Environment (Geneva: Committee on the Rights of the Child, 2016), 9, https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/2016/DGDoutcomereport-May2017.pdf. Accessed 29 September 2025; and Philip J. Landrigan and Anchal Garg, "Children Are Not Little Adults (Excerpt from Children's Health and the Environment: A Global Perspective)," in *Everyday Environmental Toxins: Children's Exposure Risks*, ed. Areej Hassan (Palm Bay: Apple Academic Press, 2015), 1.

25 Committee on the Rights of the Child, *Day of General Discussion 2016*, n 24, 9.

26 Committee on the Rights of the Child, *General Comment No. 15*, n 12.

27 *Ibid*., para. 49.

28 *Ibid*., para. 50.

29 *Ibid*., para. 5.

devastating.[30] The impacts of such disasters on children include significant increases in post-traumatic stress disorder, depression, and anxiety, as well as learning problems.[31] Gibbons provides the example of the aftermath of the 2010 floods in Pakistan. She points to 73% of 10–19-year-olds afterwards displaying high levels of post-traumatic stress disorder.[32]

Climate anxiety, that is, worry and fear about the worsening climate crisis, is also a significant issue for children and youth. Hickman et al. surveyed 10,000 children and young people (aged 16–25 years) in ten countries on participants' thoughts and feelings about climate change. The vast majority of participants across all countries reported worry in relation to climate change – 59% were very or extremely worried, and 84% were at least moderately worried. Over half of participants reported all of the following emotions: sadness, anxiety, anger, anxious, angry, and feeling powerless, helpless, and guilty. Over 45% said their feelings about climate change had a negative impact on their daily life and functioning.[33] This worrying phenomenon of climate anxiety for children and youth was acknowledged by the Committee in General Comment No. 26, with the Committee stating that climate anxiety "requires pressing attention, both in terms of response and prevention programmes, by public health and education authorities."[34] Furthermore, climate-related anxieties and vulnerabilities disproportionately affect marginalised groups, intensifying pre-existing adversities.[35] Nevertheless, there is also evidence that indicates that children and youth experience hope and that, frequently, hope is related to action,[36] a topic that will be explored in greater detail in Chapter 4.

CRC Article 44 specifies that the Committee will assess states parties' progress in implementing the rights guaranteed by the CRC via a reporting process whereby states provide a report on their children's rights implementation,

30 Susie E. L. Burke, Ann V. Sanson, and Judith Van Hoorn, "The Psychological Effects of Climate Change on Children," *Current Psychiatry Reports* 20, no. 5 (2018): 35, 1–8.

31 See further Ann V. Sanson, Judith Van Hoorn, and Susie E. Burke, "Responding to the Impacts of the Climate Crisis on Children and Youth," *Child Development Perspectives* 13, no. 4 (2019): 201–207.

32 Gibbons, "Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice" n 6, 19.

33 Caroline Hickman *et al.*, "Climate Anxiety in Children and Young People and Their Beliefs about Government Responses to Climate Change: A Global Survey," *The Lancet Planetary Health* 5, no. 12 (2021): e863–e873.

34 Committee on the Rights of the Child, *General Comment No. 26*, n 1, para. 41.

35 Louisa Baxter *et al.*, "The Relationship Between Climate Change, Health, and the Humanitarian Response," *The Lancet* 400, no. 10363 (2022): 1561–1563; Susan Walker *et al.*, "Inequality in Early Childhood: Risk and Protective Factors for Early Child Development," *The Lancet* 378, no. 9799 (2011): 1325–1338.

36 Maria Ojala, "How Do Children Cope with Global Climate Change? Coping Strategies, Engagement, and Well-being," *Journal of Environmental Psychology* 32, no. 3 (2012): 225–233; Maria Ojala, "Hope in the Face of Climate Change: Associations with Environmental Engagement and Student Perceptions of Teachers' Emotion Communication Style and Future Orientation," *The Journal of Environmental Education* 46, no. 3 (2015): 133–148.

non-governmental organisations can provide supplemental reports, and the Committee provides concluding observations and recommendations on a particular state's practice. In the early years of state reporting to the Committee, Ippolito notes that there was not much emphasis on the environmental aspects of CRC Article 24. McDonald conducted an empirical study published in 2024, however, demonstrating the increasing frequency of comments/recommendations by the Committee relevant to environmental issues and climate change from 2000 to 2022.[37]

In the reporting process under CRC Article 44, in the early years, the Committee noted environmental concerns, acknowledging problems relating to environmental degradation with harmful impacts on children's health.[38] Ippolito notes that the Committee tended to request that states give attention to environmental pollution and conduct research on its effects on the health of children. It referred to issues such as contamination of water supplies, pollution from oil and gas processing, toxic chemicals in proximity to villages and schools, and deforestation. The Committee also covered issues relating to securing international cooperation to reinforce the collective obligation introduced in international law.[39] McDonald has identified a much increased emphasis from the Committee on the environment in more recent times, with the Committee found to be considering climate change and/or the environment "in over 86 per cent of the most recent ten years of the [Concluding Observation] reports."[40]

The Committee started around the 2000s to engage in pronouncements on preventive and procedural requirements. Ippolito points out, for example, that the Committee started to call for independent environmental impact assessments before the establishment of mining and other industrial projects that may harm children's health.[41] The Committee stated that children should be involved in discussions on environmental matters, and stated that the

37 Fiona MacDonald, "Environmental Rights and the Impact of Climate Change within the Committee on the Rights of the Child Concluding Observation Reports," *The International Journal of Children's Rights* 32, no. 3 (2024): 585–610.

38 For example, Committee on the Rights of the Child (1997) *Concluding Observations: Czech Republic*. CRC/C/69, 28–33; Committee on the Rights of the Child (1998a) and *Concluding Observations: Democratic People's Republic of Korea*. CRC/C/79, 13–18. See further Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 85–87.

39 See further Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 85–87.

40 MacDonald, "Environmental Rights and the Impact of Climate Change within the Committee on the Rights of the Child Concluding Observation Reports" n 37, 608.

41 She cites Committee on the Rights of the Child (2006b) *Concluding Observations on the Report of Thailand*, CRC/C/PER/CO/3. See further Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 92.

participation of children should be at the centre of climate change adaptation and mitigation strategies.[42]

This trend demonstrates increasing attention by the Committee, and by the world at large, of course, on the significance of the environment for children's rights. For the Committee, this culminated in the introduction of General Comment No. 26. This 2023 document urges state parties to realise the right to a healthy environment for children through a number of means, including incorporating this right into their national legislation.[43] The Committee also outlines that states are under an obligation to immediately take action to protect children's rights in what it refers to as a "Triple Planetary Crisis" involving the climate crisis, biodiversity loss, and pollution. General Comment No. 26 outlines, from a children's rights approach, environmental rights. This begins with, the Committee emphasises, consideration of all children's rights under the Convention on the Rights of the Child and its Optional Protocols (para 6). The General Comment covers a wide variety of issues, from civil and political rights (e.g., the right of children to be heard) to economic rights (e.g., the right of children to an adequate standard of living). It outlines measures that states must take to ensure that approaches to climate change mitigation and adaptation are based on children's rights. The Committee makes the point that children's climate action has created the impetus for drafting this important instrument, stating in para. 2 that "[t]he efforts of children to draw attention to these environmental crises created the motivation and were the momentum behind the present general comment."

The Committee also emphasises that the right to a healthy environment is "implicit in the Convention" and that it is directly linked to:

> [T]he rights to life, survival and development, under article 6, to the highest attainable standard of health, including taking into consideration the dangers and risks of environmental pollution, under article 24, to an adequate standard of living, under article 27, and to education, under article 28, including the development of respect for the natural environment, under article 29.[44]

A clean, healthy, and sustainable environment, the Committee states, is both a human right in itself and necessary for the full enjoyment of other children's rights.[45] This points to the indivisible and interconnected nature of human rights – a single environmental rights issue can harm enjoyment of numerous

42 Committee on the Rights of the Child (2019) *Concluding Observations on the Combined Third to Sixth Periodic Reports of Malta*. UN Doc. CRC/C/MLT/CO/3-6. See further Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 92.

43 Committee on the Rights of the Child, *General Comment No. 26*, n 1, paras. 63 and 67.

44 *Ibid*., para. 63.

45 *Ibid*., para. 8.

CRC rights, impacting, for example, health and education. The right of children to a healthy environment requires recognition of the relationship between the health of children and the environments in which they live. But it also requires an understanding of the relationship of Article 24 to many other rights of children.

It is highly significant and impactful that the Committee expressly recognises a stand-alone right within the CRC to a clean, healthy, and sustainable environment.[46] General Comment No. 26 emphasises that states must immediately take action to: conserve, protect, and restore biodiversity; prevent marine pollution; ensure a fair and just transition of energy sources; and invest in renewable energy.[47] It also points to barriers faced by children who are in particularly disadvantaged situations, and the effect of this on their enjoyment of their rights.[48] It makes much reference to access to climate justice for children and contains numerous explications of procedural as well as substantive rights. Further consideration of the standards within the document, and the level of child participation involved in the drafting of the document, is given in Chapter 5.

The CRC frames the right to health as involving the right to be free from environmental pollution. Ippolito points out that, unlike in other human rights treaties, the term "environment" as used in a children's rights context covers both the natural world and the human-created world.[49] Ippolito outlines that this:

> [R]elates to living conditions, housing and community spaces, which are fundamental to ensuring a decent standard of living in terms of shelter, play, health, etc. At a wider level, the environment is understood as the natural world includes plants, animals[,] people … Yet the environment can be understood in an even broader, behavioural sense as signifying the need to take into account the rights of future generations when exploiting natural resources and engaging in activities that could cause environmental damage.[50]

It seems that the Committee is also contributing to the nature of the right to a healthy environment by emphasising state obligations in relation to numerous facets of the environment. The Committee, for example, has required that states detect and prevent health impacts of nuclear contamination, environmental pollution, and inadequate housing. The Committee recommends adopting regulatory measures to reduce environmental harm, reverse the rise in greenhouse gas

46 See further Aoife Daly *et al.* (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law," in *Routledge Handbook of Young People and Environmental Activism*, eds. Ben Bowman and Sadiya Akhram (Oxfordshire: Routledge, 2026).

47 Committee on the Rights of the Child, *General Comment No. 26*, n 1, para 65(c)-(f).

48 *Ibid*., paras. 4 and 7.

49 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 76.

50 *Ibid*.

emissions, pursue avenues for alternative energy production, and mitigate the impact of air pollution on children.[51] The Committee in its General Comment No. 15 (on the right to health) also emphasises that states should review laws and policies on the environment, and where necessary, change laws and policies, and provide adequate responses to issues relating to children's health.[52]

Ippollito makes the point that the Committee emphasises abstract duties of care, indicating not the goal to be attained but rather the need to use maximum efforts in pursuing the goal. It is left to the state to decide how goals are to be attained.[53] She also points to principles in international law which must be followed by states. The principle of "doing no harm," for example, as affirmed by the International Court of Justice,[54] requires states to prevent, reduce, and control the risk of environmental harm posed to other states, involving the duty to monitor the environmental impact of activities that could harm children's rights. Likewise, the precautionary principle, covered by the International Tribunal for the Law of the Sea, is crucial here. This principle is an approach to risk management, where:

> if it is possible that a given policy or action might cause harm to the public or the environment and if there is still no scientific agreement on the issue, the policy or action in question should not be carried out.[55]

This, of course, requires states to act to reduce their greenhouse gas emissions in the climate emergency.[56]

The Committee has been bold in General Comment No. 26 as regards state obligations, emphasising the precautionary principle and outlining that:

> States have a due diligence obligation to take appropriate preventive measures to protect children against reasonably foreseeable environmental harm and violations of their rights, paying due regard to the precautionary principle. This includes assessing the environmental impacts of policies and projects, identifying and preventing foreseeable harm, mitigating such harm if it is not preventable and providing for timely and effective remedies to redress both foreseeable and actual harm.[57]

51 *Ibid*., 93.

52 Committee on the Rights of the Child, *General Comment No. 15*, n 12, para. 73.

53 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 94.

54 See *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons*, 1996, ICJ Reports 1996 p226, International Court of Justice, para. 29.

55 Eur-Lex, "Precautionary Principle," https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:precautionary_principle#:~:text=The%20precautionary%20principle%20is%20an,should%20not%20be%20carried%20out. Accessed 29 August 2025.

56 *Responsibilities and Obligations of States with Respect to Activities in the Area*, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, International Tribunal for the Law of the Sea, 75.

57 Para. 69.

The Committee further highlights in General Comment No. 26 state obligations as regards loss, as well as mitigation and adaptation:

> States are encouraged to take note that, from a human rights perspective, loss and damage are closely related to the right to remedy and the principle of reparations, including restitution, compensation and rehabilitation. States should undertake measures, including through international cooperation, to provide financial and technical assistance for addressing loss and damage that have an impact on the enjoyment of the rights under the Convention.[58]

The Committee also stresses that:

> States must take all necessary, appropriate and reasonable measures to protect against harms to children's rights related to climate change that are caused or perpetuated by business enterprises, while businesses have the responsibility to respect children's rights in relation to climate change.[59]

Finance providers and states must ensure that climate finance mechanisms have a children's rights-based approach.[60]

The CRC, particularly via Article 24, provides insight and guidance into how the human right to a healthy environment, and attendant state obligations, are to be apprehended and implemented. There is particular promise in the in-depth consideration of the right to a healthy environment provided by General Comment No. 26.[61] Although this text pertains to children in particular, most of the pronouncements of the Committee in this document apply to human rights more broadly. Ippolito points out[62] that it is particularly helpful that, as mentioned above, the Committee understands health as "a state of complete physical, mental and social well-being" rather than merely the absence of ill-health[63] as this indicates that the Committee is addressing modern and emerging environmental risks to children's (and everyone's) rights, such as the climate crisis.[64] There are ways, then, in which the CRC and the Committee have greatly progressed the right to a healthy environment for all.

58 *Ibid*., para. 106.
59 *Ibid*., para. 107.
60 *Ibid*., para. 111.
61 See Daly *et al*., "Children/Youth Environmental Action and Human Rights Law" n 46.
62 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 96.
63 Committee on the Rights of the Child, *General Comment No. 15*, n 12, para. 19.
64 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 96.

4. CRC Article 6: The Right to Life, Survival, and Development

Another CRC right that is closely connected to the right to a healthy environment is the right to life, survival, and development (CRC Article 6). This CRC provision is based on one of the most prominent rights in international human rights law generally – the right to life. This is considered perhaps the most fundamental of human rights, because "[o]nce life is lost, what does there remain to protect?"[65] The right to life is clearly linked to and dependent on the physical environment. The climate crisis can mean immediate consequences, for example, death in natural disasters caused by floods or heatwaves. But it can also result in secondary effects such as poverty, violence, child labour, and dangerous work environments due to the effects of climate change, such as a loss of jobs for their parents. It is perhaps unsurprising that the right features prominently in climate cases. It is directly invoked in 10 of the 81 climate cases in the Youth Climate Justice project's case law database, as outlined in Chapter 6 (Figure 6.3). In a further 56 cases, it is not directly invoked but remains relevant to the arguments made (see Chapter 6, Figure 6.2). The prominence of the right in legal systems, as well as the obvious implications of the climate crisis on children's lives, has resulted in this being the third most-invoked right in climate cases concerning children/youth (after the principle of the best interests of the child and the right to a healthy environment).

The right to life comes with positive obligations not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within their jurisdiction. It has been recognised, for example, by the European Court of Human Rights, that in certain instances states can breach the right to life where they fail to prevent environmental harm.[66] In that particular court, the right to private and family life has tended to have more legal success when it comes to claims of human rights violations relating to the environment.[67] In any case, there is ample evidence that states are not taking adequate action to mitigate the climate crisis.[68] An

65 Stefan Trechsel, "Spotlights on Article 2 ECHR: The Right to Life," in *Development and Developing International and European Law: Essays in Honour of Konrad Ginther on the Occasion of his 65th Birthday*, eds. Wolfgang Benedek, Hubert Isak, and Renate Kicker (Berlin: Peter Lang Group AG, 1999), 671, at 674.

66 See, e.g., *L.C.B. v. United Kingdom*, 1998, App. No. 23413/94, European Court of Human Rights.

67 See, e.g., *Verein KlimaSeniorinnen Schweiz et al. v. Switzerland, 2024, App No. 53600/20, European Court of Human Rights*; in which the Court found that ECHR Article 8 (the right to private and family life) includes a right to effective protection by the state authorities from the harmful effects of climate change on lives, health, well-being, and quality of life.

68 There are numerous national courts that have established this, e.g., in *KlimaSeniorinnen*, n 67, the Court found gaps in the Swiss domestic regulatory framework and held that Switzerland had failed to meet its past GHG emission reduction targets.

OECD report in November 2024, for example, showed that efforts remain insufficient to meet global climate targets.[69] States are therefore failing to meet the targets to which they have agreed under the Paris Agreement.

There is also evidence that children are consequently dying and/or suffering from secondary effects. As noted above, children are more vulnerable to climate hazards than adults for a number of reasons, including relative physical vulnerability (meaning they are less able to withstand and survive shocks such as floods and heatwaves) and they are more at risk of death compared with adults from diseases worsened by climate change, such as malaria and dengue.[70] Air pollution is worsened by climate change, and almost two billion children are living in areas that exceed safe levels.[71] Air pollution is a significant cause of mortality for young children worldwide, contributing to the deaths of approximately 709,000 children under the age of five annually.[72] Climate change was estimated in 2002 to be responsible for approximately 6% of malaria cases.[73] The World Health Organisation now estimates that climate change could lead to around 60,000 additional malaria deaths per year between 2030 and 2050 (although causality is complex).[74] When one considers that there are over 1,200 child deaths from malaria daily,[75] it seems that additional malaria deaths due the climate crisis are likely to be numerous.

69 OECD, "Progress in National Climate Policy Efforts Remains Insufficient to Achieve 2030 Targets," Press Release, 7 November 2024, https://www.oecd.org/en/about/news/press-releases/2024/11/progress-in-national-climate-policy-efforts-remains-insufficient-to-achieve-2030-targets.html. Accessed 17 September 2025.

70 See, e.g., Melanie S. Hammer *et al.*, "Global Estimates and Long-term Trends of Fine Particulate Matter Concentrations (1998–2018)," *Environmental Science and Technology* 54, no. 13 (2020): 7879–7890.

71 *Ibid.*

72 According to the State of Global Air, "State of Global Air Report 2024," https://www.stateofglobalair.org/resources/report/state-global-air-report-2024. Accessed 30 September 2025; and Children's Environmental Health Collaborative, "Air Pollution," https://ceh.unicef.org/spotlight-risk/air-pollution. Accessed 30 September 2025. See further WHO, "Air Pollution," https://www.who.int/health-topics/air-pollution#tab=tab_1. Accessed 30 September 2025.

73 WHO, *World Health Report: Reducing Risks, Promoting Healthy Life* (Geneva, Switzerland: WHO, 2002), 72, https://www.who.int/publications/i/item/9241562072. Accessed 5 July 2025. See further Susana Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child," *Ethics in Science and Environmental Politics* 13, no. 1 (2013): 1–14.

74 See further Dereba Muleta Megersa and Xiao-San Luo, "Effects of Climate Change on Malaria Risk to Human Health: A Review," *Atmosphere* 16, no. 1 (2025): 71. Studies suggest that rising temperatures and precipitation patterns create conditions for greater instances of malaria. See Medicines for Malaria Venture, "Climate Change and Malaria," https://www.mmv.org/our-work/global-health-and-societal-change/climate-change-and-malaria.

75 See World Health Organisation, "World Malaria Report 2024," https://www.who.int/teams/global-malaria-programme/reports/world-malaria-report-2024. Accessed 30 September 2025.

These are shocking statistics which indicate the level to which children's lives are dramatically impacted, and sometimes lost, due to climate change.

It should also be noted that the effects on children's lives and health cannot always be immediately seen or measured. Sanson, Van Hoorn, and Burke argue[76] that the impacts of climate change on children's health can be direct or indirect, immediate, or delayed. This implies complex dynamics in the attribution and traceability of environmental harm. Threats to children's health can be both sudden (via extreme climate change events) and gradual, with lifelong repercussions.[77] This combination of catastrophic events and slow emergencies[78] renders children one of the most affected populations. They will be impacted by the climate crisis, perhaps throughout their lifetime.[79]

The harm to children from climate change is so severe that it has led some commentators to describe the failure of states to adequately mitigate the climate crisis as "violence against children."[80] There is a clear argument, therefore, that particular states, especially the biggest polluters from industrialised countries, are in violation of the right to life where they fail to adequately mitigate the climate crisis. Of course, it can be difficult to adequately link cause and effect, particularly considering the transboundary effects of carbon emissions. Nevertheless, violations of the right to life have been a prominent argument in numerous climate cases, including successful ones.[81]

Although the right to life is clearly implicated where harm is suffered from pollution and climate change, as noted above, it can be difficult for applicants to find a violation of the right for a number of reasons. These include the difficulty of proving causality and the slow nature of the violence of climate change. The right to life was, however, mentioned by the court in the case of *Youth Verdict v. Waratah Coal* ("*Youth Verdict*"),[82] an Australian case concerning whether permission could be granted to open a coal mine. The court

76 Sanson, Van Hoorn and Burke, "Responding to the Impacts of the Climate Crisis on Children and Youth" n 31, 202.

77 Daniel Martinez Garcia and Mary C. Sheehan, "Extreme Weather-Driven Disasters and Children's Health," *International Journal of Health Services* 46, no. 1 (2016): 79–105.

78 Ben Anderson *et al.*, "Slow Emergencies: Temporality and the Racialized Biopolitics of Emergency Governance," *Progress in Human Geography* 44, no. 4 (2020): 621–639.

79 Nick Watts *et al.*, "The Lancet Countdown on Health and Climate Change: From 25 Years of Inaction to a Global Transformation for Public Health," *The Lancet* 391, no. 10120 (2017): 581–630.

80 Jorge Cuartas *et al.*, "The Climate Crisis and Violence Against Children," *The Lancet Child and Adolescent Health* 7, no. 9 (2023): 605–607.

81 See further Chapters 6 and 7.

82 *Youth Verdict v. Waratah Coal*, 2022, MRA050-20 (MLA 70454) EPA051-20 (EPML 00571313), Land Court of Queensland.

stated that "[c]limate change at any level will limit the right to life to some extent and is already doing so. Approving the project would contribute to foreseeable and preventable life-terminating harm."[83] In the balancing exercise considering this right as weighed against economic considerations, the court said: "The importance of preserving the right to life, taking into account the nature and extent of the limitation, weighs more heavily in the balance than the economic benefits of the mine and furthering energy security."[84] This points to the usefulness of the human rights framework in arguments for the environment and climate.

There were also violations found under the rights to life under Article 2 (and to private and family life under Article 8) of the European Convention on Human Rights (ECHR) in the Dutch *Urgenda Foundation v. State of the Netherlands* case ("*Urgenda*").[85] The court emphasised the broader reach of the right to life, involving as it does the right to an acceptable life. The court stated that:

> A government's deprivation of the fundamental right to life does not occur only at death. The fundamental right to life, as the Framers intended, includes the right of living, breathing persons to enjoy this terrestrial existence and pursue happiness in living. At the time of the Nation's founding, terrestrial existence was predicated on a life-sustaining, stable climate system. The fundamental right to life includes vitality, or health, and a person's natural lifespan. By natural extension, for children and youth whose organs and bodies are still developing, the right to life includes their ability to develop healthfully into their full adult living form.[86]

The reference in *Urgenda* to the right of children to develop reflects a crucial element of the right to life as enshrined in the CRC (although, as noted above, *Urgenda* was based on the ECHR rather than the CRC). CRC Article 6 is based on the right to life, but in the CRC, even the title of this traditional right (to life) has been expanded to the right to *life, survival*, and *development*. CRC Article 6 stipulates very clearly, therefore, that the right to life involves not simply staying alive but also reaching one's full potential, particularly for children.[87] The Committee on the Rights of the Child states that CRC Article 6:

83 *Ibid*., para. 1512.
84 *Ibid*., para. 1513.
85 *Urgenda Foundation v. State of the Netherlands*, 2019, Case No. 19/00135, Supreme Court of the Netherlands.
86 *Ibid*., para. 255.
87 Manfred Nowak, *A Commentary on the United Nations Convention on the Rights of the Child, Article 6: The Right to Life, Survival and Development*, Vol. 6 (Leiden: Brill, 2005).

> 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 (Articles 24, 27, 28, 29 and 31).[88]

We see here the emphasis on the intersections between CRC rights – the right to life cannot be upheld for children if other rights relating to their development are being violated. The preparatory work of the CRC indicates that drafters intended that life and survival are complementary and not mutually exclusive.[89] The right to survival carries with it a positive connotation when compared with the right to life alone. The UN Human Rights Committee (HRC) also states that the right to life should not be interpreted in a restrictive way. States, in fact, have positive obligations to take positive measures to protect the right to life, for example, by reducing infant mortality.[90]

The Committee points to the interdependence and intersections of the right to survival and development with other CRC rights, indicating that it should be implemented in a holistic manner "through the enforcement of all the other provisions of the CRC, including the right to health, adequate nutrition, social security, an adequate standard of living and a healthy and safe environment."[91] Kaime states that the right of children to development is not solely about the physical needs of the child but also relates to the full and harmonious development of children, including their spiritual, moral, and social growth.[92] Indeed, the CRC requires that states take action to ensure that children will be able to develop their talents and abilities to the fullest potential (CRC Article 29a) and must be prepared for a responsible life in society with solidarity for the community of mankind (CRC Article 29d).

Ensuring that children are equipped with support to develop to their full potential will, of course, require resources. In the aftermath of natural disasters, for example, resources will be required (for healthcare, for rebuilding, for education, and so on) to ensure that children's development is not unduly affected. Social and economic rights in the CRC and in international human rights law more broadly may be qualified by the resources available to the state

88 Committee on the Rights of the Child, *General Comment No. 7 (2005): Implementing Child Rights* (2005), CRC/C/GC/7/Rev.1 2006, 1 November 2005, para. 10.

89 See further Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child" n 73.

90 UN Human Rights Committee, *General comment No. 6, Right to Life* (1982), HRI/Gen/1/Rev. 7, 30 April 1982, para. 128. See further Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child" n 73.

91 Committee on the Rights of the Child, *General Comment No. 7*, n 88, para. 4.

92 Kaime, "Children's Rights and the Environment" n 23.

at a particular time.[93] The right to health (CRC Article 24), education (CRC Article 28), and to an adequate standard of living (CRC Article 27) are sometimes referred to as "progressive rights" because the resources to be accorded to these rights are to increase along with the state's economic development. Kaime makes the point, however, that these progressive rights are not just principles or abstract goals; they are understood in the context of the CRC and other international human rights instruments as human rights, and children can therefore claim them as human rights, as distinct from policies and programmes based on international recommendations.[94] A lack of resources, the Committee has stated, is not an adequate ground for failing to ensure the effective enjoyment of children's rights.[95]

The right to housing is a stand-alone right, but it is also closely linked to CRC Article 6. In the CRC, the right to adequate housing is included within the right to an adequate standard of living, and the right to nutrition and clothing in CRC Article 27. The UN Committee on Economic, Social, and Cultural Rights defines the right to housing as the right to live somewhere in security, peace, and dignity.[96] Without adequate housing, children will not reach their full potential. States contribute to human rights violations when they fail to uphold affordable access to adequate housing. Climate change undermines the right to housing and results in forced migration. Children may be forced into homelessness or forced to live in precarious homes. Climate disasters like floods, wildfires, and hurricanes currently displace an annual average of 21.5 million people each year, with many losing their homes and becoming homeless.[97]

The experiences of children who lose their homes have arisen in climate petitions. Children can experience the horror of the destruction or the loss of their houses, as was argued in the *Sacchi* petition. Petitioner Ranton Anjain describes how, in 2015, a violent storm struck the Marshall Islands, tearing open the roof of his home:

> In 2015, we were inside my house, my dad was off island for meetings, and a really strong wind came and opened the roof of my house. It flooded my house. I was with family, but then we evacuated to our neighbour's house.[98]

93 Committee on the Rights of the Child, *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child* (2023), CRC/GC/2003/5, 27 November 2003, para. 7.

94 Kaime, "Children's Rights and the Environment" n 23.

95 Committee on the Rights of the Child, *General Comment No. 5*, n 93, para. 8.

96 Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)* (1991), E/1992/23, 13 December 1991, para. 8. See further Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child" n 73.

97 International Displacement Monitoring Centre, "Global Report on International Displacement," (2016) https://www.internal-displacement.org/globalreport2016/. Accessed 17 September 2025.

98 *Sacchi*, n 15, para. 115.

In 2022, the UN Human Rights Committee – the implementing body for the International Covenant on Civil and Political Rights – in *Billy v. Australia* ("*Billy*") found that Australia's failure to protect Indigenous Torres Islanders adequately against harm from climate change violated various rights.[99] This included the right to be free from arbitrary interference with their private life, family, and home. The Committee considered the Islanders' spiritual connection with their traditional lands, and the vital link between their cultural integrity and the well-being of their surrounding ecosystems. Australia's failure to take adequate measures to protect the Indigenous Islanders against climate change impacts, therefore, led the Committee to find violations of the Islanders' rights. The Committee asked Australia to compensate the Indigenous Islanders for the harm suffered, to work together to assess needs, and to take action to achieve the communities' safe existence on their islands.

The UN Special Rapporteur on cultural rights has also recognised that the environmental crisis and climate change will impact the enjoyment of cultural rights.[100] The right to culture also tends to be a frequently invoked right in climate cases. In the *Sacchi* application, the submission of Carl Smith from Alaska (17 when he filed the petition to the Committee) is particularly powerful. He is a member of the Indigenous Yup'ik tribe, and he grew up learning the traditional hunting, fishing, and cultural practices of that community. He describes his fears that the tribe's way of life will disappear as temperatures rise.[101] One can see clearly then the intersection between human rights to life, home, and culture. Children and youth are experiencing traumatic impacts on the enjoyment of these rights because of the climate crisis. Their stories of suffering destruction and loss of homes and culture are powerfully demonstrating the real-life human rights effects of the climate crisis, and therefore are being invoked in climate cases, sometimes successfully.

5. CRC Articles 28 and 29: The Right to Education and CRC Article 31: Children and the Right to Rest, Leisure, and Play

The Committee emphasises education as a key component of the child's survival and development under CRC Article 6. CRC Articles 28 and 29 relate to the right to education. CRC Article 28 states that:

> 1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: … (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

99 *Billy et al. v. Australia*, 2022, CCPR/C/135/D/3624/2019, UN Human Rights Committee.

100 UNHRC, *Visit to Tuvalu: Report of the Special Rapporteur in the Field of Cultural Rights, Karima Bennoune* (2020), A/HRC/46/34/Add.1, 24 December 2020.

101 *Sacchi*, n 15.

It is clear that children's right to access education is jeopardised by the climate crisis in a number of ways. Schools can be destroyed by extreme weather events. UNICEF reported that in 2024, at least 242 million students in 85 countries had their schooling disrupted by extreme climate events such as heatwaves and floods.[102] The Philippines tends to be one country that is particularly badly affected, with over 380 schools flooded or damaged by a single typhoon.[103] In 2013, Typhoon Haiyan – an extremely powerful cyclone that began in the Philippines and is among the most powerful cyclones ever recorded – damaged more than 2,500 schools. Over the last 20 years, financial institutions, UN agencies, and non-governmental organisations have been engaged in efforts to make schools more resilient to disasters.[104] The Global Program for Safer Schools is one programme conducting physical risk assessments of school infrastructure, identification of the most vulnerable schools, and strategies for new construction.[105]

UNICEF indicates that it is heatwaves, however, which are the predominant climate hazard closing schools. In 2024, over 118 million students were affected in April alone. Schools in Cambodia were forced to shorten the school day by two hours. In parts of South Asia, temperatures hit 47°C/116°F in May, placing children at risk of heat stroke.[106] There are stories of distress and childhoods disrupted behind these figures. Sometimes it is through climate cases that these stories are heard. In *Duarte Agostinho v. Portugal*,[107] the child and youth applicants emphasised to the European Court of Human Rights how increasing heatwaves prevented them from engaging in sports and education, and how distressing and worrying this was for them.[108] Although they did not directly reference CRC Article 28 in their application, the claims they made were highly relevant to that provision.

The adverse effects of climate change mean that sometimes families can no longer afford to send their children to school.[109] Also of note is that

102 UNICEF, "Nearly a Quarter of a Billion Children's Schooling was Disrupted by Climate Crises in 2024 – UNICEF," 24 January 2025, https://www.unicef.org/eca/press-releases/nearly-quarter-billion-childrens-schooling-was-disrupted-climate-crises-2024-unicef. Accessed 17 September 2025.

103 *Ibid.*

104 Global Facility for Disaster Reduction and Recovery (GFDRR), "Making Schools Resilient to Natural Disasters," June 2015, https://www.gfdrr.org/en/feature-story/making-schools-resilient-natural-disasters. Accessed 17 September 2025.

105 *Ibid.*

106 UNICEF, "Nearly a Quarter of a Billion Children's Schooling was Disrupted by Climate Crises in 2024 – UNICEF" n 102.

107 *Duarte Agostinho et al. v. Portugal et al.*, 2024, App. No. 39371/20, European Court of Human Rights.

108 *Ibid.*, para. 26.

109 Gibbons, "Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice" n 6, 19, 27.

this issue tends to affect girls more than boys in parts of the world where their education tends to be less highly valued. Sanson et al. point to the examples of flooding and droughts in numerous countries, such as India, Pakistan, and Uganda, resulting in declines in school attendance, some of which lasted a decade.[110]

As noted above, another reason that climate change is relevant to education is that education is an important part of efforts to mitigate the climate crisis. The CRC contains clear standards outlining the right of children to learn about the environment. CRC Article 29(1)(e) on the right to education includes the next explicit reference to the environment within the CRC, after CRC Article 24. This article provides that: "States Parties agree that the education of the child shall be directed to: [t]he development of respect for the natural environment." Consequently, part of states' obligations in realising this right must include the formulation of an effective legal and policy framework that protects children from environmental threats and degradation that would threaten children's survival and development. Additionally, states must ensure that the education curriculum for children maintains space for environmental education.[111] CRC Article 29 was the first explicit recognition in a UN human rights treaty of the importance of respect for the natural environment. The Committee states that CRC Article 29 requires that education "link issues of environment and sustainable development with socio-economic, sociocultural and demographic issues."[112] Education on the environment should be in curricula, but it should also be experienced in outdoor contexts.[113]

Indeed, young climate advocates have been both recipients and providers of climate education, in part because they have unprecedented access to scientific information, and consequently, some children and youth have extraordinary levels of "climate competence."[114] As a result, some have become experts in climate science and are educating others to advocate for change. California high school student Arjun Marwaha, for example, has used his climate knowledge to write a book for other adolescents to support their climate action.[115]

110 Plan International, 2015, cited in Sanson, Van Hoorn and Burke, "Responding to the Impacts of the Climate Crisis on Children and Youth" n 31.

111 Kaime, "Children's Rights and the Environment" n 23.

112 Committee on the Rights of the Child, *General Comment No. 12: The Right of the Child to be Heard* (2009), CRC/C/GC/12, 1 July 2009.

113 Aoife Daly and Laura Lundy, *European Network of Ombudspersons for Children (ENOC) Synthesis Report: Children's Rights and Climate Justice* (European Network of Ombudspersons for Children, 2022), 16.

114 Aoife Daly, "Climate Competence: Youth Climate Activism and Its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022): ngac011.

115 Arjun Marwaha, *Our Changing Earth: Why Climate Change Matters to Young People* (Independently Published, 2019). See further Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law" n 114.

Carlos Manuel (originally from the Philippines, now living on Koror, Palau) was a petitioner in the *Sacchi* application who started a chapter of NGO Heirs to Our Ocean at his school, educating his peers about ocean health and the impacts of climate change.[116]

It seems that education systems have yet to implement rights-based environmental and climate education. Daly and Lundy found in 2022 that in most European countries examined, children are receiving education about human rights, but few were receiving education that covered the right to a healthy environment.[117] In an example of good practice, however, the authors found that Wales introduced its Curriculum for Wales 2022,[118] which includes learning outcomes relating to the environment, the climate emergency, and human rights.[119]

Linked to the right to education is the right to play. Both rights are crucial for children's healthy development. The right to play is one of the most fundamental rights that children possess, as play supports children in forming relationships and experiencing the world around them. As noted above, the CRC, in a groundbreaking development, introduced play as a right in Article 31, which states:

1. States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

The Committee has interpreted the right through a number of its General Comments. In its 2005 General Comment on implementing child rights in early childhood, the Committee notes that the right is often harmed by a shortage of opportunities for young children to meet and play, particularly in many urban environments, due to the density of housing, pollution, and other dangers.[120]

The Committee issued a General Comment on the right of the child to rest, leisure, play, and recreational activities in 2013. In it, the Committee states

116 *Sacchi*, n 15.

117 Daly and Lundy, *European Network of Ombudspersons for Children (ENOC) Synthesis Report: Children's Rights and Climate Justice*, n 113, 15.

118 Welsh Government, "Curriculum for Wales," https://hwb.gov.wales/curriculum-for-wales. Accessed 1 September 2025.

119 Daly and Lundy, *European Network of Ombudspersons for Children (ENOC) Synthesis Report: Children's Rights and Climate Justice*, n 113, 16.

120 CRC/C/GC/7/Rev.1 2006, para. 34.

that the CRC recognises children's right to play as critical to "the health and well-being of children and [to] promote the development of creativity, imagination, self-confidence and self-efficacy, as well as physical, social, cognitive and emotional strength and skills."[121] It is also recognised by the Committee, however, that many children, particularly those who are disadvantaged by poverty and other factors, can face pollution and a lack of green spaces.[122] The UN Special Rapporteur on human rights and the environment also emphasises that children can face hazardous conditions when they play, due, for example, to polluted water, toxic substances, and the lack of safe green spaces. Children cannot, therefore, fully enjoy their right to play in these circumstances.[123] As noted above, flooding, heatwaves, and other phenomena that are made more likely and more intense by the climate crisis will not just affect children's ability to engage in education but also to enjoy their vital developmental process of play.

The right to play has arisen in some climate cases. In *Ali v. Federation of Pakistan*,[124] Rabab Ali, a seven-year-old girl from Karachi, alleged violations of constitutionally protected fundamental rights. The claims relate to the environmental harm expected to result from burning coal to generate electricity. She cited her constitutional rights to life, liberty, dignity, information, and equal protection before the law, with one of her arguments being that she cannot play outside. She argues that, due to the excessive pollution from the mining and burning of fossil fuels, she cannot "move outside her home and breathe in fresh air and freely walk and play with flowers, butterflies, dragons and to follow the lightning-bug in her blooming age even at her nearby park."[125] The initial application was dismissed, and an appeal is pending. In *Environmental Justice Australia (EJA) v. Australia*, the CRC Article 31 right to play is also among the CRC rights invoked by the petitioners.[126] This is a petition by five young Australians aged between 14 and 24 years old, to UN Special Rapporteurs (for Environment; Indigenous Peoples; and Persons with Disabilities), who argue that climate change exacerbates existing inequalities and directly undermines their health and cultural rights. The frequency with which arguments relate to the right to play in climate cases is noteworthy.

121 CRC Committee, *General Comment No. 17*, para. 9.

122 *Ibid.*, para. 36, citing CRC, *General Comment No. 17 on the Right of the Child to Rest, Leisure, Play, Recreational Activities, Cultural Life and the Arts (art. 31)* 2013, CRC/C/GC/17, 17 April 2013, para. 35.

123 UNCHR, *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Stable Environment* (2018) A/HRC/37/58, para. 36.

124 *Ali v. Federation of Pakistan*, 2016, Lahore High Court. Constitutional Petition.

125 *Ibid.*, petition, "Brief Facts," para. 2.

126 *Environmental Justice Australia (EJA) v. Australia*, 25 October 2021, UN Special Rapporteurs on Environment; Indigenous Peoples; Persons with Disabilities, footnote 56, see the application at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2021/20211025_14762_complaint.pdf. Accessed 3 September 2025.

A right which does not seem to have featured prominently in court previously has now been relevant in 11 of 81 climate cases in the Youth Climate Justice project case law database, as outlined in Chapter 6 (Figure 6.2). This indicates the degree to which young climate litigators are influencing human rights, progressing the status of previously under-used rights such as the right to play.

6. CRC Article 3: The Best Interests of Children in the Climate Crisis

The CRC places extensive obligations on states to ensure that the best interests of children are adequately considered in all matters concerning them. CRC Article 3(1) states that "[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." In both the CRC and domestic law systems, the right of children to have their best interests considered as a primary consideration in matters affecting them is a crucial right.[127] It is considered by the Committee to be a "general principle" of the CRC, that is, a principle of such importance that all other CRC rights must be interpreted bearing them in mind.[128]

The principle, it has been argued, is based on the assumptions that (1) children are incapable of exercising their own legal rights, so adults must make decisions on their behalf; and (2) the principle should feature in all matters concerning children to ensure the protection of children's interests, as children are incapable of doing so themselves.[129] The principle has been frequently criticised on the basis that it is unduly paternalistic, as it encourages a situation where adults make decisions for children, to the detriment of children's own autonomy.[130] In the context of the climate crisis, however, it has the potential to be enormously useful for children and, consequently, everyone. This is because it is a principle that insists on attention being given to the rights and interests of children as opposed to other groups, or other factors such as unfettered economic growth.[131]

The Committee outlines in General Comment No. 14 that the best interests principle has numerous facets, two of which are (1) children have a right to have their best interests considered and (2) the principle is a rule of procedure

127 Laura Lundy *et al.*, *The UN Convention on the Rights of the Child: A Study of Legal Implementation in 12 Countries* (UNICEF, 2012), 4.

128 CRC Committee, *General Comment No. 5*, n 93.

129 Aoife Daly, *Children, Autonomy and the Courts: Beyond the Right to Be Heard* (Leiden: Brill, 2018).

130 *Ibid.*

131 See, e.g., Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child" n 2, 632–661; Aoife Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC," *Netherlands Quarterly of Human Rights* 41, no. 3 (2023): 132–154.

which necessitates an evaluation of possible outcomes and an explanation as to how this has been done.[132] Matters relating to the environment and climate certainly concern children, as the harm caused to children by climate change can be extensive, as outlined above. In fact, one could argue that because of the disproportionate effects of the climate crisis on children, children are the group *most* affected. When it comes to climate change, children have a right to have their interests considered when climate law and policy are being created. It should be a prominent argument in climate cases where governments have failed to take adequate action to mitigate the climate crisis. Where governments have failed in this way, this will clearly not be in children's best interests.[133]

This point has arisen in some climate cases, although perhaps not in as many as one would expect, considering the prominence of the best interests principle in children's rights, and in national legal systems.[134] The best interests principle is directly invoked in 16 of the 81 climate cases in the Youth Climate Justice project's case law database, as outlined in Chapter 6 (Figure 6.3). It is relevant (though not directly cited) in a further 11 cases (see Chapter 6, Figure 6.2). In spite of this arguably limited rate of use (considering its prominence in children's rights), it is the CRC right that is most frequently cited directly. One case in which it is used is *African Climate Alliance v. Minister of Mineral Resources* ("*Cancel Coal*").[135] In this case, the court explicitly considered the obligation under South African law to consider children's best interests in matters such as proposals to have an additional 1,500 megawatt new coal-fired power. The court referenced the absence of proof that authorities had considered children's interests, and this absence was key to the court's decision against the respondent.[136]

One vital aspect of the best interests principle is the need for children's rights impact assessments (CRIAs). The Committee outlines in General Comment No. 14 that states, as part of the implementation of the principle of the best interests of the child, must conduct CRIA when it comes to matters concerning children. This involves "predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their

132 Committee on the Rights of the Child, *General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration* (2013), CRC/C/GC/14, 29 May 2013, para. 6.

133 See, e.g., Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child" n 2; Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 131.

134 Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 131.

135 *African Climate Alliance et al. v. Minister of Mineral Resources and Energy et al.* ("*Cancel Coal*"), 2024, ZAGPPHC 1271, High Court of South Africa.

136 *Cancel Coal*, n 135, paras. 24 to 26.

rights."[137] The CRC general principles (Article 2, nondiscrimination; Article 3, the best interests principle; Article 6, the right to life, survival, and development; and Article 12, the right to be heard) must underpin these assessments. They must also be based on input from children and other stakeholders,[138] and based on data, in this instance, on the impact of the climate crisis on children's rights.[139] The Committee on the Rights of the Child states that:

> Collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights, is an essential part of implementation.[140]

There are now numerous elaborations of what CRIAs should involve. CRIAs are regulatory tools which are to be used in an assessment process. The outcome of the process is a report that analyses the impact of a policy/law on the rights of children. There is no one CRIA model template, but rather different countries develop models that fit a particular country's own legal and institutional framework. There are, however, numerous tools to assist in the process, such as the *Common Frame of Reference for CRIA – A guide to carry out CRIA*[141] created by the European Network of Ombudspersons for Children (ENOC).

There is evidence that most states do not give sufficient consideration to children's rights and interests in climate law and policymaking. UNICEF found in 2020 that only 34% of climate plans (Nationally Determined Contributions – a requirement under the Paris Agreement) can be described as "child sensitive" in the countries examined.[142] Unfortunately, there is also evidence that children and youth are not sufficiently consulted in environmental policymaking

137 CRC Committee, *General Comment No. 5*, n 93. In the context of the environment in particular, see UNHRC, *Children's Rights and the Environment: Report of the Special Rapporteur* on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment, A/HRC/37/58, 26 February–23 March 2018.

138 Committee on the Rights of the Child, *General Comment No. 14*, n 132, para. 99.

139 Gibbons, "Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice" n 6.

140 Committee on the Rights of the Child, *General Comment No. 5*, n 93, para. 48.

141 See European Network of Ombudspersons for Children (ENOC), "Common Frame of Reference for CRIA – A Guide to Carry Out CRIA," November 2020, http://enoc.eu/wp-content/uploads/2020/12/ENOC-Common-Framework-of-Reference-FV.pdf. Accessed 29 September 2025; See ENOC, "Position Statement 2020 on CRIA," 18 November 2020, http://enoc.eu/wp-content/uploads/2020/11/ENOC-2020-Position-Statement-on-CRIA-FV-1.pdf. Accessed 30 September 2025.

142 UNICEF, *Making Climate and Environment Policies for and with Children and Young People: A Discussion Paper on Child Sensitivity and 2020–2021 Nationally Determined Contributions (NDCs)* (UNICEF, 2021), https://www.unicef.org/documents/child-sensitive-climate-environment-policies. Accessed 27 August 2025.

environments, to the great frustration of many of them.[143] Likewise, in 2022, the research of Daly and Lundy showed that the majority of the European countries surveyed had not explicitly included children's interests or rights in their climate plans and processes. In some countries, such as France, for example, consultations had been held on the formation of climate plans and policies without the input of children and youth. In other countries, however, extensive consultation with children in the formation of climate plans and policies was outlined.[144] There are some good practice examples, however, to be seen when it comes to the approach by states to the best interests of children in the climate crisis. A States Assembly on the island of Jersey in 2019 declared a climate emergency. The Assembly suggested to the government that it create a Carbon Neutral Strategy to begin alleviating the impacts of climate change. Such a strategy was created.[145] Children's rights were prominent in this effort, with Jersey's Youth Parliament consulting children and young people across the Island about their views on the environment. The Youth Parliament provided recommendations based on the findings of their consultation, with every recommendation linked directly to CRC rights. An environmental programme run by the State of Jersey engaged in a rights impact assessment (which included children's rights) for each of the recommended policies.[146]

As noted above, data collection must be conducted to inform children's rights impact assessments. The Committee has unfortunately identified that there is a distinct lack of data on the impacts on children of environmental harm, however. There is insufficient long-term data on the impacts across different ages of children, and there is also limited disaggregated data on children most at risk.[147]

The failure to consider children's rights, interests, and views in climate law and policy can clearly be argued to constitute detrimental treatment of children, which is objectively unjustifiable. Considering the disproportionate impact on children caused by climate change, this failure can be argued to be a nondiscrimination issue,[148] as well as one of children's best interests. This is because children have special interests in the climate crisis (e.g., their particular vulnerabilities, as well as the fact that they will have to live with the climate crisis longer), which is not being considered in climate laws and policies.

143 See Florencia Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance," *The International Journal of Children's Rights* 33, no. 3 (2025): 733–767; A. L. Lio and Ioana Literat, "'We Need You to Listen to Us': Youth Activist Perspectives on Intergenerational Dynamics and Adult Solidarity in Youth Movements," *International Journal of Communication* 14 (2020).

144 Daly and Lundy, *European Network of Ombudspersons for Children (ENOC) Synthesis Report: Children's Rights and Climate Justice*, n 113, 11.

145 *Ibid.*, 8.

146 *Ibid.*, 11–12.

147 Committee on the Rights of the Child, *Day of General Discussion 2016*, n 24, 9, 16.

148 Aoife Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis," in *Treated Like a Child – Children, Equality and International Human Rights Law*, eds. Aoife Daly, Pernilla Leviner, and Rebecca Thorburn Stern (Leiden: Brill, 2025).

7. CRC Article 12: Children's Participation Rights: The Underpinnings of Child/Youth Climate Action

CRC Article 12 provides that every child capable of forming their own views must be assured the right to express their views in all matters affecting them, and to have those views accorded due weight in accordance with age and maturity. This is to include judicial and administrative proceedings. Article 12 provides a means to ensure the effective realisation of the rights of individual children, and it also empowers groups of children to take political and civil action to advocate for their rights and hold states accountable.[149] The rights enshrined in CRC Article 12 have come to be generally referred to as "participation."[150] The Committee stipulates that participation involves processes in which children and youth engage in dialogue with adults based on mutual respect. Their views should shape the outcome of such processes. Children's participation can vary, from simple consultation to shaping designs and plans to collaboration with adults and leading their own initiatives.[151]

Children and youth have been participating in climate action in significant numbers in recent years. They have engaged in protests in the streets, in dialogue with governments and intergovernmental organisations, such as the UN, taking part in COP, taking climate cases, and working with numerous non-governmental organisations. Children and youth have, in fact, been at the forefront of climate action, actively drawing attention to the irreversible harm being inflicted on the planet and its ecosystems, and the impacts of climate change on human rights.[152] Children and youth can bring unique perspectives that have the power to improve plans and outcomes, and they also contribute to ensuring that children and youth are engaged and well informed about climate change.[153] Even in early childhood settings, it has proven possible and meaningful to involve young children in contributing to decision-making around climate action.[154]

149 See further Committee on the Rights of the Child, *General Comment No. 12*, n 112.

150 *Ibid.*, para. 3.

151 See further Aoife Daly *et al.*, "Participation and Postpaternalism Child/youth Climate Action and the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 33 (2025): 562–593.

152 Daly, "Climate Competence: Youth Climate Activism and Its Impact on International Human Rights Law" n 114; Giulia Gasparri G and Others, "Children, Adolescents, and Youth Pioneering a Human Rights-Based Approach to Climate Change," *Health and Human Rights Journal* 23, no. 2 (2021): 95.

153 Jill Lawler and Mahesh Patel, "Exploring Children's Vulnerability to Climate Change and their Role in Advancing Climate Change Adaptation in East Asia and the Pacific," *Environmental Development* 3 (2012): 123–136.

154 Glynne Mackey, "To Know, to Decide, to Act: The Young Child's Right to Participate in Action for the Environment," *Environmental Education Research* 18, no. 4 (2012): 473–484.

It is difficult to say with certainty what part CRC Article 12 had to play in the greater respect and prominence given to children in society in modern times. However, there is some evidence that we can point to which indicates that Article 12 has had a significant impact. Children's Parliaments have been established in many countries around the world to enable children to be heard and contribute to government policy.[155] The Lundy model of child participation,[156] which clarifies obligations for implementing CRC Article 12, has also been transformative. It identifies four interrelated components for the right to be heard:

- "Space": Children must be provided with the opportunity to express their views in a space that is safe and inclusive
- "Voice": Children must be facilitated to express their views
- "Audience": Views must be listened to
- "Influence": Views must be acted upon, as appropriate

The Lundy model has been used and adopted by national and international organisations, agencies, and governments to implement children's participation rights, transforming global understanding of children's rights-based participation for both policy and practice.[157] There can be little doubt that CRC Article 12 has underpinned these exciting developments. The CRC has ensured, via Article 12 (enshrined as it is in a binding international law document), that children's participation is a state obligation, rather than a gift to children to be bestowed when convenient. The model has been used in numerous initiatives to involve children's participation in environmental matters, for example, within the Child and Youth Biodiversity Assembly in Ireland, where children drafted recommendations for the Irish Government on protecting biodiversity in Ireland.[158]

155 See, e.g., Clodagh Harris, "Looking to the Future? Including Children, Young People and Future Generations in Deliberations on Climate Action: Ireland's Citizens' Assembly 2016–2018," *Innovation: The European Journal of Social Science Research* 34, no. 5 (2021): 677–693.

156 Laura Lundy, "'Voice' is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child," *British Educational Research Journal* 33, no. 6 (2007): 927–942.

157 See further Times Higher Education, "The Lundy Model," 5 January 2022, https://www.timeshighereducation.com/research/queens-university-belfast/lundy-model. Accessed 27 August 2025.

158 Aoife Deane *et al.*, "'This is About Every Child's Future!' Can Citizens' Assemblies Support the Realisation of Children's Participation Rights in Environmental Governance?" *International Journal of Children's Rights* 33, no. 3 (2025): 702–732.

The Committee on the Rights of the Child, in 2009, in its General Comment on CRC Article 12, stated that:

> If the best interests of a large number of children are at stake, heads of institutions, authorities, or governmental bodies should also provide opportunities to hear the concerned children from such undefined groups and to give their views due weight when they plan actions, including legislative decisions, which directly or indirectly affect children.[159]

Here we can see the interconnection between Article 3 and Article 12. When there is a matter that affects children, children's best interests have to be a primary consideration, and best interests cannot be considered without hearing from children. Climate change should certainly be considered to be a "matter affecting the child" in the language of CRC Article 3 (considering the effects on children outlined in the sections above) and therefore a matter on which they should have the opportunity to express their views.[160] There are numerous international standards and guidelines to draw upon, which point to a consensus that children and youth have a right to be heard on environmental matters in particular. As far back as 2016, the Committee was highly concerned with children and the environment and held a "Day of General Discussion" to better understand the implications of environmental issues on the realisation of CRC rights. The resulting report calls for states to ensure healthy environments for all children. It also has a strong emphasis on recognising children as agents of change who have the right to access environmental information, the right to participate in environmental decision-making, and the right to access justice.[161] Similarly, the UN Special Rapporteur on Human Rights and the Environment emphasised the importance of children's participation in environmental matters, stating in 2019 that "[t]here is a need to promote the voices of children and youth in environmental matters, as they are particularly vulnerable and their rights are being violated and threatened."[162]

In General Comment No. 26, the Committee states that children's views should be sought by states, and those views should be influential in designing and implementing measures aimed at addressing the significant and long-term environmental challenges. Children should be heard, the Committee continues, in relation to legislation, policies, regulations, projects, and activities affecting them at the local, national, and international levels. Disadvantaged children, such as those with disabilities and those who belong to minority groups, should be particularly facilitated to participate. The Committee

159 Committee on the Rights of the Child, *General Comment No. 12*, n 112, para. 73.
160 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 133.
161 Committee on the Rights of the Child, *Day of General Discussion 2016*, n 24.
162 Report A/HRC/43/54, para 58.

emphasises that digital tools, art, and other means are powerful ways to help children participate in such activity. The Committee states that children should receive education and information about the environment to help them participate, and that they should receive information and feedback on how their views were used and the influence that they had.[163]

The Committee also points to other crucial articles in the Convention for children's participation, such as CRC Article 13 on the right to freedom of expression and CRC Article 15 on the right to freedom of assembly and association. The Committee states that these rights must not be subject to restrictions, except those imposed in conformity with the law and that are necessary in a democratic society (in accordance with the norms of international human rights law).[164] It is emphasised that children who are environmental human rights defenders can face threats, intimidation, harassment, and violence.[165] Indeed, the UN Human Rights Committee has called on states to facilitate the participation of child and youth human rights defenders in decision-making and implementation of environmental policies and programmes, and to provide a safe and empowering context for children defending the environment.[166] The UN's Sustainable Development Goals also support child/youth participation and education as part of the global response to climate change.

As noted above, it is indicated that the UN Committee on the Rights of the Child increasingly refers to the environmental and climate crises in concluding observations and recommendations in relation to state reports. McDonald notes that the theme of the voice of the child arises in this context. For example, in its concluding recommendations to Antigua and Barbuda, that Committee stated that the state should "[e]nsure that the special vulnerabilities and needs of children, as well as their views, are taken into account in developing policies and programmes addressing climate, environmental change and disaster risk management."[167]

It is often wrongly assumed that children are apolitical, unable to express political opinions or engage in political activities.[168] Child/youth climate action has shown that the assumption is unfounded. Many children and youth themselves emphasise that they wish to be heard on the environment. In

163 Committee on the Rights of the Child, *General Comment No. 26*, n 1, paras. 26–28.

164 *Ibid*., paras. 29–31.

165 *Ibid*., para. 30.

166 UNHRC, *Recognizing the Contribution of Environmental Human Rights Defenders to the Enjoyment of Human Rights, Environmental Protection and Sustainable Development*, 20 March 2019, A/HRC/40/L.22/Rev.1.

167 MacDonald, "Environmental Rights and the Impact of Climate Change Within the Committee on the Rights of the Child Concluding Observation Reports" n 37, 600; Committee on the Rights of the Child, *Concluding Observations on the Combined 2nd to 4th Periodic Reports of Antigua and Barbuda (2017)*, CRC/C/ATG/CO/2-4, para. 46(b).

168 *Ibid*.

Finland, a government consultation[169] with children and youth on that country's Climate Change Act (609/2015) indicated that, among other things, consultees wanted opportunities and tools for children and young people to influence climate legislation to be increased, and they criticised the state's overly lax climate policies.[170] Bowman argues that since at least the 1990s, youth environmental activism has been involved in reimagining solidarity and democracy through the lens of environmental justice.[171] Yet climate work can be seen as political and adult-only spaces. These spaces can also be inadequate and ill-suited when it comes to child/youth participation. Trott argues that when it comes to engagement with climate issues, methods are needed that can empower children's agency and facilitate their active participation.[172] Children have the potential to be powerful actors. Research indicates that children (and particularly daughters) can possibly foster climate change concern among their parents, for example.[173]

It is also sometimes argued that children and youth should be protected from the worries relating to the climate crisis.[174] Ippolito makes the point, however, that children's rights and children's protection are complementary; children are better protected when they are seen as rights-holders. It is also crucial to recognise that it is not possible to know how best to protect children without hearing their views and ensuring they have influence in matters affecting them: "There is ample evidence that children are capable of shaping their own development and the environment in which they live and of bringing their own insights, experience and creativity to bear in alleviating their difficulties."[175]

There are a number of issues of terminology and conceptualisation which possibly hamper understandings of children and youth as climate advocates. One crucial point relating to child and youth participation, particularly in international forums, is the lack of clarity of definitions and the intersections between children and youth. Children are defined in the Convention

169 CRIN, *Children's Access to Environmental Justice: Finland* (undated), https://home.crin.org/a2j-reports-finland. Accessed 27 August 2025.

170 Jukka Viljanen and Eerika Albrecht, "Youth and Law Drafting: Developing Quality Youth Participation in Legislative Processes and Courtrooms," in *Young People as Agents of Sustainable Society: Reclaiming the Future*, eds. Päivi Honkatukia and Tiina Rättilä (Oxfordshire: Routledge, 2023), 48.

171 Benjamin Bowman, "'They Don't Quite Understand the Importance of What We're Doing Today': The Young People's Climate Strikes as Subaltern Activism," *Sustain Earth* 3, no. 16 (2020): 3.

172 Carlie D. Trott, "Reshaping our World: Collaborating with Children for Community-based Climate Change Action," *Action Research* 17, no. 1 (2019): 42–62.

173 Danielle F. Lawson *et al.*, "Children Can Foster Climate Change Concern Among Their Parents," *Nature Climate Change* 9, no. 6 (2019): 458–462.

174 See further Daly, "Climate Competence: Youth Climate Activism and Its Impact on International Human Rights Law" n 114.

175 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 10, 76.

on the Rights of the Child as those under the age of 18 years. There are varying definitions of youth, but this group is generally understood to cover those aged 15–24 years,[176] although in some spheres it includes those up to 35 years.[177] Yona et al., for example, outline that 35 years is "typically the upper age limit for membership within youth climate organisations; 30 is the upper limit defined by the Major Group for Children and Youth of the United Nations."[178] This intersection of the work of young climate advocates, under and over 18 years, it has been suggested, may also be part of the reason why children's rights (and particularly CRC rights) are not as prominent as one would imagine in child/youth climate cases.[179]

A further consideration is that there are numerous terms and concepts, such as climate action, child and youth activism, children as advocates, and children as human rights defenders.[180] All of these terms can be useful at different times, but it is often challenging to know which terms to use. Anecdotal discussions with young climate advocates have led the authors to learn that activism is not a word that all of them identify with. Furthermore, we (i.e., the current authors) see them as leaders, but again, this is not always a term that they use for themselves, as they may feel that their work is more democratic, while the word leadership suggests individualism.[181] Some young climate advocates do, however, feel that they are engaging in leadership when they conduct their climate work.[182]

It is exactly because of this transformative time for child/youth action that conceptually there are many different strands of work, terms to describe that work, and understandings of the place of children/youth in climate action spaces. There is evidence that child/youth climate action is having a strong influence on climate law and policy, and on how the world sees children/

176 See, e.g., United Nations, "Global Issues: Youth" (undated), https://www.un.org/en/global-issues/youth. Accessed 26 August 2025; Yona, Leehi *et al.*, "Applying a Leverage Points Framework to the United Nations Climate Negotiations: The (Dis)Empowerment of Youth Participants," *Elementa: Science of the Anthropocene* 8 (2020): 36.

177 See, e.g., UN Youth, *Definitions of Youth: Factsheet* (undated), https://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-definition.pdf#:~:text=Definition%20of%20youth%20perhaps%20changes%20with%20circumstances%2C,people%20and%20providing%20guidelines%20for%20youth%20development. Accessed 27 August 2025.

178 Yona *et al.*, "Applying a Leverage Points Framework to the United Nations Climate Negotiations: The (Dis)Empowerment of Youth Participants" n 176, 2.

179 See, e.g., Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis" n 148.

180 See, e.g., UNHRC, *Recognizing the Contribution of Environmental Human Rights Defenders to the Enjoyment of Human Rights, Environmental Protection and Sustainable Development*, n 166.

181 Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 143.

182 This has been ascertained, for example, through conversations with young litigants, which are ongoing as part of the Youth Climate Justice Project. See https://www.ucc.ie/en/youthclimatejustice/research/globalstudyonclimatelitigation/.

youth.[183] Children and youth have spontaneously created their *own* spaces, for example, via the #FridaysforFuture movement, where huge street protests were organised.[184] Paz Landeira et al. outline how child/youth climate action is changing the regular processes and activities at COP (the Conference of the Parties, the main decision-making body of the United Nations Framework Convention on Climate Change, the treaty to tackle climate change).[185] Young climate advocates are shifting the law to better encompass a more holistic understanding of humans in their environments.[186] Many child/youth plaintiffs emphasise the importance of their relationships with the natural world and other living beings, and how this is challenging the anthropocentrism and dualisms inherent to international law.[187] The *Sacchi* petition, for example, resulted in a UN body for the first time pronouncing on the transboundary nature of climate change, highlighting the irrelevance of national borders in the face of the practicalities of environmental harm.

Young climate advocates are therefore leveraging domestic and international forums to defend against the climate crisis, and consequently redefining child participation in the context of climate change.[188] This has led Daly et al. to argue that, with these new levels (and forms) of child/youth participation, we are in a "postpaternalist" time for children's rights.[189] This term suggests that grassroots climate action involves children/youth organising for the first time, on a global scale, rather than well-meaning adults "giving" children their rights. Future approaches to the CRC must reflect this, for example, through a greater emphasis on children as equals, on postcolonial approaches, and on ensuring spaces such as national and international governance, the courts, are open for a diverse range of children and youth to access.

Access to justice and to remedies is a crucial part of children's participation rights. Dozsa makes the point that, although the CRC is the only UN human rights instrument to explicitly require states to protect the environment, it is

183 Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 143.

184 Daly *et al.*, "Participation and Postpaternalism Child/youth Climate Action and the UN Convention on the Rights of the Child" n 151.

185 Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 143.

186 Murray, PhD research, n 20; Daly, "Climate Competence: Youth Climate Activism and Its Impact on International Human Rights Law" n 114.

187 Emily Margaret Murray, "Challenging Anthropocentrism in Human Rights Law: Young Climate Activists' Relational Approach to the Right to a Healthy Environment," *Forthcoming* (2025); Murray, PhD research, n 20.

188 Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 143.

189 Daly *et al.*, "Participation and Postpaternalism Child/youth Climate Action and the UN Convention on the Rights of the Child" n 151.

lacking in relation to procedural rights.[190] It does not, for example, provide children with an explicit right to legal standing in the same way that the UN Convention for the Protection of the Rights of People with Disabilities does for that particular group.[191] Dozsa makes the argument that the CRC Article 12 right of children to be heard in all matters affecting them, and particularly in proceedings, gives the opportunity to derive procedural environmental rights within the CRC. But this is vague, of course, and not explicit.[192] In any case, there are other instruments which are more explicit. The Aarhus Convention, an international treaty under the auspices of the UN Economic Commission for Europe, enshrines rights of access to information, public participation in decision-making, and access to justice in environmental matters, as does the Escazú Agreement.[193] Daly notes that it is "important to ensure child-friendly climate justice processes"[194] and argues for child-friendly climate justice through the CRC, through the concepts of access (access to justice), participation (genuine involvement of children themselves), interests (children's interests should be given due weight), and judgments (children's situation, including the effects of the climate crisis, should be properly considered in judgments of climate cases).

Todres emphasises that the right to a healthy environment requires the participation and inclusion of all stakeholders, including children.[195] The UN Special Rapporteur has recognised, however, that "children may face additional barriers to access to justice" in the context of the environmental and climate crises. The Special Rapporteur stipulates that states must take steps to remove these barriers,[196] including by ensuring effective, child-friendly information and legal assistance, as well as access to independent complaints procedures and to the courts.[197] Prevention of environmental harms should be possible through injunctive relief ordered by judicial tribunals or administrative bodies.[198]

190 Kata Dozsa, *Children as Climate Citizens – A Socio-Legal Approach to Public Participation* (Oxfordshire: Routledge, 2024).

191 See further Daly, *Children, Autonomy and the Courts Beyond the Right to be Heard*, n 129.

192 Dozsa, *Children as Climate Citizens – A Socio Legal Approach to Public Participation*, n 190, 84–85.

193 United Nations Treaty Collection, *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)* (adopted 4 March 2018, entered into force 22 April 2021).

194 Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child" n 2, 652.

195 Jonathan Todres, "Youth Voice Matters: The Critical Nature of Youth Participation in Achieving the Right to a Healthy Environment," *NEULR* 15, no. 2 (2023): 763.

196 Office of the High Commissioner for Human Rights (OHCHR), *Children's Rights and the Environment: Report of the Special Rapporteur on Human Rights and the Environment* (2018), A/HRC/37/58, 24 January 2018, para 53.

197 *Ibid*., para 52.

198 *Ibid*., para 54.

Children and youth under the age of 18 years struggle to access political power, not least because they generally cannot vote. As outlined in Chapter 6, it is unsurprising, therefore, that they have turned to the courts in their efforts to achieve climate justice. This phenomenon of child/youth-involved climate cases can be considered another form of advocacy in the context of the climate crisis. Climate advocates have moved from street protests and dialogue with governments to the courts, changing their advocacy strategies to litigation against governments and, increasingly, industry also. Litigating applicants in national and international courts are using domestic law, but also climate agreements and treaties ratified by governments. Chougrani and Battioui point out that governments find it more difficult to ignore this kind of action as opposed to protests or other forms of advocacy.[199]

Child/youth climate cases have enormous potential for transforming law, policy, and public opinion. In 2023, Jodoin and Wewerinke-Singh found that 34% of rights-based climate applications included children and youth as applicants. As noted above Youth Climate Justice project database at the time of writing contains 81 cases, which are either taken by children or concern children's rights.[200] This indicates a high number of child/youth-involved climate cases, most initiated since 2020. As noted in Chapter 6, child/youth climate cases are a transformational moment for children's participation rights. These young litigants are taking cases in an attempt to preserve the future of humanity, and in this way, child/youth participation has become a vehicle to protect the rights of not just children but of everyone.

These cases are instances of acts of child/youth participation under CRC Article 12, but they also sometimes involve substantive arguments relating to the right of children to participate. In the *Youth Verdict* case, for example, the court opined:

> There is an additional dimension to the principle of participation in the context of climate change. The decisions we make today have far more consequences for children alive and those yet to be born than it does for today's adults.[201]

The court then noted that while the child litigants were able to participate in climate justice, children of the future were limited in this regard, and were facing locked-in climate trajectories, the impacts of which will be felt by them

199 El Houcine Chougrani Cadi and Abdedaim Battioui, "The New Era of Climate Advocacy: Climate Change Litigation," *Arab Journal of International Law*, 2022, https://www.academia.edu/104446198/The_New_Era_of_Climate_Advocacy_Climate_Change_Litigation. Accessed 8 September 2025.

200 Youth Climate Justice, Case Law Database, https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/. Accessed 27 August 2025.

201 *Youth Verdict v. Waratah Coal*, 2022, MRA050-20 (MLA 70454) EPA051-20 (EPML 00571313), Land Court of Queensland, n 82, para. 1580.

in decades. These climate cases are having significant impacts, as outlined in Chapter 7. They are changing laws at the national and international levels, and progressing human rights. In *Youth Verdict*, the coal project should not go ahead because of its contribution to climate change, its environmental impacts, and because it would erode human rights. The *Sacchi*[202] application resulted in the first recognition by a UN body of state responsibility for transboundary harm. In *Held v. Montana*,[203] the young people established that the state has a duty to protect the right to a healthy environment from unreasonable harm and that agencies must consider climate impacts when approving fossil fuel projects.

Children's participation rights are therefore being developed through climate action. Children are accessing spaces where they have never been before, such as COP and national parliaments. They are some of the main actors in climate cases. It is also the case, however, that their participation rights are now progressing not just their own rights, but the rights of everyone.

8. Conclusion

There is ample evidence that states are not taking adequate action to mitigate the climate crisis,[204] failing to meet the targets to which they have agreed under the Paris Agreement. Children are dying unnecessarily. They are more vulnerable to climate hazards than adults. There are shocking statistics in relation to air pollution alone – it contributes to the deaths of approximately 709,000 children under the age of five annually.[205] It is worsened by climate change.

Although the CRC does not explicitly make reference to the right of children to a healthy environment, it is the only one of the core UN human rights treaties to reference the environment. This potential has been seized upon, and great strides have been made in setting standards for environmental rights in recent years. The Committee has been crucial in this journey, as evidenced in the environmental rights context in relation to General Comment No. 26, which provides authoritative legal guidance for states on their obligations to address environmental harm and climate change.

It is highly significant and impactful that the Committee expressly recognises a stand-alone right within the CRC to a clean, healthy, and sustainable environment. It should also be acknowledged that this is the first time that

202 *Sacchi*, n 15.

203 *Held et al. v. State of Montana et al.*, 2024, DA 23-0575, Montana Supreme Court.

204 There are numerous national courts that have established this, e.g., *ibid*. In *KlimaSeniorinnen*, the Court found gaps in the Swiss domestic regulatory framework and held that Switzerland had failed to meet its past GHG emission reduction targets.

205 According to State of Global Air, "State of Global Air Report 2024" n 72; and Children's Environmental Health Collaborative, "Air Pollution" n 72. See further WHO, "Air Pollution" n 72.

it has been recognised as existing within a UN human rights treaty.[206] There are specific elements of the right to a healthy environment that are particularly pertinent to children. The right to play under CRC Article 31 is a clear example of this. The right to a healthy environment, which is implicit in CRC Article 24, is crucial for children because children are affected on average far worse than adults when it comes to environmental harm.[207] The effects of pollution on children may involve lifelong repercussions, whereas for an adult, it may not.

The right of children to have their interests treated as a primary consideration in all matters affecting them (under CRC Article 3) is another child-specific right that the CRC renders a legal obligation for states. In spite of the fact that all governments save one have signed up to be bound by the CRC, and consequently CRC Article 3, there is evidence that governments do not adequately consider the rights and interests of children as a group when climate policies are formulated. Jersey in 2019 declared a climate emergency. The Assembly suggested to the government that it create a Carbon Neutral Strategy to begin alleviating the impacts of climate change. Such a strategy was created.[208] Children's rights were prominent in this effort, with Jersey's Youth Parliament consulting children and young people across the island about their views on the environment. The Youth Parliament provided recommendations based on the findings of their consultation, with every recommendation linked directly to CRC rights. An environmental programme run by the State of Jersey engaged in a rights impact assessment (which included children's rights) for each of the recommended policies.[209] There are some good practice examples to be seen, for example, in relation to Jersey in 2019, in which a rights impact assessment (which included children's rights) was conducted.[210]

CRC Article 6 explicitly contains components additional to the right to simply stay alive, as it refers to the "survival and development" of the child. There are clear intersections between the human rights to life, home, education, and culture. Children and youth are experiencing traumatic impacts on the enjoyment of these rights because of the climate crisis, as demonstrated by the stories, for example, of Ranton Anjain and Carl Smith in *Sacchi*. Their stories of the destruction and loss of homes and culture powerfully demonstrate

206 See further Daly *et al.*, "Children/Youth Environmental Action and Human Rights Law" n 46.

207 See IPCC, *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, n 24, figure SPM.1. See also Committee on the Rights of the Child, *Day of General Discussion 2016*, n 24, 9; and Landrigan and Garg, "Children Are Not Little Adults (Excerpt from Children's Health and the Environment: A Global Perspective)" n 24.

208 Daly and Lundy, *European Network of Ombudspersons for Children (ENOC) Synthesis Report: Children's Rights and Climate Justice*, n 113, 8.

209 *Ibid.*, 11–12.

210 *Ibid.*

the real-life human rights effects of the climate crisis, and therefore are being invoked in climate cases, sometimes successfully.

CRC Article 12 is vital in the climate crisis because one cannot determine how to protect children without hearing their views. Children themselves have turned participation into postpaternalism by organising globally and spontaneously creating their own spaces in which to be heard and to have influence. Children have moved from being seen as objects of protection to active participants in climate justice.

4 The Rise of Child and Youth Climate Action

1. Introduction

This chapter examines the rise of child/youth climate action as a phenomenon reshaping not only childhood itself but also the broader landscape of environmental rights and governance. Specifically, it provides an analysis of the growing prominence of child/youth climate action that has reframed debates about intergenerational justice and challenged conventional adult-centric approaches to rights and participation. The chapter focuses on the phenomenon of child/youth climate action itself, to examine how children and youth have emerged as influential actors in climate-related advocacy, protests, and policymaking processes. Some of the questions that guide this chapter are as follows: How have children and youth worldwide organised and mobilised to become central figures in the climate crisis? And in what ways are they redefining both children's rights and global climate justice frameworks?

In the second section of this chapter, we provide a theoretical background on children's political agency, drawing on critical scholarship in childhood studies and children's rights theory. The third section offers a short historical overview of the youth climate action movement – its origins, major turning points, and current scope. This historical perspective underscores not only the visibility of child/youth activism but also the persistent challenges and barriers that children/youth face, including tokenistic involvement, under-resourcing, and adultist (oppressive forms of adults' power over children[1]) scepticism. In the four sections of this chapter, we will focus on these barriers, but also on the transformative potential of the child/youth climate action movement, both in climate justice debates and in human rights international law.

Throughout, this chapter illuminates how child/youth climate advocates are testifying to the urgent needs of future generations but also leading in the present, forging novel alliances, reframing the global climate discourse,

1 Rebecca Adami, "Childism: On Adult Resistance to Children's Rights," in *The Rights of the Child: Legal, Political and Ethical Challenges*, eds. Rebecca Adami, Anna Kaldal, and Margareta Aspán (Leiden: Brill Nijhoff, 2023), 127–147, 130.

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and holding states accountable for human rights obligations grounded in the CRC. In doing so, they push the boundaries of CRC participation rights.

Ultimately, it is argued in this chapter that the rise of child/youth climate action can be seen as a catalyst for postpaternalist transformations in the field of children's rights.[2] In placing children/youth at the vanguard of climate justice movements, young advocates challenge longstanding paternalistic norms and assert themselves as political agents and rights-makers. This evolution reflects on a rights-based approach to the climate crisis that recognises children/youth not as passive beneficiaries, but as critical stakeholders and co-leaders in seeking intergenerational equity and climate justice. In this chapter, then, child/youth climate action is outlined not only as a manifestation of children's rights but also as a transformative force benefiting broader societal and environmental goals.

2. Theoretical Framework: The Political Agency and Rights of Children/Youth

In recent decades, scholars across diverse disciplines – sociology, anthropology, law, political science, and education – have converged on a transformative idea: children and adolescents are active and capable social agents, rather than merely passive recipients of adult protection or socialisation.[3] This perspective has profound implications for how we understand childhood, including the ways children and youth participate in political processes and claim their rights. The following section synthesises key debates, frameworks, and findings from childhood studies and children's rights theory (by which we are referring primarily to the discipline concerned with studying the CRC), highlighting international scholarship that illuminates children's political agency. These theoretical insights will ground our exploration of the rise of child/youth climate action, shedding light on how both the agency and the rights frameworks of children/youth inform and shape their involvement in climate movements.

2 Aoife Daly, "Children/Youth Climate Advocates 'Doing' Rights Themselves: Post-Paternalism for the UN Convention on the Rights of the Child?" *Childism Institute*, 9 November 2022, https://www.childism.org/post/children-youth-climate-advocates-doing-rights-themselves-post-paternalism. Accessed 9 February 2025.

3 James Allison and Alan Prout, *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood* (London: Falmer Press, 1997); Jens Qvortrup, "Childhood as a Structural Form," in *the Palgrave Handbook of Childhood Studies*, eds. Jens Qvortrup, William Corsaro, and Michael-Sebastian Honig (London: Palgrave Macmillan, 2009).

2.1 The New Childhood Studies Paradigm: From Passive Objects to Social Actors

New childhood studies emerged in the 1980s and 1990s as a response to traditional developmental psychology models that portrayed children as "not-yet-adults," lacking full competence or agency.[4] Foundational scholars such as Allison James, Alan Prout, Berry Mayall, and Jens Qvortrup argued that childhood should be seen as a permanent social category – a structural form, not just a transitional stage – highlighting how children actively shape and are shaped by their contexts. Spyrou[5] later underscored that focusing on children's own perspectives requires researchers to "disclose childhoods" by critically questioning adult-centric assumptions and the epistemological lenses used to study young lives.

In Latin America, authors like Carli[6] as well as Rabello de Castro and Kominsky[7] have contributed to redefining childhood as a dynamic social construct, questioning the essentialist portrayals of children as merely vulnerable or incomplete. They emphasise a critical stance on adult–child power relations, urging us to examine how adultist norms shape everything from school curricula to public space design. Rabello de Castro,[8] for instance, emphasises that the generational order often positions adults as dominant, while children must negotiate, resist, or creatively reinterpret adult norms and expectations. In her analyses of Brazilian children's activism, she argues that we must look beyond formal institutions (e.g., schools) to appreciate the myriad ways children engage politically in their everyday lives – often outside adult-centric frameworks.[9] Similarly, from her own research in India, Balagopalan[10] adds a postcolonial dimension, arguing that global child discourses can mask local intricacies of power and inequality, thus overlooking how children's agency manifests in culturally and socioeconomically diverse settings. This resonates with critiques by decolonial childhood scholars who stress that universal

4 *Ibid*.

5 Spyros Spyrou, *Disclosing Childhoods: Research and Knowledge Production for a Critical Childhood Studies* (London: Palgrave Macmillan, 2018).

6 Sandra Carli, *Niñez, Pedagogía y Política. Transformaciones de los Discursos Acerca de la Infancia en la Historia de la Educación Argentina Entre 1880 y 1955* (Miño y Dávila, 2017).

7 Lucia Rabello de Castro and Ethel Kominsky, "Childhood and its Regimes of Visibility in Brazil: An Analysis of the Contribution of the Social Sciences," *Current Sociology* 58, no. 2 (2010): 206–231.

8 Lucia Rabello de Castro, "Righting Adults' Wrongs: 'Generationing' on the Battlefield. A Decolonial Approach," *Childhood* 29, no. 3 (2022): 355–370.

9 Lucia Rabello de Castro and Renata Tavares, "Participation Rights in Brazilian Schools: Towards the Politicization of Intergenerational Relationships?" in *South American Childhoods. Studies in Childhood and Youth*, eds. Ana Vergara del Solar, Valeria Llobet, and Maria Letícia Nascimento (London: Palgrave Macmillan, 2021).

10 Sarada Balagopalan, "Why Historicize Rights-Subjectivities? Childhood and the Politics of Visibility in the Indian Child Labour Debates," *Childhood* 26, no. 3 (2019): 304–318.

narratives about childhood risk homogenising children's experiences, overshadowing their capacity to shape political and social environments in context-specific ways.

This recalibration – from viewing children as passive objects of study to active, situated, and diverse subjects – laid a conceptual foundation for understanding children's political agency. Wyness[11] underscores that children do indeed participate meaningfully in decision-making arenas (e.g., school councils, youth parliaments), even as structural barriers rooted in adultism persist. Likewise, Cussiánovich analyses protagonismo infantil (children's protagonism) in Peruvian movements,[12] emphasising that children's participation must be acknowledged as legitimate and transformative within broader social movements. Adding to this, Tisdall advocates for "transformative participation,"[13] a paradigm shift where adult-oriented institutions begin to share power with children and actively restructure their operations to integrate young people's voices.

Recent scholarship in Chile also highlights how children employ everyday tactics of resistance, using bodily and creative practices to navigate adult-dominated spaces.[14] Inspired by Michel de Certeau's notion of "tactics," these micro-resistances can be understood as a political expression of children's competence in decision-making and their active appropriation of spaces structured by others.[15] Such analyses strengthen the argument that children are not merely practising politics in a future sense, but actively reshaping their realities in the present. Authors, including Oswell, have similarly urged us to look beyond formal civic forums to consider the wide range of "political spaces" that children occupy, from online networks to local grassroots activities.[16]

By centring children as social actors, new childhood studies challenges researchers and practitioners to reimagine children's role in critical global issues – most notably climate change – where young activists are increasingly visible on the international stage.[17]

11 Michael Wyness, *Childhood, Culture and Society* (London: Sage, 2018).

12 Cussiánovich, "Protagonismo, Participación y Ciudadanía como Componente de la Educación y Ejercicio de los Derechos de la Infancia," in *Historia del Pensamiento Social Sobre la Infancia*, ed. Alejandro Cussiánovich (Universidad Nacional Mayor de San Marcos, 2013).

13 Kay Tisdall, "The Transformation of Participation? Exploring the Potential of 'Transformative Participation' for Theory and Practice," *Global Studies of Childhood* 3, no. 2 (2013): 183–193.

14 Mónica Peña Ochoa, Paula Chávez Ibarra, and Ana Vergara del Solar, "Los Niños como Agentes Políticos: Tácticas Cotidianas de Resistencia en Niñas Chilenas de Estrato Socioeconómico Medio," *Sociedade e Cultura* 17, no. 2 (2020): 291–200.

15 Allison James and Adrian James, *Key Concepts in Childhood Studies* (London: Sage, 2012).

16 David Oswell, *The Agency of Children: From Family to Global Human Rights* (Cambridge: Cambridge University Press, 2013).

17 Karen O'Brien, Elin Selboe, and Bronwyn Hayward, "Exploring Youth Activism on Climate Change: Dutiful, Disruptive, and Dangerous Dissent," *Ecology and Society* 23, no. 3 (2018): 42.

2.2 Children's Rights Theory and "Freedom Rights"

In parallel with sociological and anthropological explorations of childhood, children's rights theory has offered a legal-normative basis for children's agency. Central to this development is the CRC, adopted in 1989, which enshrines children's rights to participation, expression, and assembly, among others (Articles 12–15) (United Nations 1989). These rights, referred to by Daly as "freedom rights," challenge the idea that children should only be protected, contending instead that they should also be heard, respected, and empowered to shape matters affecting them.[18] Foundational contributions to children's rights scholarship, such as those by Freeman,[19] highlight how enshrining children's civil and political entitlements represented a historic break with earlier child welfare models, thereby affirming children's autonomy and voice.

Scholars such as Lundy provide conceptual frameworks to operationalise Article 12,[20] highlighting the need for space, voice, audience, and influence to ensure meaningful child participation. From a more localised perspective, Rizzini discusses how historical movements in Brazil framed children's rights in ways that eventually paved the way for child-led advocacy.[21] Stalford,[22] looking at European legal contexts, similarly argues that realising children's participation requires institutional reforms – making legal and administrative processes child-friendly, ensuring direct feedback loops, and facilitating children's capacity to challenge adult decisions.

A recurring debate within children's rights theory addresses the extent to which institutional mechanisms (e.g., children's ombudsperson offices, participatory councils) effectively translate the CRC's participatory articles into practice.[23] While these structures sometimes allow children to express their views, critics warn they risk devolving into tokenistic exercises if children's perspectives do not influence actual decision-making.[24] Understanding these tensions

18 Aoife Daly, *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly* (Leiden: Brill, 2016).

19 Michael Freeman, *A Commentary on the United Nations Convention on the Rights of the Child, Article 3: The Best Interests of the Child* (The Hague: Martinus Nijhoff Publishers, 2007).

20 Laura Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child," *British Educational Research Journal* 33, no. 6 (2007): 927–942.

21 Irene Rizzini, "The Promise of Citizenship for Brazilian Children: What Has Changed?" *The Annals of the American Academy of Political and Social Science* 633, no. 1 (2011): 66–79.

22 Helen Stalford, *Children and the European Union: Rights, Welfare and Accountability* (London: Bloomsbury Publishing, 2018).

23 Tisdall, "The Transformation of Participation? Exploring the Potential of 'Transformative Participation' for Theory and Practice around Children and Young People's Participation" n 13.

24 Roger Hart, *Children's Participation: From Tokenism to Citizenship* (Florence: UNICEF Innocenti Research Centre, 1992).

is crucial for analysing how and why children's perspectives sometimes struggle to shape policy debates – including those concerning climate action and broader social injustices. Scholars like Tisdall and Cuevas-Parra caution that without dismantling adult-centric hierarchies, efforts at participation become superficial, overshadowed by adults who retain ultimate control.[25]

Alongside these critiques, an influential strand of scholarship proposes to approach children's rights from a "living rights" approach, foregrounding how children interpret and exercise their entitlements in everyday, localised contexts.[26] This perspective challenges any assumption that children's rights operate only at an abstract, universal level. Instead, "living rights" underscore that children's claims emerge directly from their lived experiences – whether that entails resisting exploitative labour practices or mobilising around environmental injustices – and must be understood through the specific cultural, economic, and interpersonal conditions they inhabit.

On the other hand, Wall[27] has also introduced a "childist" perspective, drawing on parallels with feminist and decolonial critiques, to examine how adultism is woven into notions of "the human" within human rights discourse. Childism seeks to deconstruct adultism, highlighting how definitions of capacity and independence exclude younger populations from equal moral and political standing as rights-bearers.

Building on these trajectories, "postpaternalist" theory[28] further reframes the child–adult dynamic by proposing that child/youth climate action involves children organising on a global scale, and deciding themselves what their rights are, rather than adults paternalistically controlling the rights narrative. From this perspective, children occupy a central role in shaping the norms, institutions, and practices that affect them – an inversion of traditional paternalism in which adults alone define what children's rights should look like.

Daly et al. (2024) have established that there are a number of characteristics associated with postpaternalism. These include a backdrop of the climate crisis and a lack of voting rights for those under 18 years, leading to

25 Kay Tisdall and Patricia Cuevas-Parra, "Beyond the Familiar Challenges for Children and Young People's Participation Rights: The Potential of Activism," *The International Journal of Human Rights* 26, no. 5 (2021): 792–810.

26 Edward Van Daalen, Karl van Hanson, and Olga Nieuwenhuys, "Children's Rights as Living Rights: The Case of Street Children and a New Law in Yogyakarta, Indonesia," *International Journal of Children's Rights* 24, no. 4 (2016): 803–825; Olga Nieuwenhuys and Karl Hanson, "Living Rights Theory," in *Bloomsbury Handbook of Theories in Childhood Studies*, eds. Sarada Balagopalan, John Wall, and Karen Wells (London: Bloomsbury, 2024), 167–179.

27 John Wall, *Children's Rights: Today's Global Challenge* (London: Rowman & Littlefield, 2016); John Wall, "From Childhood Studies to Childism: Reconstructing the Scholarly and Social Imaginations," *Children's Geographies* 20, no. 3 (2019): 257–270; John Wall, "Theorizing Children's Global Citizenship: Reconstructionism and the Politics of Deep Interdependence," *Global Studies of Childhood* 9, no. 1 (2019): 5–17.

28 Aoife Daly *et al.*, "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights," *Youth* 4, no. 4 (2024): 1387–1404.

the use of popular protests (as well as national and international lobbying) and court cases around the world. Another background factor is the existence of the CRC mainstreaming children's rights. Also, children and youth have harnessed online platforms to organise and communicate on the matter of the climate crisis. Postpaternalism also means the prominence of child/youth climate action, which has led to children and youth involvement in international initiatives, such as the Conference of Parties (COP), and in the drafting of General Comment No. 26 (considered further below). Postpaternalism also involves a degree of equality and collaboration – children/youth have been working together with adult allies (e.g., in litigating climate cases), using law and human rights to advocate for the environment. They have been doing much peer-to-peer work, and caring for others and for nature is a strong element of their work. They have engaged in postcolonial approaches to ensure that the rights of Indigenous peoples and other disadvantaged groups are prominent in their climate work (note, e.g., the reliance on Indigenous rights in the *Sacchi* application).

Postpaternalism recognises the capacity of children and youth to negotiate, reinterpret, and even expand the scope of their entitlements, including via international human rights institutions. They are thereby challenging the notion that rights are gifts bestowed by adults. In doing so, it moves beyond rhetorical affirmations of children's agency to underscore the tangible ways children/youth claim – and remake – their own rights in the present.[29]

2.3 Debates and Tensions in Children's Political Agency

One of the core debates is balancing children's capacity for agency with structural conditions that shape their experiences.[30] Qvortrup reminds us that children's agency is enabled or constrained by adult-controlled institutions such as schools, families, legal systems, and media. Rabello de Castro similarly notes that while children exhibit autonomy, they operate within generational hierarchies that can invalidate their political claims.[31]

This leads to questions of power: How do children navigate, subvert, or cooperate with adult-structured systems? Oswell argues for an analysis of children's political activity that includes both explicit, formal engagement (e.g., youth advisory boards) and the less visible, day-to-day micropolitics of children's social lives (e.g., playground negotiations, online communities).[32] Scholars of decolonial childhood studies also emphasise collective struggles

29 See further Aoife Daly *et al.*, "Participation and Postpaternalism: Child/Youth Climate Action and the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 33, no. 3 (2025): 562–593.

30 Qvortrup, "Childhood as a Structural Form" n 3.

31 Rabello de Castro, "'Righting Adults' Wrongs: 'Generationing' on the Battlefield. A Decolonial Approach" n 8.

32 Oswell, *The Agency of Children: From Family to Global Human Rights* n 16.

where children and adults can become co-generators of new social orders, challenging paternalistic norms in and beyond the school context.[33]

As it will be explored in this chapter, as children mobilise around environmental and climate concerns, these structural constraints play a significant role in defining the scope and impact of their climate action. Whether protesting outside governmental buildings or organising digital petitions, child/youth climate advocates confront both enabling and limiting factors – an interplay explored further in subsequent sections.[34]

A second debate revolves around the distinction between symbolic inclusion and meaningful influence. Hart's "ladder of participation" remains a widely cited framework;[35] it delineates levels from mere tokenism to true collaboration, where children's input directly shapes outcomes. Scholars like Lundy[36] and Tisdall[37] argue that child participation is too often relegated to lower rungs of this ladder. Even well-intentioned programmes can become superficial if adults ultimately control agendas and outcomes.[38]

This tension between visibility and genuine power resonates strongly in child/youth-led climate movements, where children garner global media coverage yet struggle to secure binding commitments or policy changes. Understanding how tokenism operates – and how children resist it – illuminates the complexities of child/youth climate action, a topic examined in detail when discussing transnational movements such as Fridays for Future.[39] It is of note, however, that Lundy argues that tokenism can be better than nothing. Just having children and youth in the room, and having to interact with them, can have important impacts on the behaviour and accountability of adults in power.[40]

Recent scholarship increasingly acknowledges that the political agency of children/youth is not uniform, but deeply influenced by class, race, ethnicity,

33 Rabello de Castro, "'Righting Adults' Wrongs: 'Generationing' on the Battlefield. A Decolonial Approach" n 8.

34 Patricio Cuevas-Parra, *'Talk Less and Act More, the World Needs Help': Children Front and Centre of Climate Action* (World Vision International, 2020).

35 Hart, *Children's Participation: From Tokenism to Citizenship* n 24.

36 Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child" n 20.

37 Tisdall, "The Transformation of Participation? Exploring the Potential of 'Transformative Participation' for Theory and Practice around Children and Young People's Participation" n 13.

38 Jessica Taft and Claire O'Kane, "Questioning Children's Activism: What Is New or Old in Theory and Practice?" *Children's Geographies* 38, no. 3 (2021): 744–758.

39 Dana Fisher, "The Broader Importance of #FridaysForFuture," *Nature Climate Change* 9, no. 6 (2019): 430–431.

40 Laura Lundy, "In Defence of Tokenism? Implementing Children's Right to Participate in Collective Decision-Making," *Childhood* 25, no. 3 (2018), https://doi.org/10.1177/0907568218777292.

gender, and geography.[41] In Latin America, for instance, anthropologists highlight Indigenous children defending territorial and cultural rights.[42] Similarly, working children's movements in Asia, Africa, and Latin America exemplify how age intersects with other power relations – emphasising the diversity of the political action of children/youth worldwide.[43]

As climate change disproportionately affects marginalised communities, intersectionality becomes even more significant in exploring how children and youth engage in climate action. Later sections of this chapter will delve into how Indigenous and other marginalised youth link environmental concerns with broader social justice agendas, thereby revealing alternative generational arrangements – sometimes creating alliances with supportive adults while confronting oppressive systems.[44]

Another emerging perspective draws on feminist political geography and critical geopolitics to argue that children's everyday caring practices reflect their political concerns and identities.[45] Bartos shows how children "care for their worlds" by engaging in mundane yet politically meaningful activities, revealing a commitment to sustaining their communities and environments. Viewing care as a political concept broadens the scope of children's agency beyond formal activism to include everyday practices of interdependence and relationality.[46]

This "politics of care" framework challenges liberal notions of an autonomous, self-made individual, instead emphasising a social ontology grounded in mutual responsibility, respect, and trust.[47] In children's everyday lives, caring practices – such as helping siblings or protecting local ecosystems – can serve as foundational experiences for political identities. By attending to these subtle, relational ways of enacting politics, scholars highlight that children's political engagement can be fostered through small-scale, daily acts of responsiveness,

41 Spyrou, *Disclosing Childhoods: Research and Knowledge Production for a Critical Childhood Studies*, n 5.

42 Cussiánovich, "Protagonismo, Participación y Ciudadanía como Componente de la Educación y Ejercicio de los Derechos de la Infancia" n 12.

43 Jessica Taft, *The Kids Are in Charge: Activism and Power in Peru's Movement of Working Children* (New York: NYU Press, 2019); Manfred Liebel, *A Will of Their Own: Cross-Cultural Perspectives on Working Children* (London: Zed Books, 2004).

44 Rabello de Castro and Tavares, *Participation Rights in Brazilian Schools: Towards the Politicization of Intergenerational Relationships?* n 9.

45 Ann Bartos, "Children Caring for Their Worlds: The Politics of Care and Childhood," *Children's Geographies* 31, no. 3 (2012): 157–166.

46 Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (Oxfordshire: Routledge, 1993); Victoria Lawson, "Geographies of Care and Responsibility," *Annals of the Association of American Geographers* 97, no. 1 (2007): 1–11.

47 Michael Brown, "Hospice and the Spatial Paradoxes of Terminal Care," *Environment and Planning A: Economy and Space* 35, no. 5 (2003): 833–851.

long before (or alongside) more overt climate action such as climate strikes or direct lobbying.[48]

Beyond formal advocacy, scholars draw attention to "everyday forms of participation," including do-it-ourselves (DIO) politics and community-based initiatives that circumvent traditional channels.[49] Children may engage in care-centred practices, operate outside formal politics, or adopt "tactics" of micro-resistance in daily life.[50] These approaches expand the repertoire of political engagement beyond institutional boundaries, illustrating how child-led climate initiatives often merge formal advocacy (e.g., petitions to government bodies) with grassroots, community-based tactics – both offline and online. Such micro-level strategies sometimes serve as a gateway to transnational movements – showing how everyday climate action can ultimately feed into larger, global campaigns.

2.4 Rethinking Theory through Child/Youth Climate Action

Critical studies from various geographical contexts highlight the creative, intersectional, and context-specific nature of the political participation of children and youth.[51] Whether through formal mechanisms like youth councils or more informal community-based strategies, children navigate a landscape shaped by adult authority, striving to carve out meaningful avenues for engagement. At the same time, researchers caution against romanticising children's activism; discussions about tokenism, power imbalances, and psychosocial burdens remain crucial.[52]

Yet child/youth climate action, with its scale, urgency, and transnational reach, not only exemplifies these theoretical insights but also pushes their boundaries. When children/youth position themselves as human rights leaders – advocating for intergenerational justice and contesting the notion that childhood is merely a future-oriented, preparatory stage – they enact postpaternalist frameworks, demanding recognition as citizens of the present rather than citizens-in-waiting.[53]

48 Bartos, "Children Caring for Their Worlds: The Politics of Care and Childhood" n 45.

49 Sarah Pickard, *Politics, Protest and Young People: Political Participation and Dissent in Britain in the 21st Century* (London: Palgrave Macmillan, 2019); Emily Ho, Aleisha Clarke, and Ian Dougherty, "Youth-Led Social Change: Topics, Engagement Types, Organizational Types, Strategies, and Impacts," *Futures* 67 (2015): 52–62.

50 Peña Ochoa, Chávez Ibarra, and Vergara del Solar, "Los Niños Como Agentes Políticos: Tácticas Cotidianas de Resistencia en Niñas Chilenas de Estrato Socioeconómico Medio" n 14.

51 Tracey Skelton, "Taking Young People as Political Actors Seriously: Opening the Borders of Political Geography," *Area* 20, no. 2 (2010): 145–151; Taft, *The Kids Are in Charge: Activism and Power in Peru's Movement of Working Children*.

52 Taft and O'Kane, "Questioning Children's Activism: What Is New or Old in Theory and Practice?"

53 Tracy Kirk, "Children as Human Rights Defenders: A Participatory Approach," *Edinburgh Law Review* 23, no. 3 (2019): 417–423; Tisdall and Cuevas-Parra, "Beyond the Familiar Challenges for Children and Young People's Participation Rights: The Potential of Activism."

Such climate action invites us to expand our understanding of the capacity of children/youth for autonomous political engagement. By directly confronting global power structures, participating in policy debates, and forging cross-generational alliances, child/youth climate advocates demonstrate how the agency of children and youth transcends traditional age hierarchies. They redefine childhood as a phase of active leadership and influence, refuting temporal assumptions that confine children's social relevance to the future. Simultaneously, they place moral and political responsibility on adults and institutions, illustrating the potency of child/youth action for reframing longstanding debates on rights, equity, and sustainability.[54]

In the following section, we will explore more deeply how this emergent wave of child/youth climate action both embodies and challenges the theories outlined here. By situating climate protest, strategic litigation, and community-based projects within the concepts of "freedom rights," generational power relations, and intersectional approaches to child agency, it becomes clearer how these young actors reshape the terms of political engagement – foregrounding children's roles as central, vocal protagonists in addressing some of the most pressing human rights and environmental challenges of our time.

3. The Rise of Child/Youth Climate Action: A Historical Reconstruction of Emergence, Visibility, and Recognition

Children and youth have long played significant roles in social movements – from resisting authoritarian regimes to campaigning for racial justice to challenging entrenched forms of inequality. In the specific realm of environmental and climate action, however, young voices have until recently been cast primarily as *future* stakeholders rather than current political agents. This section provides a historical reconstruction of the emergence, visibility, and recognition of child/youth climate action. Drawing on scholarship in childhood studies and children's rights theory, this account traces how child and youth action in the climate arena has shattered longstanding assumptions about children's political *incompetence*, paving the way for a more robust appreciation of their "freedom rights" and legal strategies in both national and international spheres.[55]

Building on the postpaternalist perspective,[56] we assert that recognising children's independent political agency is integral to fulfilling their rights under the CRC. Scholars have increasingly highlighted how child/youth-

54 Therese O'Toole, "Engaging with Young People's Conceptions of the Political," *Children's Geographies* 1, no. 1 (2003): 71–90; Pickard, *Politics, Protest and Young People: Political Participation and Dissent in Britain in the 21st Century* n 49.

55 Daly, *Children, Autonomy and the Courts: Beyond the Right to Be Heard* (Leiden: Brill, 2018).

56 Daly *et al*., "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights" n 28.

led climate action disrupts paternalistic narratives, demonstrating children's capacity to shape and reshape legal norms – not merely benefit from them. By considering how children/youth are moving from being protected subjects to active claimants, we also emphasise how their climate action potentially benefits entire communities.

There is a distinct divide between advantaged (Global North, middle-class, white) children and those who are disadvantaged by the effects of the climate crisis. For children in Indigenous communities, for example, climate change directly threatens traditional ways of life, cultural practices, and relationships to land.[57] There is also clearly an adult/child divide, however. For one thing, children are un(der)represented in the relevant decision-making bodies and parliamentary decision-making procedures. They usually cannot vote, nor can they stand for election where they wish to impact climate laws and policies. Zwarthoed refers to the favouring of interests of current voters over long-term interests as "presentism."[58] Democracy is severely flawed by this presentism as, inevitably, elected or putative representatives will prioritise the wishes of current voters over those of (unenfranchised) children, and over the long-term interests of humanity.[59]

Wall contends that children's political rights must be recognised as part of a "post-adultist democracy."[60] In this view, child/youth climate action exemplifies how an intergenerational approach can bolster democratic legitimacy, since children/youth are often among the first to spotlight urgent sustainability challenges that affect all generations.

3.1 Children and Youth in Social Movements: A Precursor to Climate Action

To understand the dramatic rise in child/youth climate advocacy, one must situate it within a broader lineage of child/youth political action. Children and youth have participated in socio-political change for centuries, often in ways that are easily overlooked. Their engagement in movements against apartheid in South Africa, their presence in the first intifada in the Occupied Palestinian Territories,[61] and their contribution to the Arab Spring all highlight the his-

57 Laurie-Ann Lines, Yellowknives Dene First Nation Wellness Division, and Cynthia G. Jardine, "Connection to the Land as a Youth-Identified Social Determinant of Indigenous Peoples' Health," *BMC Public Health* 19, no. 1 (2019): 176.

58 Danielle Zwarthoed, "Political Representation of Future Generations," in *Towards the Ethics of a Green Future: The Theory and Practice of Human Rights for a Future People*, eds. Marcus Düwell, Gerhard Bos, and Naomi van Steenbergen (Oxfordshire: Routledge, 2018), 81.

59 Julie Fraser and Laura Henderson, "The Human Rights Turn in Climate Change Litigation and Responsibilities of Legal Professionals," *Netherlands Quarterly of Human Rights* 40, no. 1 (2022): 3–11.

60 John Wall, *Give Children the Vote: On Democratizing Democracy* (London: Bloomsbury, 2021).

61 Daly, *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly*, n 18.

torical continuity of youthful protest. Although children and youth often remained in the background – sometimes deemed too radical or disruptive – these examples confirm that children's political consciousness is neither new nor marginal.

A striking illustration occurred in segregated Alabama during the 1950s; 15-year-old Claudette Colvin was the first person arrested for refusing to give up her bus seat, predating Rosa Parks by nine months. That Colvin was not heralded as the "face" of the civil rights movement underscores a key theme: adult-driven narratives tend to sideline or sanitise child political engagement, fearing it might complicate prevailing notions of how a movement should look.[62] This erasure of child/youth advocates from mainstream accounts was historically pervasive. Children and youth were cast as "secondary" participants or as props to evoke sympathy rather than as capable political selves.[63]

The climate crisis, however, has prompted a fundamental shift in these narratives. The *urgency* and *future-oriented* nature of environmental challenges lend strong moral credibility to young protesters, who argue they will inherit a damaged planet if current inaction persists. This generational dimension has helped place child/youth advocates front and centre, transforming popular and scholarly understandings of child/youth agency. Germaine and Bowman[64] argue that the Youth Strike for Climate (also known as Fridays for Future or School Strike for Climate) is more than a protest aimed at policy change; it is a global cultural exchange and a "collaborative text." Drawing on key concepts such as positionality, repertoire, and polyphony, they show how children and youth worldwide negotiate their individual and collective identities within broader social formations, expand the range of activist practices beyond mere protest, and generate a multi-voiced discourse that invites further dialogue. In this view, child/youth climate advocates are not simply demanding action from adults; rather, they are co-creating new narratives of solidarity and change – an ongoing, transnational conversation that imagines a more just and sustainable future.

In line with Lundy's conceptualisation of participation,[65] we argue that children's involvement in climate action requires not only "space" and "voice,"

62 Aoife Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022): ngac011.

63 Brandon Tensley and Skylar Mitchell, "Black Women's Roles in The Civil Rights Movement Have Been Understated – But That's Changing," *CNN Politics*, 21 February 2021, https://edition.cnn.com/2021/02/21/politics/black-freedom-movements-past-present/index.html. Accessed 20 June 2021.

64 See Chloé Germaine and Ben Bowman, *Not (Just) a Protest: The Youth Strike for Climate as Cultural Exchange and Collaborative Text*, *Research Report: British Council* (2021), https://www.britishcouncil.org/sites/default/files/cultural_relations_collection_2021_not_just_a_protest_chloe_buckley_and_benjamin_bowman_1208.pdf. Accessed 25 June 2025.

65 Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child" n 20.

but also an authentic opportunity to influence decisions ("audience" and "influence"). Child/youth climate advocates increasingly transcend traditional adult-dominated platforms, establishing their own political spaces where they can both articulate demands and shape outcomes. Recent scholarship in youth studies has also emphasised the value of examining child/youth climate action as a continually evolving story, shaped by an uncertain interplay between formal and informal modes of participation. Research has highlighted how children's agency is forged across boundaries of family, school, and public protest, often in ways that challenge the assumption that "real politics" must occur in adult-defined arenas.[66]

3.2 Early Indigenous Youth Action and the Global Emergence of Climate Competence

Long before the spotlight fell on European and North American climate strikers, Indigenous youth worldwide were mobilising to defend their lands and resources against extractive industries and environmental harm. From the Amazon to the Arctic, and across settler-colonial states like Canada, Australia, and the United States, young Indigenous activists have long foregrounded intergenerational responsibilities, ecological stewardship, and community sovereignty.[67]

One particularly influential contemporary movement emerged in Canada with Idle No More (2012), which was sparked in response to proposed legislation impacting First Nations treaty rights and water protection. Although Idle No More was not exclusively youth-led, young Indigenous activists took on prominent roles, organising teach-ins, flash mobs, and social media campaigns to advocate for environmental justice and respect for treaty obligations.[68] This emphasis on intergenerational solidarity, cultural reclamation, and frontline organising presaged the heightened visibility of Indigenous youth at other pivotal environmental struggles across North America.[69]

In the United States, the 2016 protests against the Dakota Access Pipeline (#NoDAPL) offer a telling example. Here, children and youth from Standing Rock and neighbouring Native American communities catalysed an

66 See this special issue and article collection: Connie Flanagan, Bronwyn Hayward, and Luisa Leo, eds. 2020. Article Collection: "Young Lives for a Sustainable Earth," *Sustainable Earth*, 3–4; Morten Skovdal and Matthew C. Benwell, eds. 2021. Special Issue: "Young People's Everyday Climate Crisis Activism," *Children's Geographies* 20, no. 3.

67 Jaskiran Dhillon, *Prairie Rising: Indigenous Youth, Decolonization, and the Politics of Intervention* (Toronto: University of Toronto Press, 2017); Dina Gilio-Whitaker, *As Long as Grass Grows: The Indigenous Fight for Environmental Justice, from Colonization to Standing Rock* (Boston: Beacon Press, 2019).

68 Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minnesota: University of Minnesota Press, 2014).

69 Kyle Powys Whyte, "Settler Colonialism, Ecology, and Environmental Injustice," *Environment and Society* 9, no. 1 (2018): 125–144.

internationally recognised campaign to protect water sources integral to their heritage and way of life.[70] Early in the movement, youth organised long-distance runs to raise awareness – most famously the "ReZpect Our Water" run from North Dakota to Washington, DC – and were instrumental in calling for direct action camps; eventually, these camps at Standing Rock drew in thousands of supporters. The action of Indigenous youth helped galvanise the broader community, such that adults, too, were inspired to establish and sustain a large protest camp.

The #NoDAPL protests captured the imagination of social media and the press. Images of Indigenous children at protest sites – wielding banners, chanting, or caring for siblings – complicated stereotypes that cast children in purely *passive* or *vulnerable* roles. In 2020, a federal court struck down the permit for the pipeline and ordered a comprehensive environmental review, an outcome many credited at least in part to the persistent pressure generated by the Standing Rock community, including its young leaders.[71] These events illustrated a broader pattern: youth are not waiting for adulthood to stake moral and political claims on the environment. Rather, they are *creating* momentum for legal and political transformation in real time.

Similarly, in Latin America, Indigenous youth have been essential in climate and environmental justice movements for decades. In Ecuador's Amazon region, Kichwa and Waorani adolescents have participated prominently in resistance to oil exploration projects, employing social media, public speaking, and strategic litigation to defend their territories.[72] In Colombia, young Wayuu activists have mobilised against coal mining and water scarcity, strategically linking their environmental concerns to broader struggles for human rights and cultural autonomy.[73]

70 Carla Javier, "A Timeline of the Year of Resistance at Standing Rock," *Splinter*, 14 December 2016, https://www.splinter.com/a-timeline-of-the-year-of-resistance-at-standing-rock-1794269727. Accessed 21 January 2025.

71 Nina Lakhani, "Dakota Access Pipeline: Court Strikes Down Permits in Victory for Standing Rock Sioux," *The Guardian*, 26 March 2020, https://www.theguardian.com/us-news/2020/mar/25/dakota-access-pipeline-permits-court-standing-rock. Accessed 21 January 2025.

72 Nina Gualinga, "'We Have a Special Connection with Earth': Activist Nina Gualinga on Why Indigenous Women Are Coming Together to Protect the Amazon," *Vogue India*, 20 March 2021, https://www.vogue.in/culture-and-living/content/we-have-a-special-connection-with-earth-activist-nina-gualinga-on-why-indigenous-women-are-coming-together-to-protect-the-amazon. Accessed 26 May 2025; Nemonte Nenquimo and Mitch Anderson, *We Will Be Jaguars: A Memoir of My People* (New York: Abrams Press, 2024).

73 United Nations Development Programme (UNDP), "Sowing Resilience: How Colombia's Indigenous Peoples Adapt to Climate Change," *UNDP*, 8 August 2023, https://www.adaptation-undp.org/scala-news-sowing-resilience-in-colombia. Accessed 26 May 2025; Save the Children International, "Children from Colombia's Indigenous Wayuu Community Compose New Song to Demand Climate Action," *Save the Children*, 10 July 2024, https://www.savethechildren.net/news/children-colombia-s-indigenous-wayuu-community-compose-new-song-demand-climate-action. Accessed 26 May 2025.

Young Indigenous advocates continue to influence broader discourses on climate and environmental justice. For example, in the Pacific Northwest, Indigenous youth have organised against fossil fuel terminals and salmon habitat destruction,[74] while in the Canadian Arctic, Inuit youth protest inadequate government responses to sea ice loss and food insecurity. In Australia, Wangan and Jagalingou youth have raised objections to coal mining developments on their ancestral lands, highlighting the ecological and cultural impacts of ongoing resource extraction.[75] In each instance, children and youth leverage the moral weight of their connections to ancestral territories, integrating scientific evidence with Indigenous knowledge systems to articulate alternative visions of sustainability.

Scholars such as Curnow and Helferty[76] also point out that these movements intersect with Black and anti-racist traditions that long predate mainstream environmentalism. The 1991 "Principles of Environmental Justice," drafted at the First National People of Color Environmental Leadership Summit, remains a touchstone for Indigenous youth, Black activists, and other racialised communities worldwide. Building on that lineage, youth in the Global South are likewise foregrounding race, class, and colonial legacies. In South Africa, for instance, the child/youth-driven Cancel Coal Campaign challenged new coal procurement plans in court, arguing that continued reliance on coal entrenches apartheid-era energy geographies and disproportionately harms Black, low-income communities living amid air pollution "sacrifice zones."[77] The case illustrates how child/youth advocates mobilise legal strategies not only to reduce emissions but to remediate historical injustice – linking local struggles over land, health, and energy access to a broader ethic of climate justice.

3.3 Greta Thunberg's Single Protest to Global Uprising

In August 2018, a then-15-year-old Greta Thunberg stood outside the Swedish Parliament, determined to protest governmental inaction on climate change. Within months, her solitary act evolved into Fridays for Future, a transnational movement that mobilised millions of students globally to skip school in protest.[78] By 2019, child/youth-led climate strikes had swept from Stockholm

74 Gilio-Whitaker, *As Long as Grass Grows.*

75 *Youth Verdict v. Waratah Coal*, 2022 QLC 4, Queensland Land Court.

76 Joe Curnow and Anjali Helferty, "Contradictions of Solidarity: Whiteness, Settler Coloniality, and the Mainstream Environmental Movement," *Environment and Society: Advances in Research* 9 (2018): 145–163.

77 *African Climate Alliance et al. v. Minister of Mineral Resources and Energy et al.* ("*Cancel Coal*"), 2024, ZAGPPHC 1271, High Court of South Africa.

78 Fridaysforfuture Website, *Strike Statistics: List of Countries*, https://fridaysforfuture.org/what-we-do/strike-statistics/list-of-countries/. Accessed 21 January 2025.

to Sydney, Kampala, and beyond. Estimates suggest that at the peak of these demonstrations, over seven million people participated worldwide.

Thunberg's personal story – her directness, her unapologetic critique of what she sees as politicians' betrayal and her refusal to accept incrementalist policies – sparked intense media debate. While some praised her clarity and felt her anger was understandable, others sought to undermine her competence, often employing ableist critiques or dismissing her as a mouthpiece for adult agendas. Scholars observe that adult-led media narratives frequently revisit tropes of the "irrational child," anxious to question or dismiss Thunberg's climate action.[79] Yet these critiques paradoxically reinforced the public's perception that she – and by extension, many child advocates – was speaking inconvenient truths that adults wished to ignore.

Traditionally, children in climate discourse were portrayed primarily as victims of rising sea levels, extreme weather, and other planetary catastrophes.[80] While the concern for children's future remains a central plank of climate advocacy, the voices of child/youth climate advocates have reconfigured that image. They are no longer solely symbolic of future vulnerability; they are potent political agents in the present and future-makers.[81] This transition from *victimhood* to *agency* is arguably one of the most important symbolic shifts in contemporary climate politics.[82] Thunberg's speeches to international bodies, for instance, signalled that children could rebuke global leaders directly, rather than waiting for adult intermediaries. This rebranding of children's roles has also spilt over into legal and policy domains.[83] Child/youth advocates have participated in parliamentary committees, testified before the US Congress, and influenced policy debates in the European Union.

Fisher[84] underscores that Thunberg's call to action helped crystallise a sense of global youth identity, while Germaine and Bowman[85] argue that the Fridays for Future movement extends beyond mere protest into a "cultural exchange," wherein children and youth engage in creative, multi-voiced

79 See, e.g., Yulia Mikhailovna Konyaeva and Anastasiya Aleksandrovna Samsonova, "Sarcastic Evaluation in Mass Media as a Way of Discrediting a Person: Greta Thunberg Case," *The European Journal of Humour Research* 9, no. 1 (2021): 74–86.

80 See, e.g., Janice Nathanson, "The Pornography of Poverty: Reframing the Discourse of International Aid's Representations of Starving Children," *Canadian Journal of Communication* 38 (2013): 103–120.

81 Spyros Spyrou, "Children as Future-Makers," *Childhood* 27, no. 1 (2020): 3–7.

82 Nicole Rogers, "Victim, Litigant, Activist, Messiah: The Child in a Time of Climate Change," *Journal of Human Rights and the Environment* 11, no. 3 (2020): 103–121.

83 Germaine and Bowman, "Not (Just) a Protest: The Youth Strike for Climate as Cultural Exchange and Collaborative Text" n 64.

84 Dana Fisher, "The Broader Importance of #FridaysForFuture," *Nature Climate Change* 9, no. 6 (2019): 430–431.

85 Germaine and Bowman, "Not (Just) a Protest: The Youth Strike for Climate as Cultural Exchange and Collaborative Text" n 64.

collaborations to imagine new socio-environmental futures. Dosza[86] builds on these insights by framing Thunberg's actions as exemplifying "climate citizenship" – whereby children assert their environmental rights and responsibilities on a global stage. One of the more striking aspects of modern climate action is what Daly has described as "climate competence."[87] This refers to the array of media-savvy, science-informed, and human-rights-framed strategies through which children and youth have not only elevated the urgency of climate concerns but also repositioned themselves as competent actors. They often harness digital platforms and scientific evidence to counter adultist stereotypes of childish ignorance; the outspoken style of child/youth advocates, as seen in Thunberg's direct speeches, further unsettles stereotypes of children as naive or apolitical.

Scholars note that this fusion of digital skill, scientific literacy, and moral clarity has led to unparalleled global attention to the climate crisis. The success of #FridaysForFuture, for instance, suggests children's "climate competence" can capture mainstream media in ways that adult-led campaigns have at times struggled to do. Boulianne, Lalancette, and Ilkiw find that social media coverage of school strikes played a pivotal role in expanding the reach of climate action,[88] while Haynes and Tanner highlight the strength of children's local knowledge in shaping effective community-based responses.[89] Han and Ahn describe Thunberg's approach as part of a persuasive global meta-narrative that amplifies solidarity across regions,[90] although critics caution that focusing on a single figure can overshadow other youth voices, especially from the Global South or marginalised contexts.[91] Research by Sorce and Dumitrica further underscores how, during the pandemic, Fridays for Future shifted to digital strategies that continued mobilising transnational networks.[92] This transition shows that child/youth climate advocates adeptly navigate online

86 Kata Dosza, *Children as Climate Citizens* (Oxfordshire: Routledge, 2023).

87 Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law" n 62.

88 Shelly Boulianne, Mireille Lalancette, and David Ilkiw, "'School Strike 4 Climate': Social Media and the International Youth Protest on Climate Change," *Media and Communication* 8, no. 2 (2020): 208–218.

89 Katherine Haynes and Thomas M. Tanner, "Empowering Young People and Strengthening Resilience: Youth-Centred Participatory Video as a Tool for Climate Change Adaptation and Disaster Risk Reduction," *Children's Geographies* 13, no. 3 (2013): 357–371.

90 Heejin Han and Sang Wuk Ahn, "Youth Mobilization to Stop Global Climate Change: Narratives and Impact," *Sustainability* 12, no. 10 (2020): 4127.

91 Catherine Walker, "Uneven Solidarity: The School Strikes for Climate in Global and Intergenerational Perspective," *Sustain Earth* 3, no. 5 (2020); Benjamin Bowman, "Imagining Future Worlds Alongside Youth Climate Protestors: A New Framework for Research," *Fennia International Journal of Geography* 197, no. 2 (2019): 295–305.

92 Giuliana Sorce and Delia Dumitrica. "#FightEveryCrisis: Pandemic Shifts in Fridays for Future's Protest Communication Frames," *Environmental Communication* 17, no. 3 (2023): 263–275.

and offline spaces, which contributes to the resilience and broad appeal of youth climate protests.

3.4 A Gender Perspective in Young People's Climate Action

Girls and young women have emerged as central figures in the youth climate action movement, contrasting sharply with earlier environmental campaigns that were often dominated by older, male leadership. Empirical studies of climate protests consistently show a higher share of female participants – particularly among advocates under 18 – than their male counterparts.[93] This phenomenon disrupts longstanding patterns in environmentalism, prompting some observers to describe the "dominant face" of contemporary climate protest as not only young but distinctly female.[94]

Such visibility, however, is more than a demographic curiosity. It reflects a substantive transformation in who mobilises for climate justice and how they articulate their demands. Many young female climate advocates openly criticise the gender-blindness of climate policy, noting the underrepresentation of women in negotiations and the lack of explicit attention to girls' experiences in landmark accords like the Paris Agreement.[95] Through protest-based collective action, social media campaigning, and moral appeals grounded in scientific evidence, girls under the age of 18 years such as Greta Thunberg, Vanessa Nakate, Autumn Peltier, Julieta Martínez, and Harriet O'Shea began to take up public roles that challenge two sets of barriers: those imposed by age-related exclusions and those rooted in patriarchal assumptions about who can speak credibly on environmental crises.[96] Scholars have referred to these twin disadvantages as "double" or "dual" discrimination, highlighting how young women encounter scepticism regarding both their youth and their gender.[97]

Intersectionality is essential to understanding these new forms of leadership. Many young women explicitly link climate change to broader injustices, including racism and economic inequality.[98] In one telling example, Vanessa

93 Sarah Kaplan, "Teen Girls are Leading the Climate Strikes and Helping Change the Face of Environmentalism," *The Washington Post*, 25 September 2019, https://www.washingtonpost.com/science/2019/09/24/teen-girls-are-leading-climate-strikes-helping-change-face-environmentalism/. Accessed 16 September 2025.

94 James Pickerill, *Protest for a Future* (London: Earthscan, 2020).

95 Giulia Gasparri *et al.*, "Children, Adolescents, and Youth Pioneering a Human Rights-Based Approach to Climate Change," *Health and Human Rights* 23, no. 2 (2021): 95–108.

96 Judith Bessant, *Making-Up People: Youth, Truth and Politics* (Oxfordshire: Routledge, 2021).

97 Judith Bessant, Philippa Collin, and Rob Watts, "'Blah, Blah, Blah … [Not] Business as Usual': Politics through the Lens of Young Female Climate Leaders," *Australian Journal of Political Science* 58, no. 4 (2023): 477–493.

98 Nonprofit Quarterly, "Young Women and Girls of the Global Majority Leading Climate Justice," NPQ, 5 December 2024, https://nonprofitquarterly.org/changemakers-disruptors-and-protectors-of-our-earth-young-women-and-girls-of-the-global-majority-leading-climate-justice/. Accessed 16 September 2025.

Nakate – who founded the Rise Up Movement after being literally cropped out of a news photograph – points to intersectional bias in media coverage, which often overlooks Black women and girls or portrays them in negative tropes relative to their white, European peers.[99] This marginalisation is echoed by initiatives that deliberately foreground Black girls' leadership. For instance, Black Girls Rising creates platforms for Black girls to narrate their climate realities, mentor one another, and demand structural change – countering precisely the erasure and tokenism that Nakate denounced. Numerous child/youth climate advocates underscore how the impacts of climate change weigh heavily on girls in the Global South, where losses in educational opportunities, escalation in gender-based violence, and other vulnerabilities reinforce existing power imbalances.[100] They also emphasise how empowering women and girls in environmental decision-making produces more equitable and effective outcomes, echoing extensive research that ties female education and leadership to stronger climate resilience.

Yet these same advocates face significant obstacles, ranging from cultural norms that discourage girls from public advocacy to explicit harassment or violence directed at women leaders.[101] Recent global surveys by Plan International suggest that young female campaigners cite concerns over safety, discriminatory attitudes, and limited resources as major barriers to their full participation.[102] Age-based stereotypes exacerbate the challenge: some authorities, community members, or even family figures dismiss teenage girls' climate action as naive, impulsive, or manipulated by adults. Nevertheless, many girls develop creative solutions, including peer-led networks, informal clubs, and digital communication channels that allow them to circumvent repressive laws and social stigmas. Their resilience in navigating multiple axes of marginalisation underscores the depth of their commitment to climate action.

Media coverage of girl-led climate protest further illustrates the complex interplay of empowerment and constraint. While heightened visibility acknowledges young women's agency, content analyses reveal that news outlets may lean on romanticised or gendered frames, portraying these child/youth climate advocates as nurturing, hopeful figures responsible for salvaging the planet.[103]

99 Daniella Rafaely and Brendon Barnes, "African Climate Activism, Media and the Denial of Racism: The Tacit Silencing of Vanessa Nakate," *Community Psychology in Global Perspective* 6, no. 2 (2020): 71–86.

100 Jessica Taft, "Hopeful, Harmless, and Heroic: Figuring the Girl Activist as Global Saviour," *Girlhood Studies* 13, no. 2 (2020): 1–17.

101 Sylvia Hayes and Saffron O'Neill, "The Greta Effect: Visualising Climate Protest in UK Media and the Getty Images Collections," *Global Environmental Change* 71 (2021): 102392.

102 Plan International, "State of the World's Girls: Turning the World Around – Girls and Young Women's Activism" (Surrey: Plan International, 2023).

103 UCL Center for Climate Change and Sustainability Education, "Student Perceptions of Climate Change Education," (London: UCL, 2024).

Although such narratives can inspire broader support, they risk trivialising demands for systemic reforms by shifting moral responsibility onto the shoulders of children.[104] Racial and colonial biases also persist, with Black and Indigenous girls often minimised or caricatured in public discourse.[105] These representational patterns reflect deeper societal tensions about age, gender, and the legitimacy of youth action. In response, young female leaders – including Thunberg and Nakate – have become increasingly vocal about the need to be taken seriously as political protagonists rather than symbolically celebrated or patronised.

Emotional labour and psychological strain form another dimension of gendered climate action. Research shows that girls tend to report higher levels of climate anxiety than their male peers, sometimes viewing engagement in climate action as both an expression of their fears and a coping strategy.[106] Many young women assume the role of "climate caretakers," educating friends, siblings, and elders about sustainability or leading grassroots initiatives to reduce carbon footprints at the household and community level. This communal responsibility can be rewarding but also contributes to burnout, as these young advocates routinely juggle academic obligations, family pressures, and the intense demands of social and environmental advocacy. Still, their public statements often emphasise solidarity, self-care, and the importance of distributing the burden more equally among adults and policymakers.

Despite these hurdles, female-led youth climate mobilisations have exerted a tangible influence on climate discourse and policy. Observers credit young women's leadership – particularly girls under the age of 18 – with injecting new urgency, ethical clarity, and intersectional sensibilities into negotiations and public debates.[107] Community-level actions spearheaded by girls have strengthened adaptation measures in areas ranging from reforestation to water security, while high-profile global campaigns have ensured that questions of intergenerational equity and women's rights increasingly appear on the climate agenda. In their analysis, Bessant, Collin, and Watts characterise this surge of young female advocacy as a catalyst for rethinking "business as usual," underscoring how teenage women introduce moral critique and participatory dynamism into institutions often dominated by older male elites. Far from merely adding a new face to environmental protest, under-18 girls and young women recast the parameters of climate action by insisting on the integration of social, racial, and gender justice. Their emphasis on lived experience and empathy disrupts conventional policy frameworks and illustrates how centring girls' leadership can prompt deeper, more inclusive strategies for tackling the planet's most pressing challenges.

104 Taft, "Hopeful, Harmless, and Heroic" n 100, 6–9.
105 Rafaely and Barnes, "African Climate Activism" n 99, 72–80.
106 UCL Center for Climate Change, "Student Perceptions" n 103, 21–26.
107 Bessant, Collin, and Watts, "'Blah, Blah, Blah … [Not] Business as Usual'" n 97, 481–86.

4. Current Struggles, Impacts, and Potential Transformations from a Historical View

Following the previous historical overview of the child/youth climate action movement, in this section, we focus on the current barriers and battles that child/youth climate advocates face, while also highlighting their major contributions to the climate justice debate and children and human rights law.

Taken in their entirety, these struggles and transformations demonstrate that child/youth climate action is not just a derivative facet of adult environmentalism but a distinct sphere of political engagement in which children articulate clear moral imperatives and demand accountability from existing institutions. Their collective actions compel states, courts, and broader civil society to decide whether children's political agency will be recognised as more than a symbolic gesture. They also indicate that new legal frameworks must evolve to accommodate intergenerational equity, environmental justice, and cross-border alliances – a prospect that earlier children's rights instruments did not fully anticipate.

Ultimately, child/youth climate action spurs a re-evaluation of the boundaries of children's rights, linking environmental advocacy to wider human rights dialogues. By invoking their own lived experiences of environmental injustice, children shift public debate away from purely technocratic or future-oriented metrics to an urgent ethical concern with safeguarding their present and collective futures. Their capacity to mobilise, reframe longstanding assumptions about childhood, and reassert their entitlements in legal and policy realms demonstrates the robust, transformative potential of children and youth as co-leaders with adults in confronting the climate crisis.

4.1. Barriers, Resistance, and the Ongoing Battle for Recognition

Despite the rising profile of child/youth climate action, children's political agency continues to face adultist assumptions that characterise under-18s as incompetent, immature, or easily manipulated. Major news outlets and certain political figures, for instance, have cast doubt on the sincerity of child/youth climate advocates – accusing them of being coached or exploited by NGOs, parents, or political factions.[108] Greta Thunberg herself has been a lightning rod for such accusations, as has Severn Cullis-Suzuki before her in the 1990s. These critiques point to a broader discomfort with the phenomenon of "polit-

108 Aoife Daly, "It Is Time to Accept That Children Have a Right to be Political," *Discover Society*, 4 March 2020, https://archive.discoversociety.org/2020/03/04/it-is-time-to-accept-that-children-have-a-right-to-be-political/. Accessed 5 June 2021; Rogers, "Victim, Litigant, Activist, Messiah: The Child in a Time of Climate Change" n 82.

ically active youth," especially when children critique deeply rooted economic structures and challenge adult decision-makers.[109]

Additionally, legal and administrative obstacles hamper child/youth action. Some national laws, for example, restrict children from holding public demonstrations without adult supervision or otherwise stifle children's rights to assembly.[110] Meanwhile, educational authorities in various countries have threatened disciplinary measures against students participating in climate strikes. These barriers reveal a tension between children's recognised civil liberties on paper (as set out in the CRC) and the real-world limitations that constrict their exercise.

While the CRC affirms children's civil and political rights, there has long been insufficient emphasis on rights such as freedom of expression and peaceful assembly for children. Discussions on children's participation typically revolve around the principle of the right to be heard (CRC Article 12). This provision, while crucial for children in many ways, can arguably result in interpretations of children's rights which focus on "being heard" rather than the full spectrum of social and political participation.[111] Yet a discernible shift is emerging, and climate action stands out as a powerful catalyst for the evolving recognition of a broader span of children's participation rights. There are numerous examples to point to. In 2018, the Committee on the Rights of the Child held a "Day of General Discussion" on children as human rights defenders, acknowledging that children worldwide engage in activism on issues ranging from child marriage to racial justice to environmental stewardship.[112] The groundswell of young climate action, where children/youth have mobilised in the streets on a global scale, is gradually pushing principles such as freedom of assembly to the fore for children.[113] Child/youth participation in high-profile actions and lawsuits compels national governments and international bodies to engage with children as equals in court. It was notable that after one or two years of street protests, young climate advocates started to take high-profile climate

109 Peter Hopkins and Rachel Pain, "Geographies of Age: Thinking Relationally," *Area* 39, no. 3 (2007): 287–294.

110 Daly, *Children, Autonomy and the Courts: Beyond the Right to be Heard* n 55.

111 Daly, *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly*, n 18; Ann Quennerstedt, "Children, But Not Really Humans? Critical Reflections on the Hampering Effect of the '3 Ps,'" *International Journal of Children's Rights* 18, no. 4 (2010): 619–635, 630.

112 See further Laura Lundy and Michelle Templeton, *Children Human Rights Defenders: The Views and Perspectives of Children* (Geneva: Child Rights Connect, 2018).

113 Daly, *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly*, n 18.

cases – *Duarte Aghostino*[114] was initiated in 2020[115] and *Sacchi* in 2019.[116] These activities have grown exponentially – there are over 80 such applications (at national and international level) at the time of writing.[117] This is a stunning turn of events for children's rights, as children/youth have become key climate litigators.

Another critical dimension is the inequality that persists within child/youth climate action. While some children and youth are heard on global media platforms, others – particularly from the Global South – struggle for comparable visibility (note the treatment of Vanessa Nakate noted above in Section 3.4) and resources (for example, to be able to attend COP[118]). This imbalance is partly rooted in global power relations, historical colonisation, and disparities in media coverage. Indigenous youth, for instance, may mobilise effectively at local and transnational levels, yet face underreporting or stereotyping in mainstream outlets. Similarly, children in rural or conflict-affected areas, whose communities are on the front lines of climate harm, may lack the digital access or international networks that facilitate rapid mobilisation.

This uneven terrain underscores the importance of intersectional analyses of climate action – recognising how age intersects with race, class, gender, and geography.[119] To label youth climate action a homogenous, universal phenomenon risks obscuring the realities of those who face multiple systemic barriers.

4.2 Expanding Conceptual and Legal Boundaries

Historically, child participation has often been couched in terms of "school councils," "youth advisory boards," or official child representative structures. Yet the impetus behind much of the current climate action is spontaneous and decentralised, shaped by children's own agendas rather than

114 *Duarte Agostinho et al. v. Portugal et al.*, 2024, App. No. 39371/20, European Court of Human Rights.

115 See Global Legal Action Network (GLAN), *Duarte Agostinho Press Conference*, 8 September 2020, https://www.youtube.com/watch?v=_PKwTE32UoY&t=129s. Accessed 3 February 2022.

116 *Sacchi et al. v. Argentina*, CRC/C/88/D/104/2019*; Sacchi et al. v. Brazil*, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, CRC/C/88/D/106/2019*; Sacchi et al. v. Germany*, CRC/C/88/D/107/2019; *Sacchi et al. v. Turkey*, CRC/C/88/D/108/2019, 2021, United Nations Committee on the Rights of the Child.

117 August 2025. See further in Chapters 6 and 7. It should be noted that a handful of climate cases had already been initiated before 2019/2020, most notably *Future Generations v. Ministry of the Environment and Others*, 2018, 11001 22 03 000 2018 00319 00, Supreme Court of Justice of Colombia and *Juliana et al. v. United States*, 2024, 947 F 3d 1159, US Supreme Court.

118 Florencia Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance," *The International Journal of Children's Rights* 33, no. 3 (2025): 733–767.

119 Spyrou, *Disclosing Childhoods: Research and Knowledge Production for a Critical Childhood Studies*, n 5.

adult-initiated frameworks. This phenomenon invites a reconsideration of how we conceptualise political participation. Scholars like Tisdall[120] argue that *true* child participation demands power redistribution, where children do not merely consult but *co-determine* outcomes. In the climate sphere, child/youth mobilisers have arguably advanced further along this path than many official child participation mechanisms ever achieved, precisely because they operate on the margins of formal politics, forcing institutional reactions from the outside.

The rise of child/youth climate action has begun to reshape international human rights law. As has been noted in a previous work, the success of children's climate action is "causing a shift in international human rights law towards an approach which better encompasses a more holistic understanding of humans in their environments."[121] This resonates with the growing emphasis on the right to a healthy environment in some national jurisdictions and by UN bodies. General Comment No. 26,[122] for example, is a significant contribution to the understanding of the human rights obligations of states in relation to climate change, and the Committee notes that its drafting was prompted by young climate advocates.[123] Children's strategic use of human rights language and institutions (e.g., presenting climate complaints to the UN Committee on the Rights of the Child) underscores that children, so often invisible in politics, can leverage global legal frameworks to defend ecosystems and their own futures.

Another significant shift is the move from seeing children as participants in adult-led processes to children as co-leaders or even primary leaders. The "climate competence" perspective illustrates how adeptly youth integrate digital literacy, direct action, and rights-based arguments, bridging local experiences with global discourses. This phenomenon challenges generational hierarchies that historically relegated children to peripheral roles. In some local contexts (note the Dakota oil pipe example in Section 3.2), adults now join children's movements or rely on children and youths' impetus to sustain environmental campaigns. This growing acceptance of child co-leadership – while uneven and contested – marks a departure from paternalistic norms that have long shaped adult-child relations in political life.

120 Tisdall, "The Transformation of Participation? Exploring the Potential of 'Transformative Participation' for Theory and Practice" n 13.

121 Daly *et al.*, "Climate Action and the UNCRC: A 'Postpaternalist' World Where Children Claim Their Own Rights" n 28.

122 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*, (2023) UN Doc CRC/C/GC/26, 22 August 2023.

123 *Ibid.*, para. 2.

4.3 Towards a Broader Historical Understanding

Tracing the emergence, visibility, and recognition of youth climate action reveals a dynamic interplay between children's political agency, international human rights law, and evolving societal norms. Although child/youth action is not historically new – young people have long participated in social struggles – what is distinct in the climate arena is the global scale, media saturation, and legal creativity through which today's children/youth have asserted themselves. Their action builds on the legacy of Indigenous youth land defenders, the generational frustrations of children and youth who have been locked out of formal politics. It results from modern phenomena, for example, from new opportunities afforded by digital connectivity, and likely from the wide international acceptance of the CRC, at least to some extent.

Several key insights stand out: children/youth increasingly deploy scientific, media, and legal tools to amplify their claims, transitioning from victimhood to subjects of political and legal power. Historicising their action allows us to see the continuity from past movements – such as the US civil rights era or #NoDAPL – to the current climate crisis, emphasising how children and youth disrupt adult-centric political orders. International human rights law, traditionally slow to recognise children's civil and political rights, is now beginning to confront children's arguments for freedom of assembly, association, and expression in the face of climate injustice. This also highlights that child/youth climate action fosters an emerging jurisprudence linking childhood, environment, and rights.

As part of this shift, alliances form among stakeholders of multiple generations, yet adultism, legal barriers, and media biases still impede children's recognition as political actors. In addition, critical perspectives show that action among minoritised groups can be overshadowed when coverage centres on a few emblematic figures or more privileged child/youth climate advocates from the Global North. Overall, the worldwide phenomenon of child and youth climate action marks a watershed in how society conceptualises children's roles in governance, law, and social movements. It expands the boundaries of children's rights discourse beyond "participation" into realms of co-leadership and systemic critique, contesting the reluctance of adult-dominated systems to share power with minors. While no single outcome of child/youth climate action is assured, the historical record shows that children and youths' moral clarity and disruptive capacity can catalyse profound change. The contemporary climate movement, spearheaded in large part by those under 18, testifies to an ongoing realignment of generational relations in the face of existential environmental threats. As these children grow into adulthood, they carry forward the legacy of a newly recognised "political child," one whose competence and creativity in addressing climate injustice stand as both a testament to past struggles and a promise for future transformation.

5. Conclusion

Our approach contributes to the children's rights literature by moving from a protection-oriented paradigm to one that recognises the transformative potential of child/youth climate action, grounded in the CRC. While many studies document barriers to child participation, this chapter foregrounds successes and innovations, showing how child/youth climate advocates reclaim and redefine their rights on the ground. By articulating how children's environmental advocacy enriches the interpretation of rights under the CRC – particularly the right to a healthy environment and participation rights – this work offers a novel interdisciplinary contribution that bridges legal analyses with empirical examples of youth climate mobilisation.

Our work highlights a "postpaternalist" perspective, arguing that children's climate action illustrates a paradigm shift in how children enact their rights. By actively engaging in local and global forums, children disrupt adult-centric frameworks and redefine political participation across generations. Here, we extend those insights, tracing how the transition from a paternalistic to a postpaternalist framing of child and youth rights fosters wider legal, social, and political transformations in climate governance. In Chapter 5, we examine key examples where children and youth have participated and contributed with their knowledge, action, and experience to political processes, both at the national and international levels, regarding the climate crisis.



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5 Child/Youth Climate Action and Climate Governance

Local to International Arenas

1. Introduction

Chapter 4 traced the rise of child/youth climate action as a social movement, mapping how children and youth have asserted themselves as political agents through street protest, digital advocacy, intergenerational alliances, and strategic litigation. Drawing on frameworks of children's political agency[1] and the "climate competence" concept,[2] we showed that child/youth climate advocates not only articulate claims grounded in the UN Convention on the Rights of the Child (CRC) but also extend the normative horizons of international human rights law. At the same time, we identified persistent constraints – adultism, resource inequities, and safeguarding risks – that echo long-standing critiques of tokenistic participation.[3]

This chapter shifts the lens from collective mobilisation to institutional embedding. While local-level climate action remains vital, durable rights realisation requires mechanisms that translate youthful demands into governance procedures, legal standards, and budgetary choices. In other words, if Chapter 4 explored the innovative ways in which children and youth are political actors in the climate arena, Chapter 5 asks how existing decision-making structures are (or are not) adapting to that reality. As demonstrated in Chapter 4, children/youth have built substantial legitimacy through direct action, strategic litigation, and digital advocacy, asserting themselves not only as beneficiaries but as co-creators of climate norms. This legitimacy now demands recognition and integration within formal governance mechanisms, which is the focus of this chapter.

1 Kirsi Pauliina Kallio and Jouni Häkli, "Are There Politics in Childhood? Space, Politics and Everyday Life," *Space and Polity* 15, no. 1 (2011): 19–34; Manfred Liebel, *Decolonizing Childhoods: From Exclusion to Agency* (London: Palgrave Macmillan, 2020).

2 Aoife Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022): ngac011.

3 Roger Hart, "Children's Participation: From Tokenism to Citizenship," *Innocenti Essays* no. 4 (1992); Laura Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child," *British Educational Research Journal* 33, no. 6 (2007): 927–942.

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We organise the analysis in two blocks. Following this introduction, Section 2 examines national and sub-national initiatives such as youth climate assemblies and advisory councils. Section 3 turns to multilateral arenas – most prominently the UN Framework Convention on Climate Change (UNFCCC) and the drafting of General Comment No. 26[4] – where children and youth have begun to co-produce global climate norms. Across both levels, we interrogate the depth of engagement using Hart's ladder,[5] Lundy's "space-voice-audience-influence" model,[6] and Shier's pathways to participation,[7] assessing whether recent innovations merely amplify youth *voice* or genuinely redistribute *power*.[8]

By juxtaposing international and domestic cases, the chapter highlights the transformative potential of child- and youth-centred governance, while foregrounding the structural hurdles – legal, socioeconomic, and epistemic – that still curtail meaningful influence. The findings will set the stage for Chapters 6 and 7, where we examine how litigation interacts with, and sometimes compensates for, participatory deficits in policymaking spheres. In doing so, Chapter 5 demonstrates that robust climate justice for children and youth depends not only on the courts but on re-imagining decision-making architectures themselves.

2. National and Sub-National Institutional Mechanisms

Over the past decade, the moral authority, climate competence, and public visibility of youth climate protest documented in Chapter 4 have begun to seep into the corridors of government. Yet formal decision-making arenas have not adapted at the same pace. As early as 2015, Narksompong and Limjirakan warned that, although policymakers increasingly framed children and youth as "valuable assets," climate programmes were still being designed *for* them rather than *with* them.[9] A decade on, the charge of tokenism remains familiar, but the political context has shifted: in many countries, child/youth climate advocates now arrive at public hearings and legislative chambers armed with the language of the UN Convention on the Rights of the Child (CRC), the

4 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* (2023), CRC/C/GC/26, 22 August 2023.

5 Hart, "Children's Participation: From Tokenism to Citizenship" n 3.

6 Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child" n 3.

7 Harry Shier, "Pathways to Participation: Openings, Opportunities and Obligations," *Children and Society* 15, no. 2 (2001): 107–117.

8 *Ibid.*

9 Joanne Narksompong and Sangchan Limjirakan, "Youth Participation in Climate Change for Sustainable Engagement," *Review of European, Comparative & International Environmental Law* 24, no. 2 (2015): 171–181.

practice of weekly climate strikes, and, crucially, a reservoir of public legitimacy won in the streets.

This section examines how state entities are responding – sometimes reluctantly, sometimes innovatively – to that new reality. We focus on two clusters of participatory architecture: (i) Youth Climate Assemblies, which borrow deliberative-democratic tools to give children and youth an advisory role on climate strategy; and (ii) Youth Climate Councils, which promise a more continuous pipeline between young constituencies and day-to-day policy formation. By reviewing academic literature and policy reports, we ask not only who is invited, but also how agendas are set, how evidence is weighed, and whether children's recommendations survive the translation into regulations and budgets.

Evidence from the Global South underscores why such scrutiny matters. In South Africa, Chikuruwo and Rautenbach find robust legal guarantees for child participation in family law and schooling, yet report that environmental decision-making remains dominated by adult-centric routines – public hearings scheduled during school hours, technical jargon, and venues that are literally inaccessible to younger citizens.[10] They argue that meaningful reform will require both material resources (transport stipends, child-friendly facilitation) and a cultural shift away from paternalistic assumptions about children's incapacity. Comparable patterns arise in Latin American municipal budgeting schemes and in European youth parliaments, suggesting that institutional design must tackle both the "hardware" of participation (rules, budgets, timelines) and the "software" (adult attitudes, intergenerational power sharing).

Policy practitioners are beginning to draw similar conclusions. A 2020 briefing by Kosciulek for the South African Institute of International Affairs urges governments to graft climate questions onto existing youth parliaments and to publish a "participation trace" – a short document showing where and why children and youth inputs altered policy drafts.[11] Such feedback loops echo children's own demands, voiced during the drafting of General Comment No. 26, for clear lines of accountability that convert consultation into measurable influence. By placing these domestic experiments side by side, this section explores whether they amount to incremental reforms or signal an emerging paradigm in which children are recognised as co-legislators of climate action.

10 Rufaro Emily Chikuruwo and Christa Rautenbach, "Minority Voices Heard: Child Participation in Environmental Decision-Making in South Africa," *Law, Democracy and Development* 28 (2024): 367–398.

11 Désirée Kosciulek, *Strengthening Youth Participation in Climate-Related Policymaking*, SAIIA Policy Briefing no. 225 (Johannesburg: South African Institute of International Affairs, December 2020).

2.1 Child/Youth Climate Assemblies and Parliaments

Critical childhood studies have long dismantled the fiction that children occupy a merely preparatory stage of citizenship. As discussed in previous chapters, from Qvortrup's formulation of age as a structural variable comparable to class or gender to James and Prout's sociological insistence that children are "beings" in the here-and-now, scholars argue that childhood is already a site of political life, albeit one organised by asymmetrical power.[12] Children's rights theory reinforces that claim in normative terms: CRC Article 12 (the right of children to be heard, and to have their views accorded due weight) guarantees an unconditional right to participate, and General Comment No. 26 explicitly links that right to environmental decision-making, reframing climate change as a field in which children hold both stakes and standing.[13] Child/youth climate assemblies and parliaments attempt to translate those scholarly and legal insights into institutional form. They retro-fit the deliberative "mini-public" – a device originally created for adult citizens – to an intergenerational arena marked by epistemic, temporal, and material inequalities.

These initiatives draw simultaneously on Hart's ladder of participation and Lundy's "space–voice–audience–influence" model. The ladder clarifies the distance between token consultation and co-decision, while Lundy's model reminds us that presence, expression, responsiveness, and impact must be secured together. Yet applying either model to climate politics requires an additional theoretical move: the recognition that children's temporal horizon extends far beyond mid-century mitigation targets. Assemblies embedding young delegates not only achieve demographic representation, but they also institutionalise the long-term ecological consciousness highlighted in Chapter 4, positioning children as "present future-makers"[14] rather than passive recipients of future consequences.

The wave of child/youth climate action mapped in Chapter 4 has pressed governments to experiment with more permanent venues for intergenerational deliberation and has accelerated an older academic conversation: if children are "beings" rather than "becomings,"[15] how must democratic institutions transform to recognise them as *present-tense* political actors? While deliberative "mini-publics" have proliferated, most still rely on adult membership, leaving children and youth – those most exposed to ecological risk and also at the

12 Allison James and Alan Prout, *Constructing and Reconstructing Childhood*, 3rd ed. (Oxfordshire: Routledge, 2015); Jens Qvortrup, "Childhood and Societal Macrostructures: Childhood Exclusion by Default," *Child and Youth Culture* Working Paper no. 9 (Odense, Denmark: Department of Contemporary Cultural Studies, Odense University, 1999), 3–22.

13 CRC Committee, *General Comment No 26 on Children's Rights and the Environment* n 4.

14 Karl Hanson, "Children's Rights and the Future," in *Critical Children's Rights Studies: A Research Companion*, eds. Valeria Llobet, Didier Reynaert, Afua Twum-Danso Imoh, and Wouter Vandenhole (Oxfordshire: Routledge, 2022), Chapter 7, 96–107.

15 Emma Uprichard, "Children as 'Being and Becomings': Children, Childhood and Temporality," *Children and Society* 22, no. 4 (2008): 303–313.

forefront of the climate action movement – on the gallery benches.[16] Recent experiences in Iceland, Scotland, and Ireland therefore mark an important – if uneven – shift from protest to co-governance: each offers children and youth structured time, information, and authority to formulate collective climate demands, yet each reveals the frictions that arise when ideals of deliberative democracy meet age-stratified power. Climate-focused mini-publics convened for and by children, therefore, function as experimental answers to the question of what would co-governance look like if intergenerational equity were not just a policy objective but an institutional design principle? The discussion foregrounds the singular political work each assembly performs – and the frictions that surface when children's epistemic authority meets adultist institutions.

2.1.1 Iceland: Barnaþing and the Politics of Statutory Anchoring

In November 2019, the Ombudsman for Children (*Umboðsmaður barna*) convened the inaugural *Barnaþing* ("Children's Assembly"), gathering 150 11- to 15-year-olds chosen through a two-stage civic lottery that intentionally oversampled rural districts and migrant communities to counter the socioeconomic skews that often shape child/youth participation.[17] Guided by Hart's ladder and Lundy's space–voice–audience–influence matrix, the organisers allowed delegates to set their own agenda; climate mitigation and biodiversity loss quickly surfaced as priorities, undermining the adultist presumption that children focus only on narrowly "school-age" issues. Contemporary press coverage captured the mood: "Then maybe President Guðni will hear us," remarked 12-year-old Atli Dagur Kristjánsson, signalling children and youth delegates' expectation of genuine political listening.[18]

During the evidence phase, Lego-based system-mapping tasks, virtual glacier tours, and dialogues with marine scientists and child/youth climate advocates created a multimodal repertoire that mitigated the epistemic barriers posed by specialist language. After three days of deliberation, the assembly adopted 24 resolutions. A public progress review indicates that several of those proposals – most notably calls for stricter marine-conservation rules and youth-centred climate education – were subsequently referenced in the

16 Laura Bullon-Cassis *et al.*, "Do Mini-Publics Answer Environmental Demands by Youth? Promises and Perceptions of 'Voice' in Four European Cities," *Societies* 15, no. 7 (2025): 176.

17 Ombudsman for Children (Iceland), *Barnaþing 2019: Recommendations Report* (Reykjavík: Ombudsman for Children, 2020).

18 Hallur Már Hallsson, "Then Maybe President Guðni Will Hear," *Morgunblaðið*, 22 November 2019, https://www.mbl.is/frettir/innlent/2019/11/22/tha_kannski_heyrir_gudni_forseti/. Accessed 17 September 2025.

2022 Youth Action Plan and discussed by the parliamentary committee drafting amendments to the Fisheries Management Bill.[19]

The 2021 Ombudsman for Children Act codified this feedback by requiring every ministry to publish a written response within six months of each *Barnaþing*, thereby institutionalising the "audience" and "influence" elements of Lundy's framework.[20] Official follow-up reports reveal the fragility of recommendations without a clearly designated departmental champion: where responsibility and resources were undefined, proposals stalled, corroborating that participatory rights alone cannot overcome administrative inertia or replace political will.

2.1.2 Scotland: Parallel Deliberation and the Re-Making of Epistemic Authority

When Scotland's national Climate Assembly migrated online during the 2020–2021 lockdown, the secretariat invited the Children's Parliament to mount an equally long, equally serious mini-public for under-16s. Just over 100 children, drawn from ten state schools across urban, rural, and island districts, took part; substitute-teacher cover, data packages, and tablet loans prevented digital poverty from muting rural or low-income voices.[21] Adults and children travelled the same evidence arc – diet, travel, land use, work, education – yet the Children's Parliament packaged expert input through stop-motion films, graphic-recorded workshops, and the postal adventures of *Brochan the Hedgehog*, practices what Reid describes as a "children's human-rights-based pedagogy" that widens what counts as legitimate knowledge.[22]

By February 2021, the child delegates had voted on 42 Calls to Action, distilled by a 12-member Investigator team and screened for the adult assembly in short films.[23] The final *Full Report* tabled at Holyrood in June 2021 reproduced each Call verbatim inside the relevant thematic chapter, foregoing the annex model that often sidelines youth input.[24] Section 9 of the enabling legislation obliged ministers to address every recommendation; the Scottish Government's 162-page response, issued in December 2021, tackles the children's proposals one by one and includes a video message from the Deputy First Minister addressed directly to the delegates.

19 Ombudsman for Children (Iceland), *Progress Review of Barnaþing Resolutions 2022* (Reykjavík: Ombudsman for Children, 2022).

20 Ombudsman for Children Act No. 50/2021, Article 10 (Iceland).

21 Katie Reid, "'It's Up to You, Me – *All* of Us!' Children's Participation in Scotland's Climate Assembly," in *A Handbook of Children and Young People's Participation*, eds. Barry Percy-Smith *et al.* (Oxfordshire: Routledge, 2023), 279–280.

22 *Ibid*., 280–283.

23 *Ibid*.

24 Scotland's Climate Assembly, *Full Report: Recommendations for Action* (Edinburgh, 2021), Chapters 2–6.

Policy uptake has begun but remains uneven. The 2022 extension of fare-free bus travel to those under 22 years implements Call No. 8 on universal public transport, whereas a statutory *right to repair* for electronic devices, endorsed "in principle," is still awaiting a legislative timetable.[25] Scotland thus shows how child-centred pedagogy and full textual integration can fracture generational hierarchies inside a national deliberative forum, while revealing the vulnerability of those gains in the absence of binding follow-up deadlines.

2.1.3 Ireland: Child-Led Scrutiny of Biodiversity Politics

Ireland's reputation as a deliberative pioneer long coexisted with a blind spot: every national citizens' assembly convened between 2012 and 2021 excluded those under the age of 18 years.[26] Mallon et al. read this exclusion as a legitimacy problem, noting that it undercuts the twin deliberative values of diversity and equality precisely when the European Green Deal calls for "institutional landing pads" that embed younger generations in transition governance.[27] In 2022, the Oireachtas finally mandated a twin process – a conventional citizens' assembly and a Children and Young People's Assembly on Biodiversity Loss (CYPABL) – tasked with advising how the state should confront collapsing ecosystems.[28]

Recruitment for CYPABL began with over 500 applicants; 35 children aged seven to 17 years were selected by random-stratified sampling to balance age, gender identity, ethnicity, disability, rural/urban residence, and, unusually, coastal versus inland location.[29] A *Young Advisory Team* of nine children (eight to 16 years) co-designed the schedule with an intergenerational research consortium from Dublin City University, University College Cork, and non-governmental organisation *Terre des hommes*, thereby operationalising CRC Article 12 and the participation mandate of General Comment No. 26.[30]

Deliberation unfolded over two residential weekends in October 2022, linked by a fortnight in which delegates documented local habitats, interviewed ecologists, and mapped pollinator corridors. Stop-motion explainers, Lego landscape modelling, and "rights circles" transformed technical

25 Scottish Government, *Response to Scotland's Climate Assembly: Recommendations for Action* (Edinburgh, December 2021).

26 Benjamin Mallon *et al.*, "Children and Young People's Assemblies Against the Backdrop of the European Green Deal: Opportunities for Consolidating and Extending a Sustainable and Democratic Transition," *Journal of European Integration* 47, no. 2 (2025): 320.

27 *Ibid.*, 322–323.

28 Houses of the Oireachtas, *Resolution Establishing a Citizens' Assembly and a Children and Young People's Assembly on Biodiversity Loss*, Dáil Éireann Debates, 22 February 2022.

29 Children and Young People's Assembly on Biodiversity Loss Secretariat, *Briefing Note: Recruitment and Selection Process* (Dublin, 2022).

30 Children and Young People's Assembly on Biodiversity Loss Secretariat, *Facilitator Handbook* (Dublin, 2022).

biodiversity data into dilemmas that children and youth felt authorised to debate.[31] On Earth Day 2023, the Assembly launched a report containing 58 Calls to Action under seven themes, headed by a demand that children's environmental rights receive statutory recognition and including proposals for county-wide pollinator networks, a rewilding fund, and an age-progressive eco-levy on fast fashion.[32]

The interview-based evaluation of Mallon et al. presents CYPABL as both an "opportunity structure" and a claim of justice. Participants gained access through CYPABL to a national policy forum otherwise closed to them, but grounded their entitlement in intergenerational equity. Because biodiversity loss will shape "our childhoods and future livelihoods," they argued, children must help set the rules for a just transition.[33] The authors situate that claim within the EU climate strategy: the Green Deal (the EU's strategy to achieve climate neutrality by 2050) promotes deliberative mini-publics. It is silent, however, on child participation. Assemblies like CYPABL, therefore, supply the missing architecture – *if* they are written into recurring policy cycles with budgets and monitoring indicators.

Policy uptake has been modest. The draft National Biodiversity Action Plan 2023–2030 cites CYPABL by name and adopts low-cost measures such as school seed-saving schemes and a youth seat on the Biodiversity Forum, yet defers fiscal items like the rewilding fund to "future consideration."[34] Without a statutory timeline, implementation rests on parliamentary vigilance and civil-society memory – exactly the "patchwork of ad-hoc departmental actions" Mallon et al. warn against.[35] Ireland thus mirrors Iceland and Scotland: procedural innovations – random selection, intergenerational co-design, textual integration of children's words – move participation up Lundy's ladder towards *influence*, but the absence of legal enforcement leaves generational authority contingent on adult budgets and political will.

2.2 Youth Councils Advising Executive Branches

2.2.1 Youth Climate Council Global Alliance

The rise of child and youth assemblies across Europe has forced executives to acknowledge young constituencies, but assemblies meet only episodically. A quieter institutional innovation – the youth climate council – attempts to embed intergenerational dialogue inside the operating rhythm of ministries.

31 *Ibid.*

32 Children and Young People's Assembly on Biodiversity Loss, *Final Report* (Dublin: Department of Housing, Local Government and Heritage, 2023).

33 Mallon *et al.*, "Children and Young People's Assemblies" n 26, 330–333.

34 Department of Housing, Local Government and Heritage, *National Biodiversity Action Plan 2023–2030: Draft for Public Consultation* (Dublin, 2024), 56.

35 Mallon *et al.*, "Children and Young People's Assemblies" n 26, 335.

The model's first full expression came in Denmark in December 2019, when the Ministry of Climate, Energy, and Utilities appointed 14 advisers aged 18 to 28 years "to provide innovative thinking directly to the Minister."[36] Far from a symbolic gesture, the council spent its inaugural year drafting three position papers on biomass, electricity pricing, and energy efficiency; when the Danish Climate Programme reached the Folketing in 2021, several passages echoed the council's language almost verbatim, a point later confirmed in the ministry's own annual review.[37] Although they did not include those under regions, it is still of note in the context of child/youth climate action.

Poland institutionalised a youth climate council by ministerial ordinance on 31 March 2020. Thirty-two members – one for each voivodeship, aged 15 to 26 years – meet monthly with the Minister of Climate and Environment and are consulted on new bills that originate in the department.[38] The Netherlands followed in late 2020, housing a 20-member Youth Climate Council inside the Directorate-General for the Environment of the Ministry of Infrastructure and Water Management; membership is open to applicants aged 15 to 27 years who commit to fortnightly working sessions with senior civil servants.[39] In these three countries, young advisers hold passes, appear on organisational charts, and see draft regulations before they are circulated for inter-departmental comment.

A toolkit produced in 2024 by the Youth Climate Council Global Alliance and the C40 network refers to cohorts of roughly 20, two-year mandates, an explicit brief to translate both ways – rendering climate jargon intelligible to peers while feeding youth priorities into bureaucratic pipelines – and a promise of at least quarterly meetings with the responsible minister or director-general.[40] Denmark, Poland, and the Netherlands supplied much of the template's language, but diffusion has quickly outrun European borders. Ghana launched a National Youth Climate Council in September 2021, describing it as "a unified movement to amplify youth voices," and claiming links to 2,000 activists and 1,000 NGOs.[41] Uganda followed in 2023: its council works "in close liaison" with the Children and Youth Department of the Ministry of Water and Environment, although the arrangement is governed by memoranda of

36 Danish Ministry of Climate, Energy and Utilities, "Youth Climate Council Established," Press Release, 6 December 2019.

37 Danish Ministry of Climate, Energy and Utilities, *Youth Climate Council: One-Year Review* (Copenhagen, 2020), 4–7.

38 Ministry of Climate and Environment (Poland), "First Official Meeting of the Youth Climate Council," Press Release, 31 March 2020.

39 Youth Climate Council Global Alliance and C40 Cities, *Creating Youth Climate Councils: A Step-by-Step Guide for Young People* (London: C40 Cities, 2024), 6.

40 *Ibid*., 5–8.

41 The Climate Insight, "Ghana Launches Youth Climate Council," *The Climate Insight*, 25 September 2021, https://theclimateinsight.com/2021/09/25/ghana-launches-youth-climate-council. Accessed 17 September 2025.

understanding rather than statute.[42] Costa Rica's Ministry of Environment and Energy announced a council the same year,[43] and São Paulo's municipal experiment – founded without a formal ordinance – has convened 12 meetings with city legislators and five with federal officials since 2022, showing that informal legitimacy can also open doors.

Several patterns nonetheless reveal the limits of the format. Costa Rica, Denmark, Ghana, and Uganda set the floor at 18, Poland and the Netherlands at 15; Ghana and Uganda follow a similar line, and São Paulo requires proof of university enrolment. Participation is expanded, but in some cases only to those already on the cusp of legal adulthood. Mandates likewise stop short of co-decision. The Danish council may propose, comment, and publish, but cannot veto. Poland's council reviews draft bills, and as of yet, has no formal right to annotate the regulatory impact analyses that accompany them to parliament. Only Denmark obliges the minister to issue an annual "reply report" tracing which youth recommendations were adopted, delayed, or rejected.[44] In the Netherlands, the Directorate-General posts occasional blog entries summarising exchanges; in Ghana and Uganda, feedback is informal, and in Costa Rica, the ministry has promised a "dashboard" that remains under construction.

2.2.2 South Korea: A University-Led Council at the Intersection of Litigation and Legislative Reform

South Korea's recent experience shows how youth can convert courtroom victories into legislative traction even when no formal seat awaits them inside a ministry. The Framework Act on Carbon Neutrality and Green Growth (2021) recognises a right for "citizens, *including youth*" to participate in climate governance; a 2023 consolidation of the statute reiterates the clause and instructs national and local committees to "hear the voices of youth and children."[45] Yet Seyoung Hwang's nationwide audit of implementation demonstrates how thin the legal promise has proved on the ground: by October 2024, only 14 of 242 municipal ordinances created under the Act reserved a youth seat, and just two even mentioned consultation with children under 18 years.[46] Hwang documents children and youth delegates who, having been

42 Youth Climate Council Global Alliance and C40 Cities, *Creating Youth Climate Councils*, n 39, 7.

43 "Consejo Climático de Juventudes de Costa Rica: Convocatoria," *Centro Cultural de España en Costa Rica*, 30 June 2023, https://ccecr.org/evento/consejo-climatico-de-juventudes. Accessed 19 June 2025.

44 Danish Ministry of Climate, Energy and Utilities, *Youth Climate Council: One-Year Review*, n 37, 15–18.

45 Korea Legislation Research Institute, *Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis* (consolidated text, 2023), Article 5.

46 Seyoung Hwang, "Supporting Youth Participation and Action in Climate Change: Rhetoric of Policy and Actuality in Schools, Youth Centers, and Youth Activism," *Environmental Education Research* (2025): 7–8.

invited onto provincial evaluation panels, found their presence "purely nominal" and resigned in frustration.[47]

A turning point arrived on 29 August 2024 when the Constitutional Court ruled the government's post-2030 emissions roadmap "constitutionally incompatible" with the rights of present and future generations and ordered the National Assembly to amend the Framework Act by 28 February 2026.[48] Seizing that deadline, students at Kyung Hee University launched *Climate Youth Council 2024* within a seminar on climate policy and democratic innovation. Drawing on citizens-assembly pedagogy, they spent 16 weeks analysing loopholes in the Act, consulting sympathetic legislators, and drafting a citizen-initiated amendment – the first submitted since the law's enactment.[49] The petition, filed in late December 2024, proposes stronger interim targets, enhanced public oversight mechanisms, and a youth participation clause with reporting duties.

After the filing, the council posted the amendment on the civic-tech platform Parti and diffused the link through social media channels and student forums while holding regular briefings with staff of the National Assembly's Environment and Labour Committee, where the petition now sits alongside the Court's mandate.[50] The experiment thus bypasses the executive, links judicial pressure to legislative drafting, and amplifies its agenda through digital activism. The pathway nonetheless reproduces a familiar age ceiling: participation in the seminar is limited to university students, leaving younger climate strikers as observers. Whether the amendment survives committee negotiations in 2026 will test both the durability of this bottom-up model and South Korea's willingness to translate constitutional opportunity into statutory reform authored – rather than merely inspired – by youth.

Overall, youth climate councils exemplify the institutional embedding of the "climate competence"[51] discussed in Chapter 4, directly integrating the innovative knowledge, skills, and networks developed through street-level activism into bureaucratic decision-making. However, the reviewed examples illustrate the multiple challenges that these sorts of initiatives face, ranging from budget deficits, follow-up commitments, accountability mechanisms, and access barriers.

47 *Ibid*., 9.

48 Constitutional Court of Korea, *Decision 2020-Hun-Ba-536* (29 August 2024).

49 Kangjun Lee, "Climate Youth Council 2024: Young People's Experiment in Strengthening Democracy and Fighting Climate Change," Heinrich-Böll-Stiftung Seoul | East Asia, 14 February 2025.

50 Kangjun Lee, "Climate Youth Council 2024: Proposing a Carbon Neutrality Act Amendment and Conducting an Online Campaign," Heinrich-Böll-Stiftung Seoul | East Asia, 7 March 2025.

51 Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law" n 2.

3. International Environmental Decision-Making Arenas

As explored historically and theoretically in Chapter 4, child/youth climate action has always strategically operated across multiple scales, deliberately navigating between local, national, and global arenas to leverage maximum influence. From the outset, child/youth networks have moved fluidly between classrooms, city halls, and UN conference rooms, treating each arena as a relay station in a wider circuitry of influence. They understand – often more intuitively than adult policymakers – that the forces driving the climate crisis are transnational, that domestic gains are bolstered when echoed in treaty language, and that international norms become enforceable only when translated back into local laws and budgets. Child/youth climate advocates, therefore, engage global forums not simply when domestic venues fail but because strategic scale-shifting maximises leverage: it allows them to spotlight national shortcomings under international glare, to import legal arguments home, and to weave alliances that surpass the resources of any single community.

This section explores how that multilevel strategy plays out inside two emblematic spaces of international environmental governance. Sub-section 3.1 traces the trajectory of child/youth advocates within the United Nations Framework Convention on Climate Change (UNFCCC), showing how the YOUNGO constituency has learned to deploy insider diplomacy and outsider protest in tandem. Sub-section 3.2 turns to the UN Committee on the Rights of the Child's General Comment No. 26, where children moved beyond lobbying to co-draft a normative standard that now orients litigation and policy back home. Together, these case studies illuminate the reciprocal dance between global rule-making and local mobilisation, revealing both the procedural breakthroughs and the enduring ceilings that shape child and youth participation across scales.

3.1 Youth Presence Inside the UNFCCC Architecture

Since the UNFCCC first opened its doors to a formal youth constituency in 2009 – and granted full constituency status to YOUNGO in 2011 – child and youth advocates have moved from the margins of the Conference of the Parties (COP) to a highly visible, if still contested, place within its decision-making machinery. Early ethnographic work captured young climate advocates wrestling with the dual identity of "professional insider" and "unruly outsider," negotiating the protocols of diplomacy while refusing to abandon movement roots.[52] Subsequent studies confirm that institutionalisation has yielded unprecedented access: YOUNGO now delivers daily interventions in plenary, co-hosts the annual Conference of Youth (COY), and seats delegates

52 Harriet Thew, "Youth Participation and Agency in UNFCCC Processes: UKYCC at COP 19–23," *Climate Policy* 18, no. 9 (2018): 1189–1203.

on thematic working groups ranging from climate finance to loss-and-damage.[53] Yet visibility has not erased subordination. Several child/youth attendees describe being used as "photo-ops" by politicians or NGOs that wanted the optics of the presence of youth, but did not want to actually engage in meaningful dialogue.[54]

During 2024, as part of the Youth Climate Justice (YCJ) project, we conducted a qualitative study on the experiences of children and youth who have engaged with the UNFCCC COP, using in-depth semi-structured online interviews.[55] Participants highlighted how logistical hurdles (visa denials, guardian-signature rules), financial barriers (self-funded travel, prohibitive accommodation costs), and pervasive adult-centrism routinely undercut the legal and moral frameworks that ostensibly recognise them as rights-holders. These constraints, coupled with the emotional toll of reliving climate disasters or facing racialised harassment, create a hidden cost of participation. Yet they also described resourceful counter-tactics – from *ad-hoc* WhatsApp "whip counts" that track bracketed text in real time, to choreographed silent vigils outside ministerial briefings[56] – that demonstrate the agency and climate competence children and youth can wield. We argue that these strategies not only have an impact on children and youth environmental rights but can also bolster incremental policy shifts or broader cultural transformations.

Child/youth attendance has risen – from a few dozen observers in the early 2000s to several thousand accredited delegates at COP 28 and 29 – but participatory depth remains uneven. Inside the Blue Zone, children and youth who secure Party or Research and Independent Non-Governmental Organisations (RINGO) badges can brief negotiators, track text drafts, and deliver statements; in parallel, the Green Zone hosts pavilions, art installations, and protests that amplify youth narratives for media and public audiences.[57] While some interviewees valued the Green Zone's creative freedom, most stressed that real decisions are still made behind closed doors, forcing them to shuttle between zones or cultivate informal corridors to reach delegates.[58] The spatial hierarchy thus reproduces what Buhre and Josefsson call an "elitist diplomatic culture" that rewards those able to master UN jargon and networking

53 Joseph Campisi *et al.*, "Overlooked No More: Empowering Youth Voices in Global Climate-Change Negotiations," *Journal of Science Policy & Governance* 22, no. 2 (2024): 3–4.

54 Florencia Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance," *The International Journal of Children's Rights* 33, no. 3 (2025): 733–767.

55 For more details about the research design, methodology, and findings, see Paz Landeira *et al.*, *ibid.*

56 *Ibid.*, 759.

57 Frida Buhre and Jonathan Josefsson, "The Materiality of Youth Representation at Climate Summits," *Globalizations* 22, no. 3 (2024): 390–408.

58 Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 54.

rituals.[59] In practice, that hierarchy is also age-graded: under-18s described being "heard but not truly listened to," their interventions applauded precisely because they carry no voting power.

Despite the structural frictions, young advocates have won symbolic and procedural victories that embed their perspectives in the COP ecosystem. The Children and Youth Pavilion, launched at COP 27 and expanded at COP 28 and 29, offers the first permanent Blue Zone venue run by and for under-35s; its daily briefings feed talking points to sympathetic negotiators and UN agencies.[60] Meanwhile, the International Youth Climate Delegates Programme piloted in Dubai provided stipends, capacity building, and an official badge to 100 Global South activists, signalling a shift towards material support rather than mere rhetoric.[61] Beyond the UNFCCC Secretariat, presiding COP presidencies increasingly reserve speaking slots for child/youth delegates in high-level segments – a practice that, while still vulnerable to tokenism, legitimises children/youth as stakeholders rather than observers.[62] Interviewees nonetheless cautioned against the rise of "climate celebrities" who appear at every panel while grassroots voices remain underfunded and underaccredited.[63] Attendees at COP also take issue with a tendency towards a single child being called upon to speak for all children and youth.[64]

The expansion of child/youth spaces has not eliminated age-based exclusion. Participants from the YCJ research study described visa hurdles, guardian requirements, and safeguarding rules that effectively bar them from negotiating rooms – even when they carry Party badges.[65] Many also face intersecting barriers of race, class, and nationality: Global South children reported being denied entry to side events based on discretionary criteria. Such experiences reinforce literature that warns of "youth-washing," where institutions showcase diversity on stage while marginalising dissenting or radical proposals off

59 Buhre and Josefsson, "The Materiality of Youth Representation at Climate Summits" n 57.

60 Child Rights International Network, "Open Letter from CRIN's Climate Advisers to COP 28 Delegates," 8 December 2023, https://home.crin.org/readlistenwatch/stories/open-letter-crin-climate-advisers-cop28-delegates. Accessed 22 September 2025.

61 UAE COP 28 Presidency. "International Youth Climate Delegate Programme Report," (2024), https://www.cop28.com/en/cop28-uae-youth-climate-champion. Accessed 22 September 2025.

62 Mark Ortiz, Charles Mankhwazi, and Neeshad Shafi, "'Who Is Going to Talk about My Grandad? Who Is Going to Talk about Me?': Spatial Politics in the Advocacy of Youth from the MENA Region at COP 27," *Climate and Development* 16, no. 10 (2024): 929–938.

63 *Ibid*., 933.

64 Paz Landeira *et al*., "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 54, 751.

65 *Ibid*.

stage.[66] Children under 18 years are also particularly poorly represented at COP compared with youth over 18 years old.[67]

In response, young advocates deploy hybrid repertoires that combine insider lobbying with disruptive tactics. Silent vigils in negotiation hallways, real-time social media fact-checks of draft texts, and pop-up press conferences in pavilions all serve to publicise last-minute language changes and pressure recalcitrant parties.[68] First-time delegates also learn to request "controlled actions" – officially approved protests that balance visibility with safety – a practice many credited with preventing intimidation by security staff. Peer-to-peer mentorship within YOUNGO passes on institutional memory, teaching first-time delegates how to read bracketed text, request interventions, and navigate the "contact group" maze. This horizontal pedagogy was repeatedly signalled in what could be framed as "leadership without leaders," preferring terms like "protagonists" or "collective catalysts" over the individualistic label of "leader."[69]

One critical insight that emerges from these experiences is how formal rights instruments and everyday "rights work" continually interact to open new pathways for participation. In principle, the CRC guarantees children's freedom of expression, association, and involvement in all decisions that affect them (Articles 12–15). Yet the children and youth we interviewed rarely framed their claims in overtly legalistic terms; instead, they spoke the language of climate justice, equity, and ethical responsibility, drawing moral force from lived experience rather than from treaty articles. This melding of human rights norms with grassroots activism suggests a fluid, practice-based understanding of children's rights – one that values legal frameworks while remaining open to creative, context-specific tactics. By staging walk-outs, forging alliances with Indigenous and disability rights NGOs, and using social media to expose inconsistencies in negotiating texts, the delegates effectively translated core CRC principles into action without always naming the Convention itself. In doing so, they demonstrated sophisticated advocacy repertoires that combine legal norms, social justice imperatives, and grounded knowledge of local environmental crises.

The trajectory of children and youth presence inside the UNFCCC architecture thus reveals both progress and persistent ceilings. Access mechanisms (badges, pavilions, delegate programmes) are necessary but insufficient without parallel reforms that redistribute agenda-setting power – for example, mandating youth co-chairs on thematic consultations, integrating General

66 Laura Bullon-Cassis, "'A Game Show at the End of the World': The Currency of Youth in UN Climate Summitry," *Journal of Youth Studies* 27, no. 1 (2024): 1–18.

67 Paz Landeira *et al.*, "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance" n 54.

68 *Ibid.*

69 *Ibid.*, 748.

Comment No. 26 language into COP decisions, and funding national youth councils to shape NDC revisions. Greater resources are needed for Global South child and youth delegates. There should be guaranteed interpretation into at least six UN languages plus major Indigenous languages at plenaries. An integrated well-being protocol should be present at COP that offers pre-COP training, on-site psychosocial support, and post-event debriefing. For children and youth, their needs should be properly considered, and based on the rights enshrined in the CRC.[70] As Chapter 4 demonstrated, children and youth have already transformed climate politics through movement-building; this section shows that embedding their agency within UNFCCC structures is the next frontier for systemic change.

3.2 Crafting Normative Standards: UNCRC General Comment No. 26 (2023)

When the UN adopted the Convention on the Rights of the Child (CRC) in 1989, it sketched a comprehensive catalogue of guarantees – among them the rights to life, to the highest attainable standard of health, to education, to an adequate standard of living, and, strikingly for its time, to be heard in every matter affecting the child. Yet, as a number of commentators later observed, the treaty contained a conspicuous "green gap": it hardly addressed the ecological preconditions on which those guarantees depend.[71] For more than three decades, the CRC and the Committee that monitors it remained largely silent on the accelerating degradation of the biosphere. However, the story of General Comment No. 26 is ultimately less about a UN committee filling that "green gap" and more about thousands of children who – working from the inside – reshaped how international law itself is drafted. In Morgera's terms, General Comment No. 26 offers a blueprint for the "transformative change" international environmental law now requires: a shift from incremental fixes to structural re-thinking of state obligations through a children's rights lens.[72]

By the late 2010s, that silence had become untenable. Rising global temperatures, rapid biodiversity loss, and mounting evidence of climate-related harms to children's health coincided with an unprecedented surge of child/youth climate action. School walk-outs, Indigenous land-defence campaigns, and a cascade of child-centred lawsuits made headlines worldwide. In *Sacchi v. Argentina et al.*, 16 children petitioned the Committee, arguing that the

70 See further *ibid.*

71 Aoife Nolan, "General Comment No. 26 on Children and the Environment – A Milestone in International Human Rights Law?" *EJIL: Talk!*, Blog, 20 September 2023, https://www.ejiltalk.org/general-comment-26-on-children-and-the-environment. Accessed 17 September 2025.

72 Elisa Morgera, "International Environmental Law: A Case for Transformative Change through the Lens of Children's Human Rights," *Environmental Policy and Law* 53 (2023): 307–319.

insufficient mitigation policies of five states violated various of their CRC rights.[73] Although the Committee declared the petition inadmissible on jurisdictional grounds in 2021, scholars and practitioners credit the case with galvanising the Committee to place environmental questions at the heart of its normative agenda.[74] As the Chair of the Committee expressed: "The case made us so aware of how children were feeling about these issues, how strongly they were fighting to get their views across."[75] Overall, children's climate action has created the impetus for drafting this crucial General Comment.[76]

The Committee resolved that its next general comment would focus on children's rights, the environment, and climate change. The decision inaugurated a two-year participatory effort culminating in General Comment No. 26 on children's rights and the environment, with a special focus on climate change, adopted in 2023. Both method and substance broke new ground. Where previous general comments emerged from a largely technocratic ecosystem – legal expertise, thematic hearings, call-for-papers pipelines – General Comment No. 26 was conceived from the outset as an intergenerational project in which children would have input into every draft. General Comment No. 26 exemplifies not just the recognition of children's "voice," but their active role in shaping legal content. In that sense, the process resembled a form of co-legislation, where those most affected by the outcome helped craft its contours – thereby endowing the standard with a deeper kind of legitimacy. To that end, the Committee appointed NGOs Terre des Hommes Germany and Child Rights Connect as technical partners, and received input from the Children's Environmental Rights Initiative coalition. An Advisory Board was convened, and a 12-member Children's Advisory Team (CAT), aged 11 to 17 years, was selected to ensure diversity of region, gender, disability, and

73 *Sacchi et al. v. Argentina*, CRC/C/88/D/104/2019*; Sacchi et al. v. Brazil*, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, CRC/C/88/D/106/2019*; Sacchi et al. v. Germany*, CRC/C/88/D/107/2019; *Sacchi et al. v. Turkey*, CRC/C/88/D/108/2019, 2021, United Nations Committee on the Rights of the Child.

74 Sabin Center for Climate Change Law, "Climate Litigation and Children's Rights: Unpacking the CRC's New General Comment," *Climate Law Blog*, Columbia Law School, 22 September 2023, https://blogs.law.columbia.edu/climatechange/2023/09/22/climate-litigation-and-childrens-rights. Accessed 17 September 2025.

75 Isabella Kaminski, "Children's Voices Must Be Heard on Climate Crisis, Says UN Rights Body," *The Guardian*, 28 August 2023, https://www.theguardian.com/environment/2023/aug/28/childrens-voices-must-be-heard-on-climate-crisis-says-un-rights-body. Accessed 17 September 2025.

76 Aoife Daly *et al.* (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law," in *Routledge Handbook of Young People and Environmental Activism*, eds. Ben Bowman and Sadiya Akhram (Oxfordshire: Routledge, 2025). As noted in Chapters 2 and 4, the Committee also credits child/youth climate action with the impetus for the drafting of the General Comment, see 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*, n 4, para. 2.

advocacy background.[77] This participatory design exemplifies what Jasanoff calls the *co-production* of knowledge and social order: legal expertise and children's lived climate experience shaped one another in real time.[78]

The Children's Advisory Team served four functions: integrating children's views at every stage of General Comment No. 26, co-drafting content, producing child-friendly versions (written and animated), and worldwide dissemination – an unprecedented participatory architecture in UN standard-setting.[79] Meeting mainly online across more than a dozen time zones, the Children's Advisory Team co-designed a multilingual questionnaire that asked children how environmental harm affected their daily lives, what duties they believed states and businesses ought to shoulder, and what forms of participation felt meaningful and safe. The survey – drafted in plain language, with open-text boxes and a consent form intelligible to 12-year-olds – went live on 31 March 2022. By the close of data collection three months later, it had elicited 16,331 individual submissions from 121 countries. Late in 2022, the Committee released a near-final draft of the comment for further feedback. During that second consultation window, from mid-November 2022 to mid-February 2023, another 8,915 children shared their views – roughly half via an online questionnaire and half through 165 peer-facilitated workshops that used a participation toolkit co-developed by the CAT.[80] Throughout the process, the child advisers annotated successive drafts, lobbying successfully for intersectional language on Indigenous and disabled children, pressing for explicit recognition of mental health harms such as eco-anxiety, and rejecting adult framings that cast them solely as victims and/or future citizens. This direct editorial role also functioned as a corrective to the testimonial injustices historically faced by children, whose accounts of harm have often been discounted or mediated through adult narration. As Fricker[81] argues, "epistemic injustice" arises when certain groups are structurally disbelieved or under-credited. General Comment No. 26 attempted to reverse that pattern: by drawing on situated knowledge, it elevated children's own frameworks of meaning into

77 See General Comment website, *Meet the Advisors* (undated), https://childrightsenvironment.org/advisors/. Accessed 17 September 2025.

78 Sheila Jasanoff, *States of Knowledge: The Co-Production of Science and the Social Order* (Oxfordshire: Routledge, 2004), 2–3.

79 For a more detailed account of the work of the General Comment No. 26 Children's Advisory Team, see: Daly *et al.* (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law" n 76.

80 Committee on the Rights of the Child and Children's Advisory Team, "Findings from the Second Phase of Consultations with Children and Young People for General Comment No. 26," June 2023, https://childrightsenvironment.org/wp-content/uploads/2023/06/Findings-from-the-Second-Phase-of-Consultations-with-Children-and-Young-People-for-General-Comment-No.26-6.pdf. Accessed 17 September 2025.

81 Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford: Oxford University Press, 2007).

normative guidance. That experiential register is evident in the preamble's emotionally direct language, a rare tone in UN legal drafting.

Although the children who took part came from markedly different contexts, certain priorities resonated across continents: safe air and water, binding mitigation timelines, cross-border solidarity, schools that teach legal as well as scientific literacy, and access to the resources needed to implement their own projects – from peat-bog restoration in Scotland to zero-waste campaigns in Indonesia. They also described the psychological cost of living with ecological crisis, using words such as *grief*, *anger*, and *helplessness*. As noted in Chapter 3, a high number of children/youth are very or extremely worried about climate change and climate anxiety is strongly associated with perceived government inaction.[82] Appropriately, General Comment No. 26 recognises such distress, stating that the triple planetary crisis "is an urgent and systemic threat to children's rights globally,"[83] whose mental-health impacts "require pressing attention."[84]

The substantive contribution of General Comment No. 26 rests on three interlocking approaches. First, it recognises – for the first time within the CRC framework – a stand-alone right of every child to a clean, healthy, and sustainable environment. The Committee's explicit acknowledgement, for the first time in any UN human rights treaty, that the CRC contains an independent right to a clean, healthy, and sustainable environment is a landmark development.[85] The Committee grounds that right in articles 6, 24, 27, and 29 of the Convention, thereby aligning child rights law with the Human Rights Council's resolution 48/13 (2021) and the General Assembly resolution 76/300 (2022). Second, General Comment No. 26 operationalises the CRC's best interests principle for ecological decision-making, directing states to treat children's interests as "a primary consideration" when drafting environmental laws, adopting budgets, negotiating trade agreements, or approving infrastructure projects, and to carry out child rights impact assessments "as early as possible" in policy cycles. Third, the Comment weaves procedural rights – freedom of expression and assembly, access to information, and child-friendly justice – into its normative fabric, arguing that meaningful participation produces a virtuous circle in which empowered children push governments towards more ambitious policies, which in turn safeguard children's substantive rights. Taken together, these moves engage with the four

82 Caroline Hickman *et al.*, "Climate Anxiety in Children and Young People and Their Beliefs about Government Responses to Climate Change: A Global Survey," *The Lancet Planetary Health* 5, no. 12 (December 2021): e863–e873.

83 Committee on the Rights of the Child, *General Comment No. 26 on Children's Rights and the Environment, with a Special Focus on Climate Change*, 2023, UN Doc. CRC/C/GC/26 (2023), para. 1.

84 *Ibid.*, para. 41.

85 Daly *et al.* (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law" n 76.

"futures" Hanson discerns in General Comment No. 26 – children's self-involved futures, future children, the future of humankind, and children as present future-makers[86] – binding them within a single interpretive framework under the CRC.

These doctrinal advances cannot be separated from the political momentum that made them possible. If earlier General Comments were primarily reactive, General Comment No. 26 emerged from a norm-generating cycle initiated by children themselves. Following Finnemore and Sikkink's framework,[87] child/youth petitioners in *Sacchi v. Argentina* and movements like Fridays for Future acted as norm creators: they defined a compelling moral problem and channelled their claims into institutions capable of codifying global standards.

Beyond those headline innovations, General Comment No. 26 sets out cross-cutting obligations that reflect evolving principles of international environmental law. It calls on states to enact and enforce science-based legislation consistent with the Paris Agreement temperature goal, to conserve and restore biodiversity and to regulate business activities that generate environmental harm, all while applying the precautionary principle where scientific uncertainty exists around ecological trends that threaten children's well-being. Throughout, it pays close attention to structural inequalities, emphasising that Indigenous, minority, disabled, and climate-displaced children experience compounded vulnerabilities and therefore require disaggregated data, specialised consultation, and tailored remedies.[88] In doing so, the text echoes scholarship that frames climate change as both distributive and intergenerational injustice: children are least responsible yet most exposed, now and in the decades to come.[89]

Process and substance are therefore inseparable in the story of General Comment No. 26. The architecture of participation – multilingual surveys accessible to children with varied literacy levels, peer-facilitated workshops, and a child advisory team with real semantic influence – offers a procedural template that could be replicated by other UN bodies (e.g., CEDAW's upcoming work on gender and climate) and national frameworks alike. In Jasanoff's[90] terms, the instrument's authority is manufactured in the very act of drafting with children, not merely applied after the fact. By treating children as co-authors, the Committee modelled what can be read as a shift from paternalism to postpaternalism in international child law, advancing the child's status from

86 Hanson, "Children's Rights and the Future" n 14.

87 Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 887–917.

88 See Daly *et al.* (forthcoming 2026), "Children/Youth Environmental Action and Human Rights Law" n 76.

89 UNICEF, *The Climate Crisis Is a Child Rights Crisis: Introducing the Children's Climate Risk Index* (New York: UNICEF, 2021), 14–21, https://www.unicef.org/reports/climate-crisis-child-rights-crisis. Accessed 4 September 2025.

90 Jasanoff, *States of Knowledge*, n 78, 13–17.

beneficiary to partner; from vulnerable recipients of protection to co-owners of the legal obligations that bind states. Such uptake hints at what Morgera calls "integrative and inclusive governance," where children's participation is no longer peripheral but a driver of system-level learning.[91]

The new standard has travelled quickly. At COP 28 in Dubai, General Comment No. 26 was the theme of a side event titled "From Most Vulnerable to Most Valuable: Placing Children's Rights at the Heart of Climate Action," organised by UNICEF, OHCHR, UN Committee on the Rights of the Child, IPCC, UNEP, and the CERI coalition, with the support of the COP28 Presidency and Youth Climate Champion.[92] At the national level, Norway's National Human Rights Institution cited paragraphs 16, 63, 65(d), and 75–76 in its June 2024 submission on Barents Sea petroleum licensing, arguing that every drilling permit must undergo a children's rights impact assessment with a transboundary lens.[93] States are also beginning to deploy the Comment in global forums. Before the ICJ, at least five governments – Albania, Antigua and Barbuda, Namibia, Samoa, and Thailand – invoked General Comment No. 26 to underscore the disproportionate burden borne by children and the need for child-centred relief.[94] The speed with which General Comment No. 26 has surfaced in very different arenas mirrors what Merry describes as "vernacularisation":[95] global norms gain traction only when local actors translate them into culturally resonant idioms.

Early traction should not, however, obscure persistent barriers. As Merry warns, translation processes can entrench power as much as redistribute it; children without digital access, living in conflict zones, or with cognitive disabilities are largely absent from the narrative of General Comment No. 26 – creating what she calls "zones of silence."[96] Several states that applauded General Comment No. 26 have simultaneously tightened restrictions on youth protest. Courts remain cautious: few have yet treated the newly articulated right to a healthy environment as directly justiciable, and some fear that doing so would overwhelm dockets. Administrative capacity is another hurdle. The Comment urges the creation of child-friendly environmental complaints mechanisms, but many ombuds offices lack the mandate, staff, or budget to

91 Morgera, "International Environmental Law" n 72, 312.

92 Recording available at the official UNICEF YouTube channel, https://www.youtube.com/unicef. Accessed 5 April 2025.

93 Nasjonal institusjon for Menneskerettigheter (NIM), "Høringsuttalelse: Forslag til Endring i Veileder til PUD/PAD," Consultation Response, 7 June 2024, https://www.nhri.no/wp-content/uploads/2024/06/Horingsuttalelse-fra-NIM-Forslag-til-endring-i-veileder-til-PUD-PAD.pdf. Accessed 4 September 2025.

94 *Advisory Opinion on the Obligations of States in Respect of Climate Change*, 2025, A/77/L.58, International Court of Justice.

95 Sally Engle Merry, "Transnational Human Rights and Local Activism: Mapping the Middle," *American Anthropologist* 108 (2006): 38–39.

96 *Ibid*., 44.

process such grievances from children.[97] Periodic CRC reporting cycles are already heavy; adding an environmental annex will require resources that many states are reluctant to allocate.

Debates also persist around how the CRC's best interests principle should operate when the harm in question is atmospheric, diffuse, and deferred. Ippolito argues that a climate-sensitive reading of CRC Article 3(1) must "look beyond the statistical life-span of the present generation" and embrace "systemic, cumulative and trans-generational risks," rejecting discount-rate formulas that undervalue distant impacts and urging decision-makers to apply the precautionary principle as default.[98] Critics caution that an open-ended time horizon could paralyse infrastructure planning or invite speculative evidence. General Comment No. 26 does not settle the debate but steers a middle course: it requires children's rights impact assessments "as early as possible" and "at regular intervals" while leaving methodological specifics to domestic law. How courts and administrations operationalise that directive – whether they follow an expansive approach or adopt a more incremental reading – remains to be seen and will be a key site of normative experimentation in the coming decade.

None of these challenges diminishes the Comment's importance. General Comment No. 26 consolidates the argument that children cannot flourish unless the biosphere that sustains them is protected, and that they themselves are indispensable partners in that endeavour. It stitches together strands that had previously run in parallel – the right to be heard, the right to health, the emergent right to a healthy environment – into a single normative fabric. It also re-imagines treaty interpretation as an intergenerational conversation rather than an adults-only drafting exercise.

Ultimately, the long-term significance of General Comment No. 26 will depend on how states, businesses, civil society, and, not least, children deploy it. The document has been referenced in international forums, for example, by the Inter-American Court of Human Rights in its *Advisory Opinion on the Climate Emergency and Human Rights*.[99] The children and youth who co-authored General Comment No. 26 continue their climate action. UNICEF named one member of the Children's Advisory Team as the first youth advocate for environmental and climate action for Latin America and the Caribbean, for example.[100] The collaboration of the Children's Advisory Team with international

97 See further Aoife Daly and Laura Lundy, *European Network of Ombudspersons for Children (ENOC) Synthesis Report: Children's Rights and Climate Justice* (European Network of Ombudspersons for Children, 2022).

98 Francesca Ippolito, "The Best Interests of the Child: Another String to the Environmental and Climate Protection Bow?" *QIL QDI – Questions of International Law* 89 (2022): 7–27.

99 *Advisory Opinion on the Climate Emergency and Human Rights*, 2025, OC-32/25 Series A No. 32, Inter-American Court of Human Rights, 60.

100 UNICEF, "UNICEF names Francisco Vera, 13 Year-old Activist, as the First Youth Advocate for Environmental and Climate Action for Latin America and the Caribbean," *UNICEF*

law-makers has already altered the narrative of children's rights by foregrounding children as rights-makers. Whether that innovation will consolidate into durable change remains uncertain, but those who helped write this standard will be watching, interpreting – and reshaping – what comes next.

4. Discussion: Institutionalising Youth Participation – Progress and Limitations

This section synthesises empirical findings regarding national, sub-national, and international mechanisms that institutionalise child and youth climate action. It critically examines the meaningful progress made and persistent limitations encountered in translating youth legitimacy into effective institutional power. The analysis of children and youth-centred mechanisms in the preceding pages showed that assemblies, councils, and treaty-making experiments have multiplied across scales, yet their democratic weight remains uneven. To conclude, we ask what these cases, taken together, reveal about the distribution of intergenerational power.

The mini-publics convened for children in Iceland, Scotland, and Ireland are exciting instances of child participation. Random selection, child-designed agendas, and multimodal evidence sessions furnish the "space" and "voice" that Lundy deems prerequisites of meaningful participation, while statutory or legislative follow-up provisions supply an "audience" charged with listening and, at least on paper, an "influence" channel through which recommendations can reshape law or policy. Iceland's Ombudsman Act obliges every ministry to issue a written response to Barnaþing resolutions; Scotland's Climate Assembly legislation mirrors that duty, and Ireland's Biodiversity Assembly embeds children's words verbatim in the Oireachtas record. These feedback loops lift the assemblies beyond symbolic display and towards the partnership or delegated-power zones that Hart identifies as genuine power sharing.[101] Yet the same cases expose fragility: where no department is assigned ownership, ideas stall; where fiscal commitments are deferred, influence evaporates.

Youth climate councils illustrate a contrasting pattern: continuous access to executive corridors, but a lower ceiling on decision-making authority. Denmark's council drafts position papers that echo in cabinet memos; Poland's sits inside ministerial bill-drafting; the Netherlands, Ghana, and Uganda offer regular briefings yet reserve veto power for senior officials. Only Denmark compels an annual "reply report," while Costa Rica's promised dashboard is still under construction. Councils, therefore, stabilise "audience" but leave "influence" contingent on ministerial goodwill, confirming Shier's warning

website, 5 June 2023, https://www.unicef.org/lac/en/press-releases/unicef-names-francisco-vera-13-year-old-activist-first-youth-advocate-environmental-and-climate-action-for-lac. Accessed 19 September 2025.

101 Hart, "Children's Participation: From Tokenism to Citizenship" n 3.

that pathways can dead-end without legal enforceability. The comparison between episodic but high-impact assemblies and lower-impact but permanent councils suggests a trade-off: depth of deliberation versus breadth of bureaucratic embedment. A mature architecture would combine both – recurring mini-publics whose outputs are channelled through standing councils empowered to track implementation.

Examining the circuitry of feedback also exposes stark North–South asymmetries. European councils benefit from line-item budgets, staff liaisons, and media traction, whereas their counterparts in Ghana or Uganda navigate memorandum-based mandates, voluntary facilitation, and precarious funding streams. Within the UNFCCC, similar inequities surface: while YOUNGO now commands daily plenary slots and working-group seats, delegates from the Global South report visa denials, self-funded travel, and racialised harassment that corrode any formal gain in status. The very mechanisms designed to democratise climate governance thus risk reproducing the privilege gradients they aim to disrupt, reminding us that "space" is meaningless without the material resources to enter it.

Intersectionality compounds those divides. General Comment No. 26 elevates Indigenous, disabled, and climate-displaced children within its normative frame, and the Children's Advisory Team fought successfully to insert language on eco-anxiety and mental health – issues rarely acknowledged in adult-driven instruments. Yet the youth councils that now proliferate often set age floors at 15 or even 18, excluding the very cohorts whose psychosocial stakes the general comment foregrounds. Assemblies in Iceland and Scotland tackled that gap through oversampling of rural and migrant communities and by underwriting digital access, but such safeguards remain exceptions, not the rule. The comparative lens, therefore, confirms that participation is an aggregate of design choices – sampling algorithms, facilitation styles, compensation schemes – each capable of widening or narrowing the circle of youthful authorship.

The collected data reveals both progress and limits. Assemblies that include children's contributions to parliamentary reports disrupt the centuries-old convention that children may speak, but adults must translate. General Comment No. 26, drafted with children's involvement throughout, codifies their epistemic authority in international law. Taken together, they create a picture of progression from viewing children/youth as future beneficiaries to recognising them as present equals and co-legislators. Yet each advance is shadowed by adult control over purse strings, parliamentary scheduling, and legal drafting, underscoring that postpaternalism remains an aspiration unevenly realised.[102]

102 See further Aoife Daly *et al.*, "Participation and Postpaternalism: Child/Youth Climate Action and the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 33, no. 3 (2025): 562–593.

Tokenism, therefore, persists, albeit in a refined form. The ladder's bottom rungs are now rarer – few jurisdictions dare invite children merely for photographs – yet many hover on the middle steps, offering consultation without guarantee of uptake. However, these tensions appear to be giving way to a new dialectic: institutional participation raises expectations; unfulfilled expectations drive procedural innovation or litigation; litigation, if successful, forces deeper reforms. In that sense, the findings foreshadow the legal strategies unpacked in Chapter 6.

Two normative implications flow from this analysis. First, influence requires traceability: ministries ought to publish formal "participation traces" that map where youth recommendations alter draft statutes. Second, equity for young climate advocates requires resources: ring-fenced travel funds, translation services, and psychosocial support are not ancillary but constitutive of a right to participate, particularly for Global South children/youth, who shoulder the heaviest climate burdens. General Comment No. 26 lends legal legitimacy to both claims.

5. Conclusions: Child/Youth Climate Action, Human Rights, and Democratic Transformation

Taken together, these mechanisms institutionalise youth-led climate competence in tangible ways: assemblies demonstrate children's epistemic sophistication, councils integrate child/youth perspectives into bureaucratic decision-making, General Comment No. 26 enshrines children's rights within international human rights standards, and young negotiators at COPs actively engage in real-time diplomacy. However, a pivotal tension remains – translating the legitimacy of child/youth climate advocates into lasting institutional power. This underscores Chapter 4's assertion of the urgent necessity to shift from symbolic recognition to a genuine redistribution of intergenerational power.

The findings of this chapter demonstrate that child/youth climate action is fundamentally transforming democratic institutions and human rights paradigms. By asserting their right to participate meaningfully in decisions affecting their present and future, child/youth climate advocates are expanding the theory and practice of human rights and democratic governance. Indeed, child/youth-led climate governance – from local councils and national assemblies to strategic international engagement – compels institutions to reconceptualise participation rights not merely as procedural accommodations but as core human rights obligations. These obligations benefit not just younger generations but also strengthen democratic legitimacy, accountability, and resilience more broadly.

The experiences documented here illustrate vividly that genuine child/youth participation catalyses institutional innovation and democratic renewal. Conversely, persistent tokenism and entrenched adult-centric practices highlight that achieving authentic climate justice for children and youth demands

deeper structural transformation, firmly rooted in human rights principles and intergenerational equity. Ultimately, the struggle for meaningful child/youth participation reveals how children's rights are dynamically evolving in response to the climate crisis – and how this evolution enriches and strengthens democratic processes themselves. Recognising children and youth as co-creators of the policies shaping their present and future pushes societies beyond consultation towards authentic co-governance. Such a shift not only advances the rights of children and youth but also contributes fundamentally to democratic societies that are resilient, inclusive, and sustainable for everyone. Nevertheless, this institutional architecture remains incomplete: without binding feedback loops, predictable funding, and intersectional safeguards, participation risks reverting to performative inclusion rather than genuine empowerment. Precisely this precariousness explains why, when formal governance channels falter, children and youth increasingly turn to the courts. As Chapter 6, on child and youth-involved climate litigation, illustrates, judicial avenues have become critical sites for advancing rights claims when political and institutional mechanisms fail to deliver substantive and sustained change.

6 Child and Youth-Involved Climate Litigation

Child/Youth Climate Action in the Courts

1. Introduction

In recent years, a surge in climate litigation cases has been evident worldwide. This trend is related to the commitments of governments under the 2015 Paris Agreement (a legally binding international treaty on climate change). Courts have emerged as key actors in climate litigation, shaping the direction of law and governance towards a more comprehensive approach to the climate crisis.[1] Many climate cases involve marginalised communities such as children/youth, Indigenous people, and those in the Global South taking legal action primarily against governments but also increasingly against corporations. The representation options available to children and youth are very limited as opposed to older people, who can engage in voting, running for office, and so on. It is unsurprising, then, that children and youth are such a prominent part of the landscape of climate litigation. It has become an attractive means through which young climate advocates can assert rights claims. This chapter introduces the involvement of children and youth in these cases.[2]

Climate litigation has become a crucial avenue through which some children and youth engage in climate action. In this chapter, these climate applications and cases are considered from a children's rights perspective, and particularly the perspective of child/youth participation. Child participation arises primarily from the CRC Article 12 right to be heard. Much has been written about children's participation rights in proceedings, but there has been little consideration of how children participate in climate cases and the extent to which such participation is children's rights-based. It is unusual for children and youth to be involved in litigation on an issue of social justice – their participation in legal proceedings, until recently, has been almost exclusively in relation to family law, child protection, and criminal proceedings. Their involvement

1 Louis J. Kotzé *et al.*, "Courts, Climate Litigation and the Evolution of Earth System Law," *Global Policy* 15, no. 1 (2024): 5–22, 5.

2 This chapter is in part based on Aoife Daly and Liesl Muller, "Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact," *Washington and Lee Law Review* 82, no. 3 (2025): 1049–1072.

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in climate litigation is, therefore, transformative and raises numerous questions about child participation.

Children can be involved in the litigation process extensively or simply by having their names as parties in the case. Some cases involve a legal success involving "outcomes that enhanced climate action,"[3] but around half do not.[4] Using the Youth Climate Justice project Case Law Database (YCJ database),[5] 81 cases are analysed in this chapter to consider two things: the ways in which children were involved, and the extent to which children's rights are a feature of the cases. In Chapter 7, analysis will then be provided in relation to the outcomes and impacts of these cases. We provide an analysis of the 81 cases in the YCJ Database ("the child/youth-involved climate cases") at the time of writing (August 2025).

In Section 2, the emergence of litigation relating to the climate crisis is outlined. In Section 3, the ways in which children and youth have been involved with climate litigation are considered. In Section 4, existing data analysis of climate cases generally, and child/youth-involved climate cases in particular, is considered. In Section 5, an analysis of the 81 cases of the youth climate justice database is presented. The many ways in which children participate in climate cases are considered, as are the children's rights arguments made. In Section 6, reflections are provided on "child-friendly climate justice"[6] in climate cases. In the conclusion, it is emphasised that these cases demonstrate that child participation has become a vehicle to protect the rights of not just children but of everyone.

These cases are also sometimes referred to as "youth-led climate cases."[7] The extent to which they are, in fact, led by children/youth, however, will vary vastly between cases. Some cases will not have active involvement of children at all, even where they are named as litigants. Others involve children

3 Joana Setzer and Catherine Higham, "Global Trends in Climate Change Litigation: 2025 Snapshot," (LSE, 2025), https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2025/06/Global-Trends-in-Climate-Change-Litigation-2025-Snapshot.pdf 24. Accessed 20 September 2025.

4 Joana Setzer and Catherine Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" (LSE, 2024), https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2024-snapshot/. Accessed 17 September 2025.

5 See Youth Climate Justice, *Case Law Database*, https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/. Accessed 26 September 2025.

6 Aoife Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 32, no. 3 (2024): 632–661, 652.

7 See, e.g., Margaretha Wewerinke-Singh and Zoe Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation," in *European Yearbook on Human Rights*, eds. Philip Czech *et al.* (London: Intersentia, 2022), 647–676, 647; Elizabeth Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization," *Transnational Environmental Law* 11, no. 2 (2022): 263–289, 264.

extensively. Some simply rely on children's rights frameworks. We therefore refer to the cases in our database as "child/youth-involved climate cases" as Muller does.[8]

2. The Emergence of Climate Litigation

Climate litigation has emerged as a key avenue through which to tackle the actions of governments, and increasingly corporations, in relation to carbon emissions. Setzer and Higham define climate litigation as applications brought before judicial and quasi-judicial bodies that involve material issues of climate change science, policy, or law.[9] Definitions of climate litigation further suggest it is any litigation pertaining to climate change (directly or indirectly), and involving litigation which is both strategic and routine.[10] In a context where national and international regulatory regimes have proven ineffective to combat the climate crisis, climate litigation can fill a lacuna between promises and action at both national and international levels. Such litigation can be a key tool for challenging unjust power relations,[11] and may force governments to review policy priorities in relation to climate change.[12] Litigation is just one tool in the efforts to tackle the climate crisis, and it comes with limitations, including insufficient attention to adaptation, as well as difficulties with ascertaining standing and causality.[13]

A snapshot of global trends in climate change litigation around the world is provided by Setzer and Higham up to mid-2023.[14] They outline that across 55 countries,[15] 2,666 climate litigation applications had been made. Approximately 70% of these cases have been filed since 2015, the year the Paris Agreement was adopted. More cases have been filed in the US than in all other countries around the world – 129 of 233 applications in 2023 were in the US.[16] Climate cases are taken in relation to various areas of the law,

8 Liesl Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis," *African Journal of Climate Law and Justice* 1 (2025): 59–92.

9 Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 4, 7.

10 Maria E. Lessa, "Climate Litigation as Strategic Litigation," *Environmental Law Reporter* 55 (2025): 10056, 10056.

11 James A. Goldson, "The Value of Strategic Litigation Amidst Rising Illiberal Democracies in an Increasingly Authoritarian World," *OpenGlobalRights*, 20 November 2018, https://www.openglobalrights.org/the-value-of-strategic-litigation-amidst-rising-illiberal-democracies/. Accessed 20 June 2025.

12 *Ibid*., 11.

13 César Rodríguez-Garavito, "Litigating the Climate Emergency: The Global Rise of Human Rights-Based Litigation for Climate Action," in *Litigating the Climate Emergency: How Human Rights, Courts, and Legal Mobilization Can Bolster Climate Action*, ed. César Rodríguez-Garavito (Cambridge: Cambridge University Press, 2021), 6.

14 Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 4.

15 *Ibid*., 11.

16 *Ibid*., 10.

spanning, for example, tort law, public trust doctrine, and human rights. It has been found by Jodoin and Wewerinke-Singh that by December 2023, of all applications filed, 174 have been rights-based.[17]

Rights-based climate litigation involves litigation where the applicants seek to hold governments (or corporations) accountable for failing to mitigate the crisis, based on human rights grounds. Such litigation has been facilitated by the emergence of two distinct global regulatory regimes – climate governance and human rights. These regimes opened new legal opportunities for climate applications. The Paris Agreement was, in particular, a crucial part of this as it ensured a legal basis for many human rights-based cases that aim to mitigate climate change.[18] This agreement is proving important in informing the interpretation of other international agreements, such as the European Convention on Human Rights (ECHR) and the United Nations Convention on the Law of the Sea (UNCLOS). It has also been argued that it could inform the contemporary understanding of international law more generally, providing a positive feedback loop towards effective implementation of, and compliance with, environmental standards. The International Court of Justice (ICJ) handed down its *Advisory Opinion on the obligations of states in respect of climate change* ("*ICJ Advisory Opinion*") in July 2025, confirming that both the Paris Agreement and international human rights law are crucial to the interpretation of states' obligations under international law, and that all states, even when they are not party to the climate treaties, have a legal duty to prevent harm to the environment.[19] This will enhance legal consistency between different parts of international law, breaking down fragmentation between different areas and instruments.[20]

Jodoin and Wewerinke-Singh have ascertained that climate lawyers and activists have been discouraged by failure and injustice in the arena of policy processes at both international and domestic levels, and so have turned to human rights law to address the climate crisis. Such litigation supports those most affected by the climate crisis to share stories and secure the legal outcomes to hold accountable those most responsible for climate change – governments and corporations. Such cases also enable these lawyers and activists to communicate the importance of tackling the climate crisis and attracting

17 Sébastien Jodoin and Margaretha Wewerinke-Singh, "Legal Mobilization in a Global Context: The Transnational Practices and Diffusion of Rights-Based Climate Litigation," *Law & Society Review* 59, no. 1 (2025): 1–33, 2. These were across 47 countries' domestic courts and 13 international and regional bodies.

18 Rodríguez-Garavito, "Litigating the Climate Emergency: The Global Rise of Human Rights-Based Litigation for Climate Action" n 13.

19 *Advisory Opinion on the Obligations of States in Respect of Climate Change*, 2025, A/77/L.58, International Court of Justice, para. 315.

20 Christina Voigt, "The Power of the Paris Agreement in International Climate Litigation," *Review of European, Comparative & International Environmental Law* 32, no 2 (2023): 239.

others to their cause.[21] The involvement of the courts in addressing the harms of climate change is divisive.[22] The role of courts in addressing human rights issues relating to climate change is widely recognised, however.[23]

Rights-based climate litigation has already resulted in many courts around the world ordering that states (and sometimes corporations) increase efforts to mitigate the climate crisis. The rapid rise of rights-based climate litigation was perhaps most notable in the context of the initiation in 2013 of a climate case by Urgenda, a Dutch environmental NGO.[24] The *Urgenda Foundation v. State of the Netherlands*[25] ("*Urgenda*") case aimed to compel the Netherlands to enhance the level of ambition in its climate policies. In 2019, the Supreme Court of the Netherlands rejected a government appeal, affirming judgments by two lower courts, holding that the state has a duty of care to protect residents of the Netherlands against dangerous climate change.[26] It was found that by failing to reduce greenhouse gas emissions by at least 25% by the end of 2020, the government was acting unlawfully in breach of Articles 2 and 8 of the ECHR, violating the human rights of the 900 citizen applicants. This case indicates how important courts and human rights arguments can be in the effort to mitigate climate change.[27] The *Urgenda* case set the scene for a number of other human rights-based cases around Europe and globally, which have used similar arguments.

Garofalo argues that the emergence of such cases points to the reliance on legal opportunity structures, together with the preferences and values of litigants.[28] Legal strategies have responded to domestic rules on standing and on the availability of judicial review, as well as the previous experiences of individual litigators with litigation.[29] In this context, the phenomenon of children and youth as climate case litigators has begun.

21 Jodoin and Wewerinke-Singh, "Legal Mobilization in a Global Context: The Transnational Practices and Diffusion of Rights-Based Climate Litigation" n 17, 17.

22 *Ibid*.

23 See, e.g., Laura Burgers, "Should Judges Make Climate Change Law?," *Transnational Environmental Law* 9, no. 1 (2020): 55–75; Katrina Fischer Kuh, "The Legitimacy of Judicial Climate Engagement," *Ecology Law Quarterly* 46, no. 731 (2019): 764; Christina Eckes, "The Shell Case in Light of Separation of Powers: The Courts Strike Back," (Blog) *Verfassungsblog*, 15 June 2021, https://verfassungsblog.de/the-courts-strike-back/. Accessed 17 September 2025.

24 *State of the Netherlands (Ministry of Economic Affairs and Climate Policy) v. Stichting Urgenda*, 2019, ECLI:NL:HR:2019:2007, Supreme Court of the Netherlands.

25 *Ibid*.

26 See, e.g., Kars J. de Graaf and Jan H. Jans, "The Urgenda Decision: Netherlands Liable for Role in Causing Dangerous Global Climate Change," *Journal of Environmental Law* 27, no. 3 (2015): 521; Josephine van Zeben, "Establishing a Governmental Duty of Care for Climate Change Mitigation: Will Urgenda Turn the Tide?," *Transnational Environmental Law* 4, no. 2 (2015): 339–357.

27 Dan Ziebarth, "Climate Law and Human Rights: How Do Courts Treat Rights in Their Decisions?," *UIC Law Review* 57, no. 2 (2024): 1.

28 Carlotta Garofalo, "'Foot in the Door' or 'Door in the Face'? The Development of Legal Strategies in European Climate Litigation between Structure and Agency," *European Law Journal* 29, nos. 3–6 (2023): 340–361.

29 Jodoin and Wewerinke-Singh, "Legal Mobilization in a Global Context: The Transnational Practices and Diffusion of Rights-Based Climate Litigation" n 17, 20.

3. Children and Climate Litigation

Child and youth climate advocates have initiated climate-related applications to numerous national, regional, and international courts, particularly since 2018. Children as a group have been engaging with courts to exercise their political rights to an extent which has not happened since the advent of the CRC in 1989, when it first became explicit on the global scale that children have such rights.[30] Jodoin and Wewerinke-Singh have found that by December 2023, 34% of rights-based climate applications included children and youth as applicants. They argue that such applications express well the intergenerational injustice posed by the climate crisis and also convey "the lived realities of climate change for young people around the world," as well as the domestic legal norms and discourses in which the children operate.[31] Climate litigation empowers children and youth, who have traditionally been excluded from spaces of power. It also supports children's stories and experiences to be told in such a space, as well as bringing to life the harm caused by climate change.

Climate change is an inherently disruptive phenomenon. It involves transformations and shifts across many different arenas, including the courts.[32] One such disruption, then, is the phenomenon of children and youth, in significant numbers, taking climate cases. It has been said that it works as "disruptive dissent" through which children and youth transform norms, rules, regulations, and institutions within existing political and economic structures.[33] Governments can be compelled to take rights-based action and remedy violations of children's rights and human rights generally through child/youth-involved climate litigation.[34]

Children have been involved in such litigation to address environmental harm for several years. As long ago as 1993, the case of *Minors Oposa v. Secretary of the Department of Environmental and Natural Resources*[35] ("*Oposa*") involved the Supreme Court of the Philippines ruling in favour of

30 Aoife Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022): 11.

31 Jodoin and Wewerinke-Singh, "Legal Mobilization in a Global Context: The Transnational Practices and Diffusion of Rights-Based Climate Litigation" n 17, 1–33, 14.

32 Elizabeth Fisher, Eloise Scotford, and Emily Barritt, "The Legally Disruptive Nature of Climate Change: Dutiful, Disruptive and Dangerous Dissent," *The Modern Law Review* 80, no. 2 (2017): 173–201.

33 Karin O'Brien, Elin Selboe, and Bronwyn M. Hayward, "Exploring Youth Activism on Climate Change," *Ecology and Society* 23, no. 3 (2018): 4.

34 Wewerinke-Singh and Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation" n 7.

35 *Minors Oposa v. Secretary of the Department of Environment and Natural Resources*, 1993, Case No. 101083, Supreme Court of Manila.

the child applicants (represented by their parents).[36] The applicants were seeking to halt timber operations in their area. They invoked a constitutional provision which protected the right to a healthy environment in the Philippines. Children and youth have also been at the forefront of many of what have been referred to as "holy grail cases"[37] relating to the climate crisis; called this for the reason that they involve novel legal arguments and seek "potentially transformative legal remedies."[38] Such cases include *Urgenda*, outlined above, and *Juliana v. United States*[39] ("*Juliana*"), a constitutional climate lawsuit by children against the US government, which has inspired young climate activists and litigants around the world to follow suit.[40]

Both the subject of the litigation and the procedures involved are of interest when children and youth take climate cases.[41] The subject matter is significant because litigating the human rights elements of climate change is a new and exciting phenomenon. The procedure is also crucially important for a number of reasons, including the fact that it concerns the access to justice of a truly excluded group – children and youth. Litigation involves a fundamentally conservative process that favours the status quo and those who hold power in society.[42] As noted above, children and youth face numerous barriers when they engage with the legal system due to a lack of knowledge, resources, and the discrimination that they face as a group.[43] The Committee on the Rights of the Child refers in General Comment No. 26 to the "multiple barriers faced by children" in enjoying and claiming their rights.[44]

36 *Ibid*.

37 Jacqueline Peel and Hari M. Osofsky, "A Rights Turn in Climate Change Litigation?," *Transnational Environmental Law* 7, no. 1 (2018): 37–67.

38 Jodoin and Wewerinke-Singh, "Legal Mobilization in a Global Context: The Transnational Practices and Diffusion of Rights-Based Climate Litigation" n 17, 1–33, 3.

39 *Juliana et al. v. United States*, 2025, US 24-645, US Supreme Court.

40 Jodoin and Wewerinke-Singh, "Legal Mobilization in a Global Context: The Transnational Practices and Diffusion of Rights-Based Climate Litigation" n 17.

41 Kata Dozsa, *Children as Climate Citizens: A Sociolegal Approach to Public Participation* (London: Routledge, 2024), 187.

42 Larissa Parker *et al*., "When the Kids Put Climate Change on Trial: Youth-focused Rights-based Climate Litigation Around the World," *Journal of Human Rights and the Environment* 13, no. 1 (2022): 64–89.

43 Aoife Daly, Rebecca Thorburn Stern, and Pernilla Leviner, "UN Convention on the Rights of the Child, Article 2 and Discrimination on the Basis of Childhood: The CRC Paradox?," *Nordic Journal of International Law* 91, no. 3 (2022): 419–452; Aoife Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis," in *Treated Like a Child-Children, Equality and International Human Rights Law*, eds. Aoife Daly, Pernilla Leviner, and Rebecca Thorburn Stern (Leiden: Brill, 2025).

44 Committee on the Rights of the Child, *General Comment No. 26: Children's Rights and the Environment with a Special Focus on Climate Change* (2023), CRC/C/GC/26, 22 August 2023, para. 82.

Access to justice for children is extremely challenging. Children seeking justice for themselves in court is likely not something that was envisioned by the drafters of the UN Convention on the Rights of the Child. It is not explicitly outlined in that instrument, beyond the standards that children have the right to be heard in all matters affecting them (CRC Article 12) and the right to have their best interests considered as a primary consideration (CRC Article 3). The concept of access to justice is, however, to be found in many other instruments that relate to children. It has been included in Target 16.3 of the UN Sustainable Development Goals (SDGs), where it has been stated that "equal access to justice for all" should be ensured. The Aarhus Convention is an international agreement on environmental democracy, and it grants three key rights: access to information, public participation in decision-making, and access to justice.[45]

Participation is then a key element of environmental justice generally, for both adults and children. Separately, participation is also a general principle of the UNCRC – one of the most important and prominent rights that have arisen for children in the international human rights law framework in the last 30 years. The fact that they are participating in strategic litigation in large numbers for the first time is therefore of great significance. It also raises questions relating to the type/s of participation for children and youth involved in litigation, and the consequences of the participation for children themselves and societies more broadly. The participation of children and youth in climate litigation is all the more significant considering the fact that this particular group (i.e., children and youth generally) has much more difficulty accessing courts and other complaint mechanisms compared with adults.

Child-friendly justice seeks to "place a strong emphasis on meaningful child participation by modifying structures and procedures," and there has been attention to this participation in the past two decades, for example, by the Council of Europe and the EU.[46] Child-friendly justice intersects with numerous other human rights, such as due process and the right to information, and necessitates things such as child-friendly materials to ensure children are supported to engage with justice processes.[47] There is a divide, however, between the child-friendly justice work which has occurred to date and the climate litigation in which children are becoming increasingly

45 United Nations Economic Commission for Europe, *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)*, adopted on 25 June 1998.

46 *Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice*, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010.

47 See, e.g., Helen Stalford and Kathryn Hollingsworth, "'This case is about you and your future': Towards Judgments for Children," *The Modern Law Review* 83, no. 5 (2020): 1030–1058.

involved, in part because children are traditionally only involved in child protection, family, and criminal law cases.[48] This means that it is important to consider youth climate litigation from the perspective of children's participation rights.[49]

4. Existing Data Analysis on Youth Climate Litigation

There is some existing research which breaks down climate cases to examine certain factors involved, including the countries from which the cases originate, the types of litigators, and the likelihood of success. It is useful to consider this research as a backdrop to the examination in this chapter of child/youth-involved climate cases, the participation rights of children/youth, and the significance of these cases for human rights generally.

Researchers at LSE annually report on climate cases, providing a numerical analysis of the number of cases filed, where, and by whom, as well as a qualitative assessment of trends in the types of cases filed.[50] In 2024, they ascertained that climate cases are spreading to new countries, that the reliance on human rights arguments is increasing, and that most climate cases are taken by non-governmental organisations and/or individual litigants (70%). This reflects, the authors assert, an effort by civil society to use the courts to raise concerns about climate action.[51] They also established that approximately 70% of all cases were taken against governments and 25% against companies in 2023. Around 8% of all cases are from the Global South (around 200), with Brazil being the country in the Global South with the highest number of climate cases.[52]

The authors identify the different types of climate cases taken. They describe "government framework cases" – also known as systemic climate litigation or *Urgenda*-style cases – as those taken against governments to challenge their climate policy responses; they note that 81 such cases have been taken (outside the US). "Corporate framework cases" are those taken against corporations challenging their climate plans or targets (17 such cases have been taken, including *Smith v. Fonterra* in New Zealand).[53] "Integrating climate considerations cases" are those that aim to integrate climate considerations into decisions on a particular project or policy (206 such cases have been taken, including *Greenpeace Nordic and Nature & Youth v. Energy Ministry*

48 Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child" n 6.

49 *Ibid.*

50 Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 4.

51 *Ibid.*, 18.

52 *Ibid.*, 13.

53 *Smith v. Fonterra et al.,* 2025, CIV-2019-404-001730, High Court of New Zealand Auckland Registry.

("The North Sea Fields Case").[54] "Turning off the taps cases" are those aimed at preventing financing for harmful projects (28 such cases have been taken, including *Jubilee v. EFA and NAIF* in Australia, forcing government bodies to disclose impact assessments for fossil fuel investments).[55]

"Climate washing cases," which are greatly on the increase, challenge inaccurate narratives about efforts to tackle climate change (the majority of applications have been filed against corporations – 57 such cases have been taken, including the successful case against KLM).[56] "Failure to adapt cases" are those aimed at failure to adapt to the requirements of the climate crisis (14 such cases have been taken, including a case taken by NGO Friends of the Earth against the UK government in relation to its Third National Adaptation Programme).[57] "Polluter pays cases" are those seeking damages for climate harm (17 such cases have been taken, including "The Farmer Case," Belgium).[58] "Transition risk cases" are those that aim to increase attention to climate issues among decision-makers by attributing personal responsibility for failing to manage climate risks (eight such cases have been taken, including *ClientEarth v. Shell's Board of Directors)*.[59] "Personal responsibility cases" are the same, but involve a criminal responsibility element.[60] All of these types of cases can have human rights consequences. They can for example change laws and influence public opinion.

It is noted by Setzer and Higham that climate change litigation is having a significant impact on climate governance – in over half of cases in which a decision has been reached (whether interim or final), there have been outcomes favourable to climate action. Some cases have led directly to new climate policies and/or climate action. We consider this in more depth in Chapter 7. It is likely that the rates of success will be incremental; there will possibly be more success as they become more common.[61] It has to be noted that even where a legal outcome is positive in a climate case, this does not always mean that

54 *Greenpeace Nordic et al. v. Energy Ministry* ('The North Sea Fields Case'), 2025, HR-2025-677-A, Supreme Court of Norway.

55 *Jubilee v. EFA et al.*, 2023, NSD724/2023, Federal Court of Australia.

56 ClientEarth, "Historic Win Against Greenwashing as KLM's Advertising Ruled Illegal," Press Release, 20 March 2024, https://www.clientearth.org/latest/press-office/press-releases/historic-win-against-greenwashing-as-klm-s-advertising-ruled-illegal/. Accessed 29 September 2025.

57 *Friends of the Earth Ltd et al. v. Secretary of State for Environment, Food & Rural Affairs*, 2024, Case No. AC-2023-LON-003070, European Court of Human Rights.

58 *Falys et al. v. TotalEnergies*, 2024, 230.184, Commercial Court of Tournai.

59 *ClientEarth v. Shell Plc et al.*, 2023, EWHC 1897 (Ch), High Court of Justice.

60 Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 4, 25.

61 Louis J. Kotzé and Henrike Knappe, "Youth Movements, Intergenerational Justice, and Climate Litigation in the Deep Time Context of the Anthropocene," *Environmental Research Communications* 5, no. 2 (2023): 025001, 6. Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 4, 26.

implementation of a judgment would lead to an increase in climate mitigation or adaptation.[62] It has been noted, for example, that the changes ordered by the court in the landmark *Urgenda* case (a 25% reduction in Dutch emissions compared with pre-industrial levels) would not be sufficient to mitigate the climate crisis if the same standard were set globally.[63]

The research of Ziebarth in 2024 also focused on the success of climate cases. He examined climate cases which relate to human rights, establishing some important points about the types of arguments made and the groups taking the case, as well as the levels of success associated with each.[64] Ziebarth examined cases contained in the Sabin Centre database, identifying 139 cases brought against public actors and 26 cases brought against private actors.[65] Of the regions he examined (he divided cases into those from Africa, Asia, Europe, International, Latin America, North America, and the Pacific), climate cases tend to have, on average, he concludes, the greatest success in Latin American courts.

He confirms that establishing causality between activities and the harm of climate change can be difficult in cases of climate litigation with human rights claims. Cases involving causality claims, he found, were more likely to be unsuccessful.[66] He argues that his research findings suggest that many of the possible routes in climate litigation with human rights claims may not necessarily be conducive to case success. He also states that his research indicates that child/youth-involved climate cases (which he calls "youth-based claims"), together with claims relating to current well-being and future well-being (as opposed to past harms), are less likely to be successful in court decisions than successful.[67] He notes that there are regional variations in the results, however.[68] It seems that it is likely, however, that his findings do not necessarily indicate that Indigenous rights-based litigation is more successful than youth rights-based litigation, but rather that more Indigenous rights-based litigation has taken place in Latin America, and cases are more likely to be successful in Latin America.

In a 2023 examination of climate cases, Wewerinke-Singh and Nay noted a trend of recognition of "special obligations of states owed to particularly

62 *Ibid*., 2–4.

63 Paul Clark, Gerry Liston and Ioannis Kalpouzos, "Climate Change and the European Court of Human Rights: The Portuguese Youth Case," *EJIL: Talk*, Blog, 6 October 2020, https://www.ejiltalk.org/climate-change-and-the-european-court-of-human-rights-the-portuguese-youth-case/. Accessed 28 August 2025.

64 Daniel Ziebarth, "Existing Challenges and Possible Pathways for Case Success in Climate Litigation with Human Rights Claims," *St. Mary's Law Journal* 55, no. 2 (2024): 511–574.

65 *Ibid*., 536.

66 *Ibid*., 565.

67 Ziebarth, "Existing Challenges and Possible Pathways for Case Success in Climate Litigation with Human Rights Claims" n 64, 568.

68 *Ibid*., 569.

vulnerable people in the context of climate change."[69] Like Ziebert, they emphasise that this trend was in favour of Indigenous Peoples, but the authors note that "youth" were also being recognised in this way. They also stated that in the case law, there is a growing emphasis on highlighting climate harms that have already occurred, as opposed to anticipated future impacts. They also find that climate cases are linking climate harms with states' obligations to take urgent climate action, for example, increased adaptation measures in the case of *Billy v. Australia* ("*Billy*") before the UN Human Rights Committee,[70] or in the context of the *Soubeste v. Austria*[71] application before the European Court of Human Rights, the withdrawal from an international treaty.[72]

There has also been some in-depth analysis of child/youth-involved climate cases, in particular, in recent years. Parker et al. in 2021 examined 32 such cases and identified three types of "youth-focused" cases, including those focused on insufficient efforts to meet climate commitments, or to implement mitigation/adaptation measures, and those relating to specific regulatory approvals that are expected to have significant climate impacts. They also identify a trend whereby applications are deemed inadmissible – the vast majority of decided child/youth-involved climate cases at that time.[73]

Donger outlined in 2022 the types of arguments used in youth climate change cases and raised some points to consider in relation to children's involvement in such litigation.[74] She also considered this litigation from a children's rights perspective. She ascertained that two principles are prominent in child/youth-involved climate cases arguments – the right of children to have their best interests considered as a primary consideration, and the right of children to freedom from age-based discrimination.[75] As the most prominent principle of the UN Convention on the Rights of the Child, it is perhaps predictable that the best interests principle would be one of the two principles of children's rights most associated with child/youth-involved climate cases – Donger noted this principle was present within seven of the 31 child/youth-involved climate cases by the end of 2020. She also noted that by this time, nine cases (almost one-third of the 31 child/youth-involved climate cases by the end of 2020) had invoked the principle of nondiscrimination/equality on the basis of

69 Wewerinke-Singh and Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation" n 7, 674.

70 *Billy et al. v. Australia*, 2022, CCPR/C/135/D/3624/2019, UN Human Rights Committee.

71 *Soubeste et al. v. Austria et al.*, 2022, App. No. 31925/22, European Court of Human Rights.

72 Wewerinke-Singh and Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation" n 7, 676.

73 Parker, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World" n 42, 64–89.

74 Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization" n 7.

75 *Ibid*.

age.[76] Daly argues that this is a significant amount, considering the absence of nondiscrimination/equality cases relating to children and youth up until this time.[77]

5. Examining Child/Youth Participation in Climate Cases

The YCJ project at University College Cork, funded by the European Research Council, supports the examination of climate cases from a children's rights perspective.[78] There are a number of climate case databases, for example, those of the Sabin Centre.[79] The YCJ project adds value by breaking down child/youth-involved climate cases into factors of interest to those concerned with the rights of children and youth. The database sources applications filed in judicial or quasi-judicial bodies at international, regional, and national levels. They include cases in which children/youth are (i) the instigators of the litigation, (ii) where they participate in the litigation, and (iii) where allies represent their interests. These include cases where the named applicants are either the individual children/youth themselves or the organisations/individuals representing their interests.

These cases have in common that they bring the courts and the parties' attention to children's rights in a way that seeks to enhance the access of children and youth to rights. Some climate change adjacent cases (like pollution cases) are included if they involve violations of the right to a "liveable climate." The term child/youth includes those up to the age of 25. The words applicants, complainants, and plaintiffs are used interchangeably to refer to those bringing the case to the court's attention.[80] These cases are then broken down to identify factors such as (i) whether children/youth rights are referenced in an application or judgment directly or indirectly; (ii) the number and ages of the children and youth involved; (iii) the outcome of the case; and (iv) how children and youth were involved/participated in proceedings.

These points are primarily ascertained by reading publicly available case documents and news stories. In a minority of instances, conversations with those involved in the case may fill some gaps. As Donger notes, we have an incomplete picture of children's participation rights without empirical research into the experiences of these children and youth, with explicit focus on a children's participation rights perspective. Such research is at present being conducted by the YCJ project and will be published in the coming years.[81] It is

76 *Ibid*.

77 Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis" n 43.

78 Youth Climate Justice, *Case Law Database*, n 5.

79 Available at the Sabin Center website, http://climatecasechart.com. Accessed 19 July 2025. The Sabin Center permits the YCJ project to use its abstracts in the YCJ database.

80 Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis" n 8.

81 See Youth Climate Justice Project, *Global Study on Climate Litigation*, 14 April 2025, https://www.ucc.ie/en/youthclimatejustice/research/globalstudyonclimatelitigation/. Accessed 20 August 2025.

with awareness of this limitation, therefore, that conclusions are drawn here about child participation in climate cases, based on data primarily gathered via desk research.

There are, of course, numerous factors that are of interest in these cases; for example, the climate science used in applications and so on. For the purpose of this chapter, however, factors directly related to the participation of children will be examined to reflect on the matter of age and participation in these cases. The types of outcomes in these cases will also be outlined in Chapter 7 in order to make some determinations about the impact of child participation on climate litigation.

5.1 The Ages of Child and Youth Climate Litigants

It is interesting from the perspective of children and youth participation rights to observe the age ranges of the child and youth applicants involved in climate cases. The YCJ team examined the 81 child/youth-involved climate cases for information on the ages of the applicants. We divided them into the age ranges of 0 to 7 years (early childhood), 8 to 12 years (middle childhood[82]), 13 to 17 years (adolescents), and those over 18 years. Bear in mind that Figure 6.1 adds up to more than 81 cases because, in some cases, there is more than one age range of young applicants. So, for example, in the *Duarte Agostinho v. Portugal* ("*Duarte Agostinho*") case, there were children/youth across three age ranges: 8–12 years, 13–17 years, and those over 18 years.[83]

Figure 6.1 indicates that in at least 11 of the cases, it seems that we can confirm the inclusion of applicants who were seven years old or younger at the time of the application; 27 of the applications were found to include applicants at the relatively young age of 8 to 12 years old. It seems that in the majority of cases, applicants are over the age of 13 years. Note that in some cases, the ages of applicants are not specified or do not fit neatly into the age ranges we have chosen for our database, however. For example, one case, *New Zealand Students for Climate Solutions and UK Youth Climate Coalition v. Board of BP* before the International Criminal Court, 2022,[84] specifies that applicants are "youth" under 25 years, so it is not possible to pinpoint the exact age ranges of applicants in accordance with the categorisation of the YCJ database.

As one would expect, few cases (we established 11) have applicants are under the age of seven years. Under this age, it is unlikely that children could

82 Aoife Daly and Amy Walsh, "Children's Rights Law in Middle Childhood," in *Children's Rights and Children's Development: An Integrated Approach,* eds. Jonathan Todres and Ursulla Kilkelly (New York: New York University Press, 2025), 132–157.

83 *Duarte Agostinho et al. v. Portugal et al.,* 2024, App. No. 39371/20, European Court of Human Rights.

84 *New Zealand Students for Climate Solutions et al. v. Board of BP*, 8 December 2022, International Criminal Court.

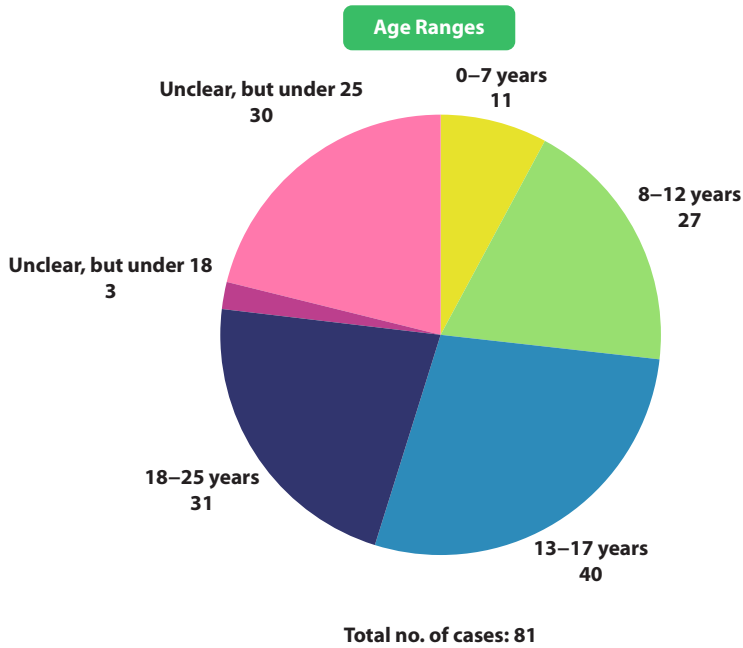


Figure 6.1 The ages of child and youth climate litigants.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

give informed consent to participation in a climate case. There may not be a consensus on the appropriateness of involving children as litigants in such litigation where they are not old enough to consent. However, to exclude them completely and to fail to give parents a choice as to whether they wish to litigate on their children's behalf arguably takes away from the "voice" rights of children under Lundy's model of child participation of very young children who will, after all, have to live longest (of those of us alive) with the consequences of the climate crisis. One could argue that they are being given a voice through the representation of their parents.

The level of support, and particularly family support, that young litigants have will likely have a big impact on the appropriateness of their participation and the child-friendliness of their experience. The youngest applicant in the *Duarte Agostinho* application[85] was eight years old, a sibling of two older applicants. She was involved in media work around the case.[86] Presumably,

85 *Duarte Agostinho*, n 83.

86 Global Legal Action Network (GLAN), *Duarte Agostinho Press Conference*, 8 September 2020, https://www.youtube.com/watch?v=_PKwTE32UoY&t=129s. Accessed 3 February 2022.

the family support received in this instance mitigated the protection risks that would be faced by such a young litigant.

It does appear, however, that most child/youth-involved climate cases do indeed have litigants who are under the age of 18, and therefore children. This is significant for children's rights for a number of reasons, including the fact that it has been identified that children's rights (and particularly the CRC) as a strategic argument are not prominent in child/youth-involved climate cases.[87] The fact that most cases have litigants who are technically children renders this even more problematic.

5.2 CRC Rights in Climate Applications or Judgments

The YCJ database identifies instances where particular CRC rights are cited in either applications or judgments. In many cases, however, arguments are made (or judgments rendered) which are related to CRC rights (e.g., there may be reliance on a domestic law provision which contains the same), but the argument/judgment does not explicitly rely on the CRC right for whatever reason. It is useful to remember that children's rights can be found both in domestic law provisions and within various international law instruments, most notably the CRC. It has been argued that it is crucial to rely on the CRC in matters affecting children, as it is the main human rights instrument for children. It is the result of a decade of drafting and constitutes the minimum requirements for children's rights that were agreed upon by all the states of the world. Even the US, which has ultimately not ratified it, was heavily involved in the drafting process.[88] Those seeking to evaluate children's rights implementation "use the Convention's legal standards as a benchmark," and those working for children's rights and interests "use the Convention's legal status to underpin their work."[89]

There are many reasons why CRC rights are not relied upon in judgments. Reasons include lawyers being unfamiliar with children's rights, the CRC not being incorporated into the particular legal system (and therefore not justiciable), and other reasons.[90] The YCJ database tracks such instances because one of the purposes of the database is to assist those researching children's rights and climate cases, and another purpose is to progress the linkages between

87 Aoife Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC," *Netherlands Quarterly of Human Rights* 41, no. 3 (2023): 132–154.

88 Geraldine Van Bueren, *The International Law on the Rights of the Child* (Leiden: Martinus Nijhoff Publishers, 1995).

89 Ursula Kilkelly, "The CRC at 21: Assessing the Legal Impact," *Northern Ireland Legal Quarterly* 62, no. 2 (2011): 143–152, 143.

90 *Ibid*. In the case of the US, the CRC has not been ratified. The US has ratified the two Optional Protocols to the CRC, however.

children's rights and climate cases. Identifying where climate cases are related to the CRC is useful for progressing our understanding of the relationship between the rights of children and youth and climate cases.

We have decided that if a CRC article is deemed to be "cited" in arguments or judgments, then it is not to be included under the "related" heading. Where we have deemed a right "related" to arguments/judgments in a case, this means that in the case, there is reliance on arguments or laws related to a right (e.g., referring to children's health) without citing the CRC article (e.g., the case does not refer to the right to health under CRC Article 24). Arguably, those involved (i.e., applicants or judges in the case) could have cited the CRC, but they did not.[91]

Figure 6.2 outlines the number of times a particular CRC right is *related* to the arguments or judgments of child/youth-involved climate cases, although the right may not be *cited* explicitly. In 78 of the 81 cases, a particular CRC right (or rights) was deemed by the YCJ team to be *related* to the arguments/judgments (though not *cited* explicitly).

The CRC right most commonly related to the arguments used (or the judgment given) in child/youth-involved climate cases is CRC Article 24, the right of children to health and a healthy environment, a right which was deemed by the YCJ team as related to arguments or judgments in 69 cases (see Figure 6.2).[92] It was cited in 12 (see Figure 6.3) arguments or judgments in all cases, so it was the second most cited. This high level of reliance on arguments around the right to health and a healthy environment is relatively predictable, considering climate cases are about environmental harm. The next most related right is CRC Article 6, the right to life, survival, and development (related to arguments/judgments in 56 cases, see Figure 6.2). The climate crisis is inherently a threat to the right to life, survival, and development of all humans, and so it also makes sense that this right would be prominent. The *ICJ Advisory Opinion*, for example, identifies both rights – to health and to

91 These cases "related but not cited" could theoretically be added to the cited cases to get a figure which constitutes the total rate at which a CRC right is relevant in the 81 cases. So, for Article 24 (the right to a healthy environment), for example, it was *related* to arguments/judgments in 69 cases (Figure 6.2) and *cited* in arguments in 12 cases (Figure 6.3). This means that Article 24 was cited or related in a total of 81 cases (so all of them).

92 As noted earlier, Figure 6.2 shows 69 cases related to CRC Article 24. The remaining 12 cases directly cited CRC Article 24. It is also of note that CRC Article 24 contains the right to health, as well as the right to a healthy environment. The vast majority of arguments related to Article 24 in these cases are about the right to a healthy environment, while referring to health effects as one of the most important impacts of environmental harm to humans. A handful cite the right to health of applicants separately; for example, in *Herrera Carrion*, the court finds a violation of the right to health but not the right to a healthy environment. *Herrera Carrion et al. v. Ministry of the Environment et al.* (Caso Mecheros) República del Ecuador Función Judicial (2020) (Juicio no: 21201202000170) Ecuador. The complainants in *EJA v. Australia* (pending) separately cite the right to health and the right to a healthy environment. *Environmental Justice Australia (EJA) v. Australia* App date 25 Oct 2021.

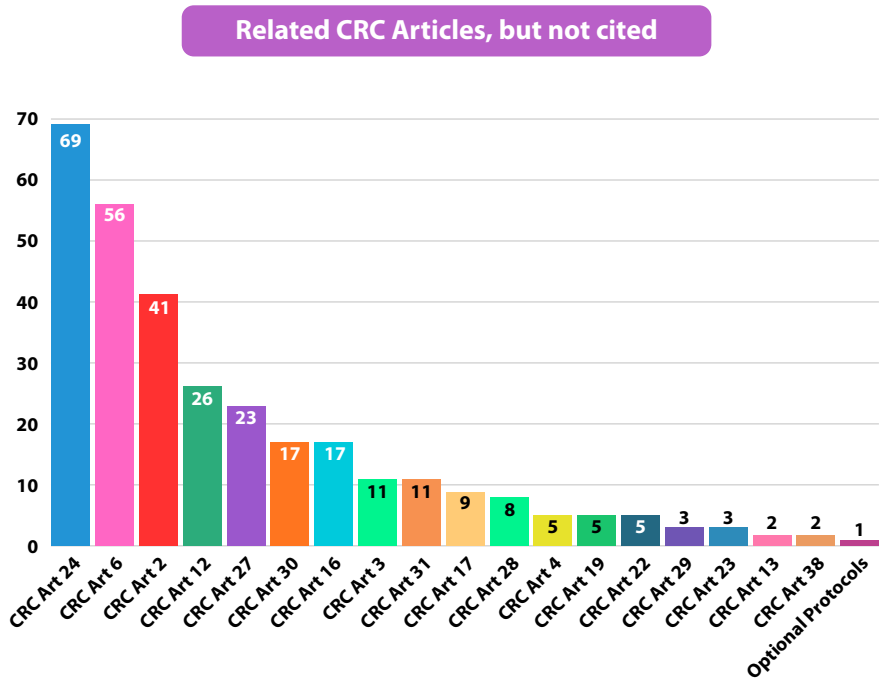


Figure 6.2 CRC rights related to cases but not cited.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

life – as crucial to climate harms and specifically cites CRC Article 24 and CRC Article 6.[93]

The principle of nondiscrimination/equality for children, which is included in CRC Article 2, has been a prominent theme in child/youth-involved climate cases. It was deemed related to arguments or judgments in 41 of these cases. Climate policies tend to favour older persons, in that children and youth will have fewer options in the future and will have to lower carbon emissions much more dramatically than those who are adults today. It seems sensible, therefore, that many cases centre on arguments relating to discrimination against children and youth (and future generations). As noted above, this is a stunning turn of events considering an almost total lack of attention to the nondiscrimination argument for children and youth in other arenas.[94]

93 *ICJ Advisory Opinion*, n 19.
94 Daly, "Nondiscrimination/Equality and Children's Rights in the Climate Crisis" n 43.

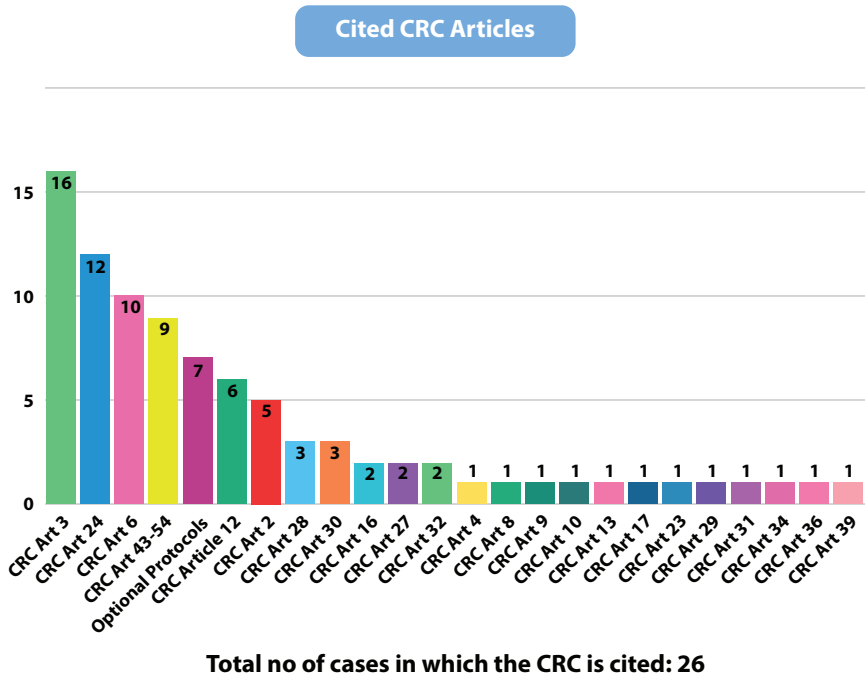


Figure 6.3 CRC rights cited in applications or judgments.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

Figure 6.2 shows that the principle of the best interests of the child (CRC Article 3) is deemed related to arguments or judgments in 11 of the climate cases. It could be argued that this is a small proportion of these cases, considering it is the right which is most associated with children, as outlined in Chapter 3 of this book. Figure 6.3 shows that it is the most cited CRC right (cited in arguments or judgments in 16 cases). Arguably, it is nonetheless disappointing that in child/youth-involved climate cases, arguments citing or related to the best interests principle only occur in 27 of 81 cases.

Another prominent CRC article in terms of themes, arguments, and judgments is CRC Article 12, the right of children to be heard, related to the arguments/judgments of 26 cases. It arises in relation to (i) standing on behalf of other children and future generations, or to overcome issues relating to admissibility,[95] (ii) as a basis for a remedy which allows children greater par-

95 In *Waratah Coal*, for example, the court relies on CRC Article 12 to support the finding that the plaintiffs have standing to represent future generations. *Youth Verdict v. Waratah Coal*, 2022, MRA050-20 (MLA 70454) EPA051-20 (EPML 00571313), Land Court of Queensland.

ticipation in climate-related decision-making outside the court,[96] and (iii) as a basis for the judicial review of climate-related decisions in which children were not consulted.[97]

Another frequently related right is Article 27, in which it is stated that states recognise the right of every child to an adequate standard of living (in 23 cases). The climate crisis, of course, interferes hugely with the right of many children to an adequate standard of living, as it interferes with education, employment, and many other factors necessary to ensure that children and their parents can live in dignity.

CRC Article 16, the right that "[n]o child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence" is the next most related right, being associated with 17 cases. This is the equivalent of Article 8 of the ECHR, the right to private and family life. This article of the ECHR has been utilised as something of a catch-all for arguing that states have positive obligations to take action to protect individuals' rights in various ways. It is well-suited to the principle of evolution of interpretation, as it can encompass social phenomena such as evolving notions of what constitutes family life and other issues of contemporary life such as climate change. It has proven useful for arguments around environmental rights.[98]

Article 30 – the right to enjoy minority culture – is also related in 17 cases and is discussed in more detail in Chapter 7. This points to the extent to which child/youth involved in climate cases are bringing to the fore the harm being caused to Indigenous and other cultures by the climate crisis. This focus on the rights of disadvantaged minorities is a key element of the postpaternalism of children and youth, where their climate action is having an impact on human rights. In this instance, their action seems to involve an intentional focus on Indigenous rights.[99] Article 31 – the right of the child to rest and leisure and to engage in play and recreational activities – is also prominent in climate cases. It is related to arguments/judgments in 11 cases; for example, in

96 For instance, in *Sacchi v. Argentina et al.*, the petitioners cite CRC Article 12 specifically in their request for relief, where they ask the UN Committee on the Rights of the Child to recommend that the respondent states "ensure the child's right to be heard and to express his or her views freely, in all international, national and subnational efforts to mitigate or adapt to the climate crisis and in all efforts taken in response to [this] communication."

97 In *M.E.V. v. Finland*, for example, the UN Committee on the Rights of the Child found that Finland violated the rights of Sami Indigenous people to culture and land by granting mineral exploration permits on their territory without an impact assessment or an adequate participation process. The Committee stressed the importance of locating this reasoning in CRC Article 12.

98 See, e.g., *L.C.B. v. United Kingdom*, 1998, App. No. 23413/94, European Court of Human Rights; and most recently *Verein KlimaSeniorinnen Schweiz et al. v. Switzerland, 2024, App No. 53600/20, European Court of Human Rights.*

99 See further Chapter 3, Section 4.

the *Duarte Agostinho* case, the children and youth emphasise how increasing heatwaves prevent them from engaging in sports and other activities. As with Article 30, this focus on the rights relating to play is an exciting development, as it is a highly child-specific right which is gaining attention in the courts in a way it has not in the past.[100]

Of great interest are the instances in climate applications or judgments where the rights of the CRC are explicitly *cited* in some way. This is because it is an indicator of the awareness of applicants and courts of the importance of the CRC for children's rights and interests. Figure 6.3 outlines the number of times particular CRC rights are *cited* explicitly in the arguments or judgments of child/youth-involved climate cases.

Twenty-six out of the 81 cases directly refer to the CRC. At less than a third of cases, this is arguably a disappointing rate considering the importance of the CRC outlined in Section 6.2. There are, of course, complex considerations of the justiciability of international human rights law instruments in national legal systems. Many countries, however, do indeed permit direct reliance on international human rights law instruments in national courts (many of those with dualist legal systems).[101] So one would expect to see a higher rate of reliance on the CRC in cases that involve litigants under 18 years. In any case, it is usually possible to rely on the CRC as a persuasive standard where it is not legally binding. Even in the US, the only state not to ratify the CRC, the instrument has been noted as a persuasive force in a case relating to the juvenile death penalty.[102]

In the climate cases examined the most referenced right of the CRC is Article 3, the principle of the best interests of the child, cited in 16 cases. As the most prominent right of the CRC, and one of huge relevance to the climate crisis,[103] it is predictable that it would hold a position as the most cited right. The failure of states to mitigate the climate crisis is arguably the leading threat to the best interests of children around the world, above all other matters. The fact that it is cited in only 16 of 81 child/youth-involved climate cases, however, indicates that it is being underused, considering the fact that all the countries of the world save one have ratified the CRC and therefore agreed to abide by the principle of the best interests of the child.

The right to health and a healthy environment (CRC Article 24) is the next most cited right, with 12 citations. It is of note that although it is the leading right when it comes to arguments or decisions *related* to the CRC, it is the second most frequently *cited* right. This perhaps points to the prevalence

100 See further Chapter 3, Section 5.

101 Godswill Owoche Antai *et al.*, "Exploring Mechanisms for Enforcing Human Rights within the Context of International Law: Issues and Challenges," *NIU Journal of Legal Studies* 10, no. 1 (2024): 59–70.

102 *Roper v. Simmons* 543 US 551 (2005).

103 Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 87.

of the right to a healthy environment in the national legal systems of various countries, highlighted in Chapter 2. Litigants are perhaps not drawing on the CRC, where the right is already in place at the national level. The right to life, survival, and development (CRC Article 6) is next, with citations in ten cases. This is a much lower rate compared with the number of cases in which it is *related* to arguments (56 cases, see Figure 6.2), perhaps again indicating that national law is being relied on before the CRC. The effect of climate change on children's lives is unsurprisingly a prominent feature of the arguments made in climate applications.

In spite of the high level of reliance on argumentation relating to nondiscrimination and equality for children and youth (41 cases), only five cases make direct reference to CRC Article 2 (the right to freedom from discrimination). This again points to the lack of direct use of CRC Article 2 for this purpose (by litigators) – the tendency appears to be that applicants rely instead on national law provisions relating to nondiscrimination and equality, rather than drawing on international law provisions. Liberal democracies tend to have established jurisprudence relating to laws prohibiting discrimination, so one can see why this route would be attractive for applicants. Another point is the prevalence of the phenomenon of over- and under-18s working together in these climate cases, which would likely render the reliance on arguments relating to a children's rights instrument unattractive (as youth over 18 years may feel it does not apply to them).[104]

5.3 Type of participation

The types of participation that children and youth have had in these cases are of great interest from a children's rights perspective. When it comes to the exact level of participation of children and youth in the climate cases in which they are involved, it is difficult to make assertions based on the court documents alone. The court documents will indicate factors such as the demographic background of the child/youth litigant (e.g., their geographic location and so on), and where written submissions of children/youth in the first person are used, they are often attached to the court papers. It is more difficult to establish whether the children/youth addressed the court directly, which depends on the legal system and the type of application. The court papers do not provide the story of how they came to be working with lawyers on a climate case, the extent to which lawyers kept them updated about the case, and so on. It is with this proviso that the types of participation (that have become evident from the documents) are displayed in Figure 6.4.

The court documents indicate that children and youth provided only a *written presentation* in 71 out of 81 child/youth-involved climate cases. Most cases are submitted to the court in writing only. The writing is primarily done

104 *Ibid.*

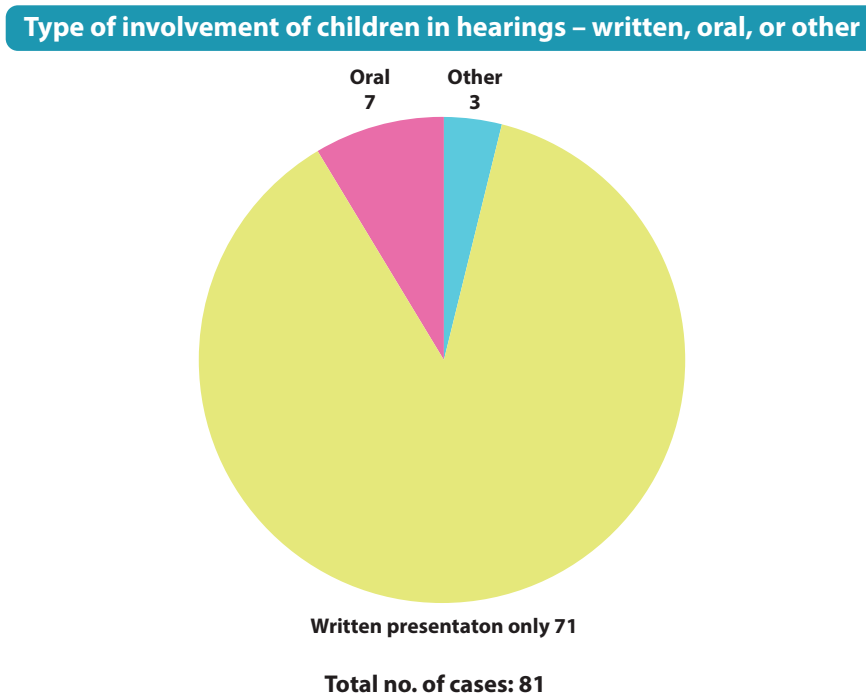


Figure 6.4 Type of involvement of children in hearings – written, oral, or other.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

by lawyers. Some of the cases determined to have "written presentations" also have affidavits with statements by children attached to the application. One example of this is *African Climate Alliance v. Minister of Mineral Resources.*[105] These cases may therefore include a first-person affidavit/letter by the children and youth, and/or details included by the lawyer. These variations in written presentations require further research.[106] In some cases, there are personal let-

105 *African Climate Alliance et al. v. Minister of Mineral Resources and Energy et al.,* 2024, ZAGPPHC 1271, High Court of South Africa.

106 Please note, at the YCJ team, we will further review cases and distinguish where applications:
i. contain details about the children's situation/experiences separate from anyone else in the case (e.g., their parents), but reported by parents/lawyers/others;
Or where children and youth in applications:
ii. address the court themselves through an affidavit in the first person (#*CancelCoal*) or
iii. address the court themselves via a recording (*Billy* involved a recording, and we are not sure if children are in that recording)
iv. address the court themselves via a hearing like in *Sacchi* or
v. other

ters from the children involved submitted to the courts; for example, in the Mexican case of *Nuestros Derechos al Futuro y Medio Ambiente Sano v. Mexico*, the letters of the children/youth are attached to the court paper setting out their "thoughts and feelings."[107]

Children and youth litigants were found to have provided *oral presentations* in only 7 out of these 81 cases, including *Sacchi* and *Held v. Montana*[108] ("*Held*"). In *Sacchi*, it was quite a groundbreaking instance as it was the first time such a facility was used in proceedings before the Committee on the Rights of the Child.[109] In *Juliana*, it was captured in the film *Youth v. Gov*,[110] whereby the children/youth were cross-examined by government lawyers. We hear the *Our Children's Trust* lawyers interjecting with: "I would like to note for the record that the questions of the counsel for defendants have been repetitive and redundant,"[111] indicating that the questioning was unpleasant in nature. The potential for these children to be heard directly in proceedings should be considered from the perspective of child-friendly climate justice. Procedures that might be appropriate in instances where adults are involved may well not be appropriate for children and youth, pointing to the systemic changes needed to accommodate the participation of children, considering their prominence in climate cases.

In three other cases, children/youth engaged in other types of participation, such as being represented in statements by their parents, as was the case in *Billy*.[112] In *Billy*, eight Torres Strait Islanders took a case against Australia to the UN Human Rights Committee in 2019, on their own behalf and on behalf of six of their children.[113] There are some powerful accounts provided in the complaint document about the interference of the climate crisis with the right of children to enjoy their culture, such as from father/applicant Keith Pabai:

> We know how to hunt and fish from this island – to survive here. We get that from generations of knowledge that has been passed down to us. I know every species of plant, animal, wind on this island, the way the

107 *Nuestros Derechos al Futuro y Medio Ambiente Sano et al., v. México Amparo*, 2025, Case No. 204/2021, México Collegiate Court, para. 161 onwards.

108 *Held et al. v. Montana*, 2024, MT 312, Supreme Court of Montana.

109 Wewerinke-Singh and Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation" n 7, 674.

110 Christy Cooper (Director), 2020, "Youth v. Gov: The Film," https://www.youthvgovfilm.com/. Accessed 23 September 2025.

111 *Ibid*. at one hour, nine seconds.

112 *Billy*, n 70.

113 The claimants made videos for the court, and we at the YCJ team are trying to ascertain whether the children are in those videos or were interviewed when the UN Committee visited the island.

> vegetation changes, what to harvest at different times of the year. That is the cultural inheritance we teach our children.[114]

As powerful as this is, it is still a second-hand, adult account of children's rights. As noted above, the court documents provide only a partial picture of children's involvement in climate cases, and children may have had other types of participation in the *Billy* case – future research will bring this information to the fore. But it is certainly of note that the main type of child/youth participation (or of "being heard") in these cases appears to be via written statements. This mirrors the involvement of children in cases generally, although in most non-criminal cases where children are involved, the nature of the case tends to be family law and child protection.[115]

These statements provide very powerful accounts of children's experiences. Recall the testimony of Carl Smith in *Sacchi* (outlined in Chapter 3), who wrote of his fears that the Indigenous Yupiaq way of life would disappear.[116] The petition reads:

> Traditionally, "we used to go on the river and set fish nets and fish traps," Carl says. Now, with the river no longer freezing solid, fishing has become dangerous, and sometimes Tribe members fall through thin ice and die. "One of my buddies fell through the ice," Carl says … The warming temperatures are making hunting and fishing more difficult. For example, last year, Carl's family did not catch any caribou, which only pass by the Yupiaq hunting region from November to December each year. Carl explained that the river must freeze solid in order for the hunters to access their hunting grounds, and last year it did not get cold enough to freeze the river in time.[117]

Figure 6.5 shows that in 18 cases, children made direct contact with the court in the sense that they addressed the court personally, in writing or orally, whether through testimony in court (or via a video) or an *in loco* inspection by the courts. Whether children/youth are called upon to testify is dependent on the legal system and the type of application. Some cases, like the ones brought in South Africa and Canada, are types of applications for which evidence must be presented entirely upon affidavit, and so no oral evidence is allowed. In the

114 *Billy*, n 70, 41.

115 Aoife Daly, *Children, Autonomy and the Courts: Beyond the Right to be Heard* (Leiden: Brill, 2018).

116 *Sacchi et al. v. Argentina*, 2021, CRC/C/88/D/104/2019*; Sacchi et al. v. Brazil*, 2021, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, 2021, CRC/C/88/D/106/2019*; Sacchi et al. v. Germany*, 2021, CRC/C/88/D/107/2019*; Sacchi et al. v. Turkey*, 2021, CRC/C/88/D/108/2019, United Nations Committee on the Rights of the Child, petition, 11.

117 *Sacchi* petition, n 109, 40–41.

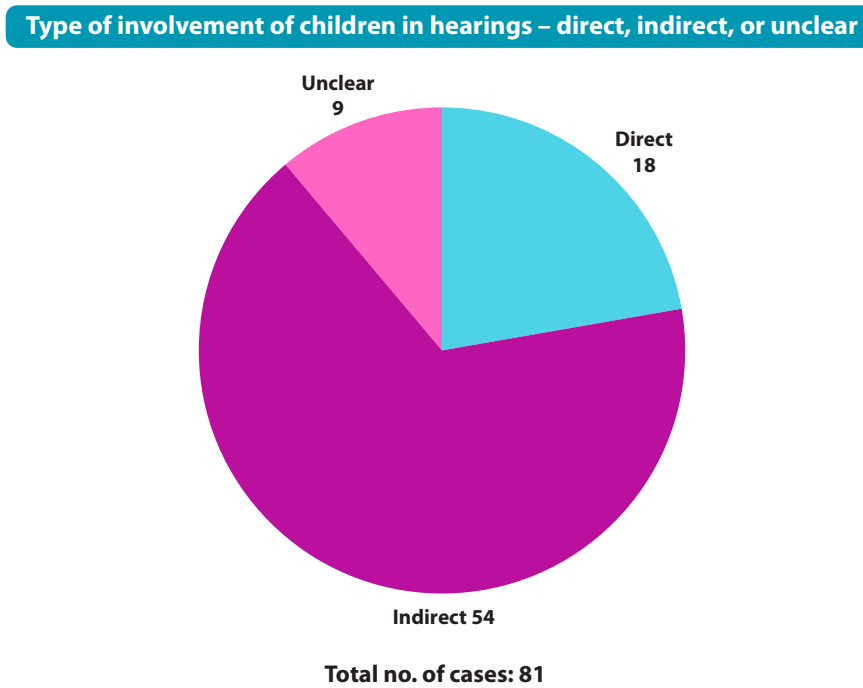


Figure 6.5 Type of involvement of children in hearings – direct, indirect, or unclear.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

US, however, the format allows oral evidence, and so children may testify and are cross-examined (as in *Juliana*).

The physical presence of children and youth at the proceedings to which they are parties (or even their virtual presence online) is not usually captured in court documents. There is some anecdotal evidence, however, that points to the presence of children at some hearings. Van Der Voo[118] describes the numerous children/youth present at the *Juliana* hearings. In the case of *Minister for the Environment v. Sharma* ("*Sharma*"), it has been described that children/youth were sometimes present at proceedings.[119]

It is clear that there is a large amount of media work conducted by children and youth in many of these cases. This is also not captured in court documents

118 Lee Van Der Voo, *As the World Burns: The New Generation of Activists and the Landmark Legal Fight Against Climate Change* (Oregon: Timber Press, 2020).

119 Zinat Jimada, *Advancing Child Rights Strategic Litigation (ACRiSL), Event: Engaging with Children and Young People in Child Rights Strategic Litigation*, 5 April 2022, https://mediaspace.nottingham.ac.uk/media/t/1_naiq6qsr. Accessed 29 September 2025.

but is evident in anecdotal ways. The children and youth litigants in *Sacchi* conducted media work in the launch and at other points in the course of the process. Greta Thunberg said:

> Change needs to happen now if we are to avoid the worst consequences. The climate crisis is not just the weather. It means also, lack of food and lack of water, places that are unliveable and refugees because of it. It is scary.[120]

For the children and youth in *Held*,[121] there was likewise much publicity around their presence in court, hearings, and so on.[122]

The court documents also leave unanswered the extent to which children were involved in initiating climate cases. In *Sharma*,[123] after success in the lower courts, the Federal Court of Australia found that the Minister for the Environment did not have a duty of care to young people to mitigate climate harm. The young litigants were experienced climate advocates who appeared to have approached a legal team to take that case. In the case of *Duarte Agostinho*, on the other hand, the children and young people were residents of an area in Portugal which had experienced devastating wildfires, who were approached by a Portuguese lawyer working for NGO GLAN, who was also coincidentally from that same area. This perhaps points to the myriad of different ways in which children and youth can become involved in climate cases – there does not appear to be any one way in which this most commonly happens. How children and youth achieve the "space" element in relation to the Lundy model appears to happen in many different ways.

Child/youth-involved climate cases, as noted above, are sometimes referred to as "*youth-led* climate cases." The extent to which cases could truly be described as child/youth-led, however, is contentious. Some cases, for example, *Oposa*[124] involved very young children represented by parents, and so are very unlikely to be child/youth-led. Others have used the term "youth-focused climate" cases,[125] which is probably accurate in most instances. Most child/youth-involved climate cases (i) have children and youth as litigants; and (ii) provide statements relating to the experiences of children and youth. They may or may not refer to the children's own rights, however, and frequently conflate the present interests of all children and youth with those of

120 UNICEF, "16 Children, Including Greta Thunberg, File Landmark Complaint to the United Nations Committee on the Rights of the Child," Press Release, 23 September 2019, https://www.unicef.org/press-releases/16-children-including-greta-thunberg-file-landmark-complaint-united-nations. Accessed 18 September 2025.

121 *Held et al. v. Montana*, 2024, MT 312, Supreme Court of Montana.

122 *Ibid.*

123 *Minister for the Environment v. Sharma et al.*, 2022, VID 389 of 2021, Federal Court of Australia.

124 *Oposa*, n 36.

125 Parker, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World" n 42.

future generations.[126] The extent to which children have initiated cases and decided on legal arguments themselves is unclear without speaking firsthand to those involved.

The term "youth-led" is probably misleading then (at least in some cases where children/youth have little involvement), as it creates an image whereby child/youth-involved climate cases are equivalent to movements and organisations that truly are "youth-led."[127] Hilder and Collin describe the structure of the Australian youth organisation AYCC:

> The structure and discursive presentation of young people who "make up" the AYCC highlights how the organisation generates a "self/us/now" narrative (Vromen 2017, 153). A small central team of paid staff and multiple types of volunteer engagement connect with horizontal networks of member-supporters. In contrast with hierarchical political institutions where people rise to be "office bearers" with power and responsibility, the language of AYCC volunteer categories reflects personal and collective learning and contribution.[128]

The "central team of paid staff" are presumably over the age of 18 years. For those under the age of 18, this level of organisation would generally not be possible, as they would be in school and not expect to work for a number of years. They would likely have to get a qualification (perhaps at third level) to engage in such work. Those who are truly leading organisations like this will most likely be over 18 years old and in their 20s at least. One must then compare the phenomenon of youth-led organisations to child/youth-involved climate cases. It is also the case that children cannot engage in legal strategies and argumentation, nor can the average adult who is not a lawyer. It is likely that children and youth are participating in climate cases in a way that is less leading and more collaborating – sharing their experiences and stories, and working with lawyers to bring these to legal processes, in an effort to win climate cases and mitigate climate change. And this type of participation is not necessarily problematic. In fact, this action is arguably among the top rungs of Hart's ladder of child participation – step 6 is "adult-initiated, shared decisions

126 Aoife Nolan, "Children and Future Generations Rights Before the Courts: The Vexed Question of Definitions," *Transnational Environmental Law* 13, no. 3 (2024): 522–546; Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 87.

127 Cecilia Hilder and Philippa Collin, "The Role of Youth-Led Activist Organisations for Contemporary Climate Activism: The Case of the Australian Youth Climate Coalition," *Journal of Youth Studies* 25, no. 6 (2022): 793–811.

128 Hilder and Collin, "The Role of Youth-Led Activist Organisations for Contemporary Climate Activism: The Case of the Australian Youth Climate Coalition" n 119, 264.

with children," step 7 is "child-initiated and directed," and step 8 is "child-initiated, shared decision with adults."[129]

It is possible for the right to be heard to be part of the substance of a claim. The *Sacchi* applicants[130] outlined that the respondents had suffered various harms due to climate change. The statements were supported by accounts from the authors of how they had personally been affected by a wide range of climate impacts – they sought relief in the form of various findings and recommendations. These included a declaration that climate change is a children's rights crisis and a recommendation that the states review and amend their laws and policies to better tackle climate change, but also asked the Committee on the Rights of the Child to recommend that the respondent states ensure the right of children to be heard, and to express their views freely,[131] in all efforts to mitigate or adapt to the climate crisis.[132] CRC Article 12 also explicitly featured in *Various Parties obo Minors v. Anglo-American South Africa Limited*.[133] The court a quo denied the applicants' request to certify a class for the purpose of a class action. Certification is a necessary preliminary step which filters cases that do not qualify to be brought in class action format. In the appeal, the parties raise the question as to whether children have access to justice when they are unlikely to access a court without a class action. The court, it was stated, must consider this when it decides whether to declare a class.

Of course, it is important to balance the right to be heard against the right to be protected from harm for children. One can point to CRC Article 3, the principle of the best interests of the child, as necessitating consideration of this balance. It could be argued, certainly in a particular instance, that it may be in a child's best interests to be protected from the stresses of litigation. Yet it must be noted that in climate litigation, child/youth litigants are usually experienced climate activists, such as Greta Thunberg in *Sacchi* and Xiuhtezcatl Martinez in *Juliana*. They are frequently members of climate advocate groups such as Fridays for Future. In *Sharma*, for example, legal representative Jack McLean described the young litigants in that case as "amazing, seasoned campaigners" for the Australian group School Strike for Climate, who had already had a lot of media experience.[134] The need for lawyers to ensure posi-

129 Roger Hart, "From Understanding Children's Experience of Environments to Finding Ways to Help Them Participate in Changing Them," in *Voices of Activists and Academics: Working with Children in Communities* eds. Vicky Johnson, Tessa Lewin, and Andrew West (United Kingdom: Practical Action, 2024), 17.

130 *Sacchi petition*, n 109.

131 *Ibid*., para. 330.

132 *Sacchi petition*, n 109, para. 99.

133 *Various Parties obo Minors v. Anglo-American South Africa Limited et al*., 2023, C ZAGPJHC 1474, High Court of South Africa.

134 Advancing Child Rights Strategic Litigation (ACRiSL), *Event: Engaging with Children and Young People in Child Rights Strategic Litigation*, 6 April 2022, https://mediaspace.nottingham.ac.uk/media/t/1_naiq6qsr. Accessed 7 April 2022. See Daly, "Child and Youth Friendly Justice for the Climate Crisis" n 6.

tive, trauma-informed processes for the young litigants is also key in terms of upholding participation rights in climate cases. Bella Burgemeister, youth litigant in the *Sharma* case (and an experienced climate advocate), outlines the positive experience she had of working with her legal representatives:

> I guess one of the big things from me in this case was how well we were treated basically by … the legal team. It was incredible to see how positive everyone was being, and how informed all of our litigants were during the legal process.[135]

This points to some good practice as regards ensuring child-friendly climate justice processes. It is crucial to achieve processes in these climate cases that focus on the rights of the children involved and on a good experience for them as litigants.

6. Child-Friendly Climate Justice: Relying on the UN Convention on the Rights of the Child

It is powerful to see the extent of child/youth participation in climate litigation. Daly notes that "[t]he interconnection between the fears of children and youth and their desire to access climate justice makes it all the more important to ensure child-friendly climate justice processes."[136] Justice processes are, however, not well-suited to the particular needs of children and youth. Daly argues for child-friendly climate justice through the Convention on the Rights of the Child, and through the concepts of access, participation, interests, and judgments.

Children and youth struggle to access justice. The ability to invoke one's CRC rights at the domestic level is a crucial part of ensuring child- and youth-friendly climate justice. The Committee itself refers in General Comment No. 26 to the "multiple barriers faced by children in disadvantaged situations in enjoying and claiming their rights."[137] It is encouraging that there are now such a high number of child/youth climate applications, but it is difficult for children/youth to meet admissibility criteria as outlined in Chapter 7 – a high number are deemed inadmissible.

Regarding participation, support is necessary to ensure children/youth have a positive experience. Children's unique characteristics mean that they may require more support than adult litigants. There are a number of ways that this can be done. Most importantly, this will involve extensive communication with children/youth on all decisions being made in relation to litigation. Where they have a public profile, they will need preparation for this, as

135 *Ibid*. See further Daly, "Child and Youth Friendly Justice for the Climate Crisis" n 6.
136 Daly, "Child and Youth Friendly Justice for the Climate Crisis" n 6.
137 Committee on the Rights of the Child, *General Comment No. 26*, n 44, para. 1.

was the case in the *Sharma* case.[138] Children must understand and consent to involvement in proceedings, and practitioners must understand the child's capacity and maturity.[139] The right to information is crucial to ensure access and participation in justice, so children/youth must receive support and guidance to be protected from any adverse consequences of their participation in climate justice.

Children's interests should be at the forefront of climate litigation. Litigation is a key way in which children's interests can be vindicated. The right to vote is generally only enjoyed by those over the age of 18.[140] Children as a group are therefore in a particularly vulnerable position, as there is less pressure on policymakers to ensure their interests are duly considered. This democratic deficit, it has been argued, means that this vulnerability of children should generally be taken into account by courts making decisions on the climate crisis. In its *General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration*, the Committee on the Rights of the Child outlines that the principle of the best interest of the child must be considered in all decisions concerning children. Decisions on climate policies would be included here. States must explain how the best interests principle has been respected in a particular decision, the Committee continues: "That is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases."[141] This state obligation should therefore be at the forefront of climate arguments and decisions, yet this is not the case in the majority of children and youth-involved climate cases to date.[142]

Judgments are also crucial for achieving child-friendly climate justice. This extends to the activity which leads to the judgments such as arguments and proceedings. Children and youth have not to date been prominent litigants in cases of this kind, and spaces must now adapt to their involvement. In relation to the *Sacchi* application, the Committee held a closed hearing whereby the

138 ACRiSL, *Event: Engaging with Children and Young People in Child Rights Strategic Litigation*, n 126.

139 Aoife Nolan and Ann Skelton, "'Turning the Rights Lens Inwards': The Case for Child Rights-Consistent Strategic Litigation Practice," *Human Rights Law Review* 22 (2022): 1–20.

140 John Wall, *Give Children the Vote: On Democratizing Democracy* (Bloomsbury Publishing, 2021); Aoife Daly, *A Commentary on the UN Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly* (Brill, 2016).

141 UN Committee on the Rights of the Child, *General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration* (2013), CRC/C/GC/14, 29 May 2013, para. 6.

142 See Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment through the UNCRC" n 87; and Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization" n 7.

applicants could present their experiences to them, demonstrating the efforts of the Committee to ensure a child/youth-friendly process.[143] When it comes to the communication of judgments to children, it is clear that easy-read versions are necessary in order to ensure children are properly informed. This is a requirement of CRC Article 13, the right to freedom of information of children, and Guideline 49 of the Council of Europe's guidelines on child-friendly justice.[144] The Committee on the Rights of the Child produced an open letter for the petitioners in the *Sacchi* case. This included a child-friendly explanation of the case, with the Committee addressing the children directly: "We write to acknowledge the importance of your actions in bringing this historic case to the Committee on the Rights of the Child."[145] Climate cases provide opportunities for innovations on child-friendly justice – if more courts produced such communications for child/youth applicants, this would go some way towards normalising the practice across all areas of law.

Climate justice for children should be viewed through the lens of the UN Convention on the Rights of the Child. Climate applications and judgments should both be informed by the principles of the CRC, such as the right to be heard and the best interests principle, and arguably should have greater levels of direct reference to the CRC itself.

7. Conclusion

The climate crisis is having catastrophic effects on the rights and interests of children. Climate litigation is one important avenue through which to combat the climate crisis, and children and youth are increasingly a key part of efforts in this arena. There appears to be a lack of attention in the literature and, more generally, to the fact that child/youth-involved climate cases are a transformational moment for children's participation rights. Child/youth-involved climate cases make arguments about the rights of children and youth, but in fact, these young litigants are taking cases in an attempt to preserve the future of humanity more broadly. In this way, child participation has become a vehicle to protect the rights of not just children but of everyone.

The data in the YCJ database indicates that many children and youth are litigants in climate cases, and over half of the cases appear to involve those under 18 years. Children/youth provided only a *written presentation* in 71 out of 81 child/youth-involved climate cases, and oral presentations in 7 of them.

These cases sometimes involve explicit use of the CRC. In 26 out of the 81 cases, there is direct reliance on one or more CRC rights. These explicit

143 Nolan and Skelton, "'Turning the Rights Lens Inwards': The Case for Child Rights-Consistent Strategic Litigation Practice" n 131.

144 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice*, n 46.

145 Committee on the Rights of the Child, *Open Letter to the Sacchi Petitioners*, n 109.

references are most frequently to CRC Article 3, the principle of the best interests of the child (cited in 16 cases); Article 24, the right to health and to a healthy environment (cited in 12 cases); and Article 6, the right to life, survival, and development (cited in 10 cases). It is encouraging to see the CRC being used in these cases, although it seems a missed opportunity that CRC rights are directly cited in so few of the 81 examined. Of course, there are many instances of cases involving the use of arguments that are related or equivalent to CRC rights – the right to a healthy environment, for example, is either cited or related in all cases.

Many cases arguably should contain more emphasis on the CRC, as this would draw greater attention to the rights of children themselves. The CRC is ratified by all countries save one. There are, of course, complex matters of the relationship between national and international laws, which may incline against CRC rights being seen by litigators as the most useful to rely on in climate cases. Yet it is of course possible to nevertheless ensure that the CRC is mentioned in all climate cases which involve children and youth, even if those rights are not used as the main argument. It is somewhat disappointing to see so little explicit reference to this crucial instrument for children's rights. It is possibly part of the picture of climate cases that children and youth are in some ways litigating on behalf of everybody, and children's own rights (and certainly their CRC rights) may be somewhat slightly sidelined because of this. We encourage those taking climate cases, and judges litigating them, to either invoke CRC rights or mention their importance to the matter of the climate crisis.

Nevertheless, all of the cases in the YCJ database are strongly relevant to children's rights and to human rights more broadly. It is understandable that litigators at the national level will wish to rely on national-level provisions rather than citing the CRC. It is inspiring, for example, that the principle of nondiscrimination and equality across the generations is being invoked so frequently in climate cases to capture the point that it is an intergenerational injustice to fail to mitigate the climate crisis.

These cases have important social consequences in terms of raising awareness of the climate crisis. Ensuring that children have participation rights was previously focused on making sure that children themselves could be heard, with the aim that the likelihood of progressing their own rights would be increased. As children are now taking cases to prevent the climate crisis for all of humanity, participation rights have taken on a new meaning. Such rights are no longer simply for children; they are there to benefit all of us. That includes adults and children, and it includes those of us here now and generations that will be here in the future. Children and youth are playing an important role in legal responses to the failure of governments and corporations to mitigate the climate crisis.



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7 Child/Youth-Involved Climate Litigation

Outcomes and Impact

1. Introduction

It is a new and exciting phenomenon that children and youth are prominent actors in relation to climate litigation, as noted in Chapter 6. Through such litigation, they have changed the way the global community understands and addresses climate change. The Youth Climate Justice Project Case Law Database (YCJ database)[1] at the time of writing (August 2025) estimates that they have taken 81 legal cases and applications, brought to various forums worldwide in the past decade. These cases and applications are reframing the climate crisis as a human rights issue and a children's rights issue. We consider these cases in this chapter from the perspective of outcomes and impacts.

The existing literature has examined the pioneering nature of the child/youth-involved climate litigation movement, and some has examined early outcomes.[2] It is now possible to begin a deeper analysis of the impact of child/youth-involved climate cases, due to a significant increase in finalised cases and important progress in those still pending. Previous research indicated that youth climate cases are, on average, slightly less successful than cases not involving children and youth;[3] 2025 research indicated that most

1 See Youth Climate Justice, *Case Law Database*, https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/. Accessed 26 September 2025.

2 Lorenzo Gradoni and Martina Mantovani, "Youth-Led Climate Change Litigation: Crossing the North-South Divide," *VRÜ Verfassung und Recht in Übersee* 56, no. 2 (2023): 274–298; Larissa Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World," *Journal of Human Rights and Environment* 13, no. 1 (2022): 64–89; Elizabeth Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization," *Transnational Environmental Law* 11, no. 2 (2022): 263–289; Aoife Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law," *Human Rights Law Review* 22, no. 2 (2022); Bridget Lewis, "Children's Human Rights-based Climate Litigation at the Frontiers of Environmental and Children's Rights," *Nordic Journal of Human Rights* 39, no. 2 (2021): 180–203.

3 Daniel Ziebarth, "Existing Challenges and Possible Pathways for Case Success in Climate Litigation with Human Rights Claims," *St. Mary's Law Journal* 55, no. 2 (2024): 511–573.

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child/youth-involved climate cases have some element of legal success.[4] The YCJ database shows that among the child/youth-involved climate cases, more cases are dismissed than are granted relief at this point. A high proportion of these applications are deemed inadmissible (see Section 2.1). Despite this, there have been some truly exciting outcomes that have had an impact on the applicants, their communities, and the law. The *Juliana v. US*[5] case ("*Juliana*"), although eventually dismissed, inspired an entire generation of cases and movements globally, including the notable *Future Generations v. Colombia*[6] ("*Future Generations*") and *Neubauer v. Germany*[7] ("*Neubauer*") cases. It also informed *Held v. Montana*[8] ("*Held*"), which gained significant ground for the right to a healthy environment.

This chapter contains three sections according to the types of successes. We consider a case to be legally successful when the court partially or fully granted the remedy requested, and/or the law was developed in a positive way for environmental justice. We also consider the social impacts of cases, even where they are not legally successful. The first section looks in-depth into the remedies the children/youth requested, the remedies the court granted, and the way in which child/youth-involved climate cases have expanded the limits of available remedies in climate litigation. The second section analyses developments in domestic and international law created by child/youth-involved climate cases, particularly the shift to a human rights approach in climate cases, the link between climate change and specific rights (notably the right to enjoy minority culture), the development of concepts like intergenerational equity, and the introduction of solidarity as an approach to climate change. The third section considers the level of implementation of the judgments in real terms and the impacts on society and dominant narratives. As with Chapter 6, we are analysing these cases solely based on publicly available information stored in the YCJ database. We set out here to provide an analysis of the overall picture of legal success in such cases.

2. Cases Where Children/Youth Were Legally Successful

There have been some notable successes for child/youth-involved climate cases. The successes, for example, of litigants in *Urgenda v. Netherlands*[9]

4 See Aoife Daly and Liesl Muller, "Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact," *Washington and Lee Law Review* 82, no. 3 (2025): 1049–1072.

5 *Juliana et al. v. United States*, 2024, 947 F 3d 1159, US Supreme Court.

6 *Future Generations v. Ministry of the Environment et al.,* 2018, 11001 22 03 000 2018 00319 00, Supreme Court of Justice of Colombia.

7 *Neubauer et al. v. Germany,* 2021, 1 BvR 2656/18, 1 BvR 96/20, 1 BvR 78/20, 1 BvR 288/20, 1 BvR 96/20, 1 BvR 78/20, German Federal Constitutional Court.

8 *Held et al. v. State of Montana et al.,* 2024, DA 23-0575, Montana Supreme Court.

9 *Urgenda Foundation v. State of the Netherlands*, 2019, Case No. 19/00135, Supreme Court of the Netherlands.

("*Urgenda*"), *Held*, and *Navahine v. Hawaii*[10] ("*Navahine*") have received much media coverage. There are, however, applications which have failed to proceed to a full hearing, and some of these applications have also gained much attention, such as *Sacchi v. Argentina et al.*[11] ("*Sacchi*"), *Juliana*, and *Duarte Agostinho v. Portugal*[12] ("*Duarte Agostinho*"). In this section, we reflect on the data relating to outcomes and point to trends in legal successes.

2.1 Statistics on the Rates of Success in Child/Youth-Involved Climate Cases

There have been some significant legal successes in recent years. Figure 7.1 indicates that of the 81 cases decided, 22 claims were granted, including two which were favourably settled and made an order of court. One was withdrawn in part because the aims had been substantially achieved before the case was heard (*Soubeste*[13]), so although it did not proceed successfully through the courts, one could certainly argue that this was a success to be added to those 22 that did successfully make their way through the courts. Thirty-one cases were not granted. Nine cases were dismissed but are being appealed and are pending at a higher court, and 18 cases are pending before the courts of first instance.

It seems then that 22 (or 23 if you consider *Soubeste*[14]) child/youth-involved climate cases have been legally successful (see Figure 7.1). This is on the basis that (i) the remedies requested were granted, either partially or in full,[15] (ii)

10 *Navahine et al. v. Hawai'i Department of Transport,* 2024, 1CCV-22-0000631, The Circuit Court of the First Circuit, State of Hawai'i.

11 *Sacchi et al. v. Argentina*, CRC/C/88/D/104/2019; *Sacchi et al. v. Brazil*, CRC/C/88/D/105/2019; *Sacchi et al. v. France*, CRC/C/88/D/106/2019; *Sacchi et al. v. Germany*, CRC/C/88/D/107/2019; *Sacchi et al. v. Turkey*, CRC/C/88/D/108/2019, 2021, United Nations Committee on the Rights of the Child.

12 *Duarte Agostinho et al. v. Portugal et al.,* 2024, App. No. 39371/20, European Court of Human Rights.

13 *Soubeste et al. v. Austria et al.*, 2022, App. no. 31925/22, European Court of Human Rights. See Sabin Centre website, *Soubeste* entry: "In a letter to the Court dated 9 July 2024, the applicants informed the Registry that they no longer intended to pursue their applications since most of the respondent States either had withdrawn or had declared their intention to withdraw from the Energy Charter Treaty and requested the Court to strike their applications out of its list of cases." https://www.climatecasechart.com/document/soubeste-and-others-v-austria-and-11-other-states_64d1. Accessed 3 October 2025.

14 *Soubeste*, *ibid*.

15 These cases are: *African Climate Alliance et al. v. Minister of Mineral Resources and Energy et al. ("Cancel Coal")*, 2024, ZAGPPHC 1271, High Court of South Africa; *Billy et al. v. Australia (Torres Strait Islanders Petition)*, 2022, Human Rights Committee CCPR/C/135/D/3624/2019; *Do-Hyun Kim v. South Korea,* 2024, Case No. 2020HunMa389, the Constitutional Court of Korea; *Future Generations,* n 6; *Groundwork Trust et al. v. Minister of Environmental Affairs et al. ("Deadly Air")*, 2025, SA 98, South Africa Supreme Court of Appeal; *Held*, n 8; *Herrera Carrion et al. v. Ministry of the Environment et al. (Caso Mecheros),* 2020, 21201-2020-00170, the Provincial Court of Justice of Sucumbío; *Advisory Opinion on the Scope of the State Obligations for Responding to the Climate Emergency,* 2025, AO-32/2025,

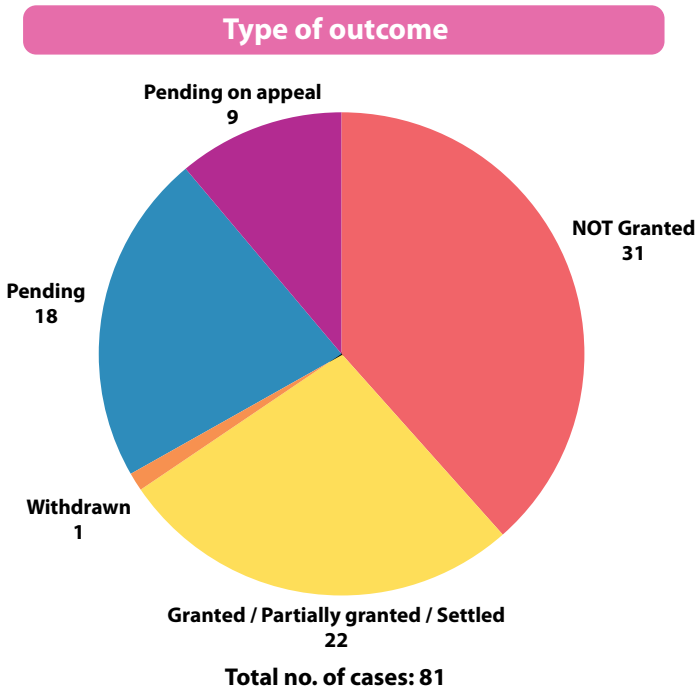


Figure 7.1 Type of outcome.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

Inter-American Court of Human Rights; *Advisory Opinion on the Obligations of States in Respect of Climate Change*, 2025, A/77/L.58, International Court of Justice; *Kain et al. v. Department of Environmental Protection*, 2016, SJC-11961; SUCV2014-02551, Massachusetts Supreme Judicial Court; *M.E.V. et al. v. Finland,* 2025, CRC/C/97/D/172/2022, UN Committee on the Rights of the Child; *Moncayo et al. v. PetroAmazonas et al.*, 2021, Sucumbíos Provincial Court of Justice; *Neubauer*, n 7; *Nuestros Derechos al Futuro y Medio Ambiente Sano et al. v. Mexico Amparo,* 2025, Case No. 204/2021, Mexico Collegiate Court; *Opinion of the National Human Rights Commission on the Climate Crisis and Human Rights*, 2023, Republic of Korea (South Korea); *Minors Oposa v. Secretary of the Department of Environment and Natural Resources* 1993, Case No. 101083, Supreme Court, Manila, Republic of the Philippines; *Urgenda*, n 9; *VZW Klimaatzaak v. Kingdom of Belgium et al.*, 2023, 2022/AR/891, Court of Appeal Brussels; *Woodpecker et al. v. South Korea*, 2022Hunma864, Sejong Youn (Plan 1.5), 2024, South Korean Constitutional Court; *Youth Verdict v. Waratah Coal*, 2022, MRA050-20 (MLA 70454) EPA051-20 (EPML 00571313), Land Court of Queensland.

the parties settled favourably,[16] or (iii) the application was withdrawn once the aims of the case were achieved.[17] When one does not include decisions which are still pending, 54 cases have been finally decided. When one considers that 22 out of 54 decided cases were successful, this constitutes a 43% success rate.

It is of note that the Youth Climate Justice team published earlier data, which shows a higher success rate – 59%.[18] Since the publication of that data, the YCJ database has grown from 50 cases to 81 cases. This means that the database now holds 31 additional cases. The nature of the newly added cases appears to explain the difference in success rates. About a third of the newly added cases are US cases, which have a recognised tendency to be dismissed for inadmissibility – a trend the US courts have been criticised for.[19] Only one of the newly added US cases was found to be admissible. The change in the success rate between this and the previously published dataset can be attributed to these additional US cases, which seem to follow a trend of their own. If they are ignored, the trend of a 50–60% success rate is restored. This perhaps demonstrates the challenge of accurately capturing snapshots of trends relating to success in these climate cases, considering the varied nature of the cases, the jurisdictions, and the stages of proceedings.

It must also be borne in mind that many of the US cases were launched as part of a 2011 legal campaign, which saw initiatives launched in all 50 states, many of them rulemaking petitions to the state authorities.[20] Only some proceeded to court, and of those, only some received substantial reasons for a dismissal.[21] The YCJ database does not include all these applications. Applications were selected based on whether they proceeded to court, whether a substantial

16 For example, *Six Youths v. Minister of Environmental Affairs*, 2024, Sao Paulo Federal Court; and *Navahine*, n 10.

17 *Soubeste et al. v. Austria et al.*, 2022, App. no. 31925/22, European Court of Human Rights.

18 See Daly and Muller, "Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact" n 4.

19 Randall S. Abate, "Standing," in *The Cambridge Handbook on Climate Litigation*, eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 105, 123–129; Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World" n 2, 80–81, 89. Liesl Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis," *African Journal of Climate Law and Justice* 1 (2025): 59–92. Margaretha Wewerinke-Singh and Zoe Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation," in *European Yearbook on Human Rights 2022*, eds. Philip Czech *et al.* (Cambridge: Intersentia, 2022), 647–676, 675. *Juliana*, n 5, Supplemental Order (Judge Aiken), 19 April 2024, No. 6:15-cv-01517 (D. Or. Apr. 19, 2024); *Juliana*, n 5, Amicus Brief of Public Justice and Montana Trial Lawyers Association, 13 January 2025, No. 24-645, US Supreme Court.

20 Julia Olsen, "The Birth of Our Children's Trust: A Mother's Day to Remember," *Our Children's Trust*, 8 May 2025, https://www.ourchildrenstrust.org/blog/tag/Mother%27s+Day. Accessed 23 September 2025.

21 Our Children's Trust, "State Legal Actions," https://www.ourchildrenstrust.org/state-legal-actions. Accessed 30 September 2025.

judgment was handed down, and whether public information was available on the case at the time.[22] Similarly, in Germany, 11 cases were launched in different states after the *Neubauer* judgment, testing whether the judgment can be applied at the state level. They were all dismissed on the same basis, and so only two illustrative cases were included.[23] This was to ensure their representation in our database.

Where a case is deemed inadmissible, there has been a finding that there is some element of the case/application which does not meet the required criteria, and so it is legally barred from being considered or processed. The data, as displayed in Figure 7.2, shows that 35 applications have been deemed admissible. One was withdrawn (*Soubeste*[24]). Twenty-nine child/youth-involved climate applications were deemed to be *inadmissible,* however, there are considerations relating to appeals. Five of these inadmissibility decisions are at present under appeal.[25] Sixteen further cases have not had any decision thus far on admissibility. In 60 cases, admissibility has been finally decided. Of those, 24 cases were deemed inadmissible (as the final outcome). Thus, 40% of the child/youth-involved climate cases were dismissed and did not proceed to a full hearing. This high level of inadmissibility has been ascribed by authors to courts (and their stringent admissibility rules), as opposed to inadequacy on the part of applicants.[26] It is acknowledged that some applications will be found inadmissible across various areas of law, nationally and internationally.[27] It has been argued, however, that these admissibility barriers are particular to climate cases.[28]

22 The YCJ project does not separate out the US cases, as the Sabin Center database does. This may change in the future, as US child/youth-involved climate applications proliferate.

23 The German Federal Constitutional Court decided not to admit all 11 cases, on the same reasoning. Two cases are selected, one because it was brought at both the state and federal levels, and another, randomly selected, because it was only brought at the federal level, like the others. The full list of cases can be found at the YCJ project website: https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/. Accessed 30 September 2025.

24 *Soubeste*, n 13.

25 One example is *Atencio et al. v. New Mexico et al.*, Petition for Writ of Certiorari to Review, 2025, No. A-1-CA-42006, New Mexico Supreme Court.

26 Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World" n 2; Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis" n 19.

27 See Blaga Thavard, "The Admissibility Hurdle: An Evolving Façade for Politically Motivated Application Rejections by the ECtHR," *Verfassungsblog* (27 May 2021), https://verfassungsblog.de/the-admissibility-hurdle/#:~:text=It%20is%20therefore%20not%20difficult%20to%20see,for%20default%20of%20answer%20of%20the%20requestor. Accessed 22 September 2025.

28 See further uan Auz, "Admissibility," in *The Cambridge Handbook on Climate Litigation*, eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 131–144; Kleoniki Pouikli, "A Short History of the Climate Change Litigation Boom Across Europe," in *ERA Forum* 22, no. 4 (2021): 569–586, 580–581; Helen Keller and Corina Heri, "The Future is Now: Climate Cases Before the ECtHR," *Nordic Journal of Human Rights* 40, no. 1 (2022): 153–174, 155–163; Wewerinke-Singh and Nay, "Climate Change as a Children's Rights Crisis: Procedural Obstacles in International Rights-Based Climate Litigation" n 18, 651–654.

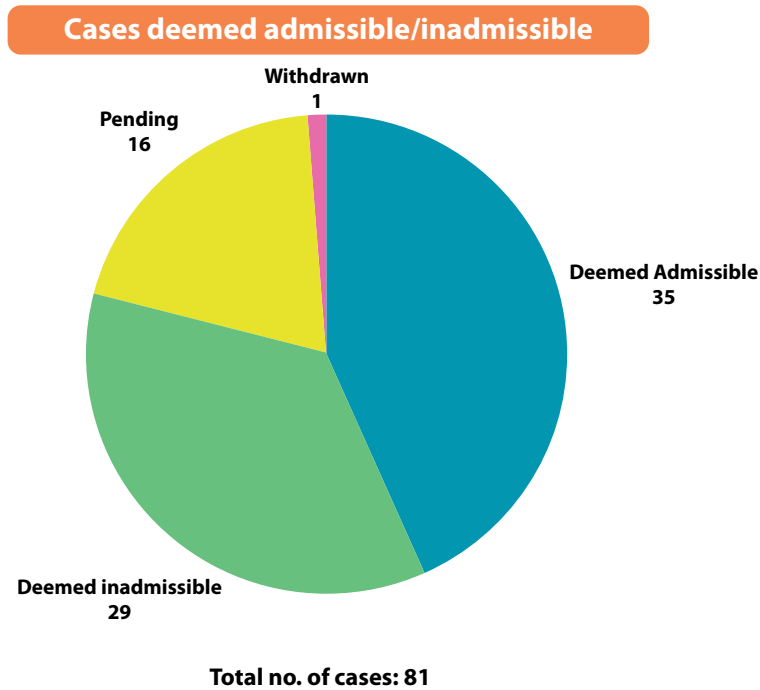


Figure 7.2 Cases deemed admissible/inadmissible.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

As illustrated in Figure 7.3, there were 35 cases that were deemed admissible and, therefore, went to a full hearing (there is also *Soubeste*, which was withdrawn[29]). Where cases were found admissible, proceeded to court, and were concluded (29 cases), the majority were successful (22 cases, or 76%).[30] Procedural barriers, it seems, are responsible for unsuccessful child/youth-involved climate applications, as opposed to necessarily insufficient merits. As will be discussed in the next section, child/youth-involved climate cases have already started to challenge the application of strict admissibility rules. This possibly bodes well for the future of climate cases, then, as applicants may be increasingly better able to negotiate these challenging rules and receive a full hearing.

29 *Soubeste*, n 13.
30 Consider also that in *Soubeste*, the aims were broadly met, which would increase that rate of success. *Ibid.*

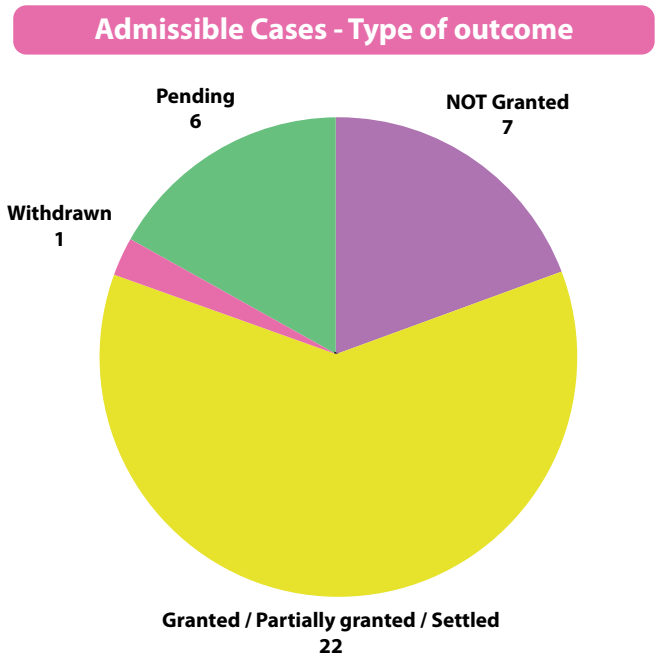


Figure 7.3 Outcomes of cases deemed to be admissible.

Source: Case Law Database, Youth Climate Justice
The information displayed is based on the YCJ database as of August 2025.

2.2 Remedies in Child/Youth-Involved Climate Cases: What Is Being Sought

Relief or remedy is the benefit granted by a court to the complainant who brings a case. In the climate context, it could take the form of, for example, an order directing a state to adopt legislation limiting greenhouse gas (GHG) emissions. Children and youth have most often chosen to base their legal remedies on human rights. They rely on the right to a healthy environment, but also on other rights like the right to life and equality. *The Cambridge Handbook on Climate Litigation* categorises human rights-based climate cases into four types, challenging: (1) the adequacy of the state's overall approach to climate change (systemic mitigation cases); (2) the lawfulness of a specific project which hinders the reduction of GHG emissions (project cases); (3) the adequacy of adaptation measures and loss and damage; and (4) the design of mitigation efforts and the adequacy to take into account the needs of particular groups (just transition cases).[31] In the process of pursuing these various

31 Margaretha Wewerinke-Singh and Lucy Maxwell, "Human Rights," in *The Cambridge Handbook on Climate Litigation*, eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 176.

aims, children/youth have requested and obtained creative remedies from the courts, widening the scope of what is perceived as available remedies in climate litigation. This section considers the nature and effect of the remedies granted in these cases.

The 22 successful child/youth-involved climate cases[32] include a variety of remedies from formal courts of law and quasi-judicial bodies at both the domestic and international levels (we refer to them collectively as courts in this chapter). It must be noted that not all remedies have the same weight. The orders of domestic and international courts are usually binding and can be enforced. The findings of quasi-judicial bodies, like international human rights law treaty bodies, are more like recommendations, the consequences of which vary depending on the applicable law. Whether and to what extent they establish a legal precedent (a rule which subsequent courts must follow), or have only persuasive value, also differs depending on the forum and the applicable law. However, all relief granted in the child/youth-involved climate cases contributed to some extent to the growing body of best practices and widening scope of available remedies in climate litigation.

In these cases, various remedies are sought. There can be declarations requested which clarify the scope of the duties of a state when protecting and promoting rights. There may be orders requested directing states (or even private actors) to act, like an order to consult with a local community.[33] States have been ordered to adopt or amend legislation,[34] and to create or amend policy.[35] The courts made orders to ensure the participation of the public in decision-making,[36] orders to gather and make available information,[37] and findings that compensation is due.[38]

Perhaps the most ambitious request for relief is found in the *Billy v. Australia*[39] ("*Billy*") case brought before the UN Human Rights Committee (HRC). The complainants, including six children, are Indigenous inhabitants of four small, low-lying islands in Australia's Torres Strait region. They submitted a petition against the Australian government, claiming that climate change-induced changes in weather patterns directly harm their livelihoods, culture, and traditional way of life. They requested a wide array of relief, including a declaration that Australia's failure to act to prevent climate change amounts to violations of five rights in the International Covenant on Civil

32 Plus *Soubeste*, withdrawn in part because the aims were met. *Soubeste*, n 13.
33 For example, *Herrera Carrion*, n 15.
34 For example, *Do-Yuon Kim*, n 15; *Deadly Air*, n 15.
35 For example, *Neubauer*, n 7.
36 For example, *Future Generations*, n 6; *Navahine*, n 10; *African Climate Alliance*, n 15*; Six Youths*, n 16.
37 For example, *Billy*, n 15; *M.E.V.*, n 15.
38 *Billy*, n 15.
39 *Ibid*., para 210–218.

and Political Rights[40] (ICCPR) (Articles 2, 6, 17, 24, 27). They requested relief concerning adaptation and mitigation practices aimed at securing the complainants' safety, including the commission of a comprehensive and fully costed impact study; the implementation of measures, which must be monitored and reviewed; and the amendment and adoption of laws and policies. Additionally, the complainants asked the Committee to recommend full reparation to the victims (including restitution, compensation, rehabilitation, and measures of satisfaction) and cessation with assurances of non-repetition. Lastly, they requested that Australia be directed to remain party to the climate framework conventions, comply sufficiently with its provisions, and cease policies that support coal.

The many items requested were not all granted, but in a far-reaching judgment in 2022, the Human Rights Committee found that Australia's failure to adequately protect the complainants from the impacts of climate change violated their rights to enjoy their culture (ICCPR Article 27) and their right to be free from arbitrary interference with their private life, family, and home (ICCPR Article 17). The Committee recommended that Australia compensate the Indigenous Islanders for the harm suffered and engage in meaningful consultations with their communities to assess their needs. Lastly, they urged Australia to take measures to secure the communities' safe existence on their respective islands. The Islanders' broad request for remedies may have seemed ambitious at the time, but the International Court of Justice (ICJ), in its subsequent *Advisory Opinion on the Obligations of States in Relation to Climate Change*[41] ("*ICJ Advisory Opinion*"), which was spearheaded by youth,[42] has since confirmed that these are potential obligations of all states, and thus available remedies in climate-related cases. This finding is important because of the ongoing debate on what constitutes a legitimate legal remedy, which has become a common ground for dismissal in climate cases.

There are numerous procedural challenges faced in seeking remedies in climate cases. Not all courts are equally willing to grant the relief that children/youth propose in the context of climate change.[43] Many child/youth-involved climate cases have been dismissed because they asked for the "wrong" remedies. Before a case is fully aired in court, a pre-trial phase allows the court to

40 United Nations General Assembly, *International Covenant on Civil and Political Rights*, Treaty Series 999, December 1966: 171.

41 *ICJ Advisory Opinion*, n 15.

42 See "World's Youth for Climate Justice," (undated) https://www.wy4cj.org/. Accessed 30 September 2025.

43 Auz, "Admissibility" n 28; Abate, "Standing" n 19, 109; Christina Eckes, Jasmina Nedevska, and Joana Setzer, "Separation of Powers," in *The Cambridge Handbook on Climate Litigation*, eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 145–168.

filter out cases which are unsuitable for court determination (the admissibility phase). This includes cases which ask for relief that the court is not able or authorised to grant (non-justiciable cases). Each jurisdiction has different rules determining the justiciability of a case, but they often include (i) whether the remedy can address the alleged harm and (ii) whether the court has the power to grant the remedy.

At least five US cases have been found inadmissible because the court does not agree that the remedy requested would address the complainants' climate change complaints ("redressability").[44] Where claimants asked for a declaration that their rights have been violated (because of a state failure to adequately mitigate the climate crisis), these courts have said a mere declaration cannot address climate change. In other cases, where an injunction is added to a declaration, some courts held that granting the remedy is futile because the actions of one state cannot single-handedly cause or end climate change (this is referred to as the "drop in the ocean defence").[45] This has prevented many claimants from presenting their full evidence to the courts, including the *Juliana* plaintiffs.[46]

The question of whether the court has the power to grant relief is a pervasive and global barrier. Courts worldwide have expressed the opinion that climate change is essentially a political issue that must be addressed by the executive and legislative branches of government, instead of the courts. Their finding is based on the separation of powers doctrine.[47] The principle is that the different branches of government (legislature, executive, and judicial) must not overstep and perform each other's powers. Courts have often refused to admit cases to trial on this basis, particularly in cases where legislation and policy are challenged – a function reserved for the legislature.[48] These courts have been criticised, however, for neglecting their duty to hold the other branches of

44 *Layla et al. v. Commonwealth of Virginia*, 2025, No. 240684, Virginia Supreme Court; *Natalie et al. v. State of Utah*, 2025, No. 20230022, Supreme Court of the State of Utah; *Clean Air Council v. United States,* 2019, Pennsylvania DC 362 F.Supp.3d 237; *Aji Pexrel Piper v. State of Washington*, 2021, Court of Appeals for Washington 480 P.3d 438; *Kanuk v. State Department of Natural Resources*, 2014, 335 P. 3d 1088, 1095 Supreme Court of Alaska.

45 Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis" n 19; Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World" n 2. Jacqueline Peel, "Issues in Climate Change Litigation," *Carbon & Climate Law Review* (2011): 15–24, 16.

46 *Layla,* n 44*; Natalie*, n 44; *Clean Air,* n 44; *Genesis v. U.S. Environmental Protection Agency*, 2025, 2:23-cv-10345, California Federal Court.

47 Jacob T. Levy, "Separation of Powers," in *The Cambridge Handbook of Constitutional Theory*, eds. Richard Bellamy and Jeff King (Cambridge: Cambridge University Press, 2025).

48 For example, Sweden and Austria. Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis" n 19. Christina Eckes, Jasmina Nedevska and Joana Setzer, "Separation of Powers" n 43.

government to account and ignoring the claimants' right to access justice and an effective remedy.[49]

Although many child/youth-involved climate cases have failed because of these two issues related to remedies (redressability and separation of powers), some have pushed the boundaries of admissibility and established progressive practices for subsequent cases. These cases are discussed in the next section.

2.3 Admissibility: Can a Declaration Make a Difference?

Despite the strict application of redressability requirements, especially in the US, child/youth-involved climate cases have managed to move the needle regarding whether a court remedy can make a difference to climate change. In the *Held* case, 16 children and youth, between the ages of 8 and 25 years, asked the court to declare that legislation violated their right to a stable climate system and to grant an injunction compelling the state of Montana to adopt a remedial plan to reduce GHG emissions. The state used the "drop in the ocean" argument, saying that the relief cannot redress the alleged harm (climate change), because it is too insignificant a contribution to climate change. The court rejected this argument and granted the plaintiffs their relief, concluding that even if the statute is "only a small contributor to climate change generally, and declaring it unconstitutional will do little to reverse climate change," nevertheless, the harm to the plaintiffs' constitutional rights would be alleviated.[50] The subsequent *Navahine*[51] case found that declaratory relief settles the parties' dispute over the state's legislative duties even if it does not solve climate change. These approaches are in line with the subsequent *ICJ Advisory Opinion*, which clarified that each state has a duty under international law to contribute its fair share to reducing GHG emissions.[52]

Seven US cases[53] and one Canadian case[54] failed on redressability. Nonetheless, the lack of consensus among the judiciary is to be seen in several dissenting opinions. The ten-year *Juliana* battle over redressability went through several appeals. Three judicial officers along the way disagreed with the outcome, saying that the matter should proceed to trial for the full evidence to be aired. One judge said that without the benefit of the full evidence,

49 Muller, "Children at the Lekgotla: African Child-led Remedies for the Climate Crisis" n 19; Andrea K. Rodgers Maria Beaucage, "Navahine v. Hawai'i Department of Transportation: Redressing Constitutional Youth Climate Change Injuries Through a Court-Enforced Settlement Agreement," *The International Journal of Children's Rights* 33, no. 3 (2025): 617–645, 617.

50 *Held*, n 8, Opinion, 18 December 2024, (Mont.), para. 151.

51 *Navahine*, n 10, Decision and Order Denying Motion to Dismiss, 6 April 2023, No. 1CCV-22-0000631 (Haw. Cir. Ct. 1st Cir.), para. 5.

52 *ICJ Advisory Opinion*, n 15, para. 276.

53 *Layla,* n 44*; Natalie,* n 44; *Clean Air,* n 44; *Genesis,* n 46; *Kanuk*, n 44; *Juliana*, n 5; *Aji,* n 44.

54 *Lho'imggin et al. v. Her Majesty the Queen*, 2020, FC 1059, (Can.).

the court can only speculate whether the relief will address the harm.[55] Judge Aiken, who authored the favourable judgment, later commented that "[t]he judiciary is capable and duty-bound to provide redress for the irreparable harm government fossil fuel promotion has caused."[56] In *Aji v. Washington* ("*Aji*"), two dissenting judges, including the Chief Justice, found that a declaration of rights is indeed meaningful relief "even if it is not a magic wand that will eliminate climate change."[57] These dissenting judges use a purposive approach (that is, engaging in legal interpretation that emphasises the purpose of a law or document, rather than strictly adhering to its literal wording). This approach gives effect to fundamental rights where a problem is complex and has long-term detrimental effects on multiple generations.

Child/youth-involved climate cases are, therefore, encouraging progressive interpretations in favour of admissibility for future cases. The most significant contribution to best practice in child/youth procedural rights, and the right to access justice and an effective remedy, comes from the Inter-American Court of Human Rights (IACHR) in its *Advisory Opinion on the Scope of the State Obligations for Responding to the Climate Emergency*. After having heard extensively from children/youth in its public consultations, it went on to set out the special accommodations which must be made to ensure they are able to access the courts.[58] Two cases are currently pending in the US, *Lighthiser v. Trump*[59] ("*Lighthiser*") and *Dunn v. Wisconsin*.[60] It remains to be seen whether, in future applications, courts follow the precedents and dissents in these aforementioned child/youth-involved climate cases, allowing them to proceed to trial.

2.4 Admissibility: Should the Courts Interfere?

The separation of powers doctrine is arguably the most significant barrier for climate litigants.[61] Although enforcing the law, which includes constitutional rights, is the domain of the court, many are still reluctant to grant relief in relation to legislative regulation and policy decisions about climate change. An extreme example is *Foley v. Sweden* ("*Aurora*"), where a judge said that the judiciary must completely avoid engaging with a claim involving a chal-

55 *Juliana*, n 5, Dissenting Opinion of Judge Staton, 17 January 2020, 947 F. 3d 1159 (9th Cir.), 32–43.

56 *Juliana*, n 5, Supplemental Order, 19 April 2024, No. 6:15-cv-01517 (D. Or.).

57 *Aji,* n 44, No. 99564-8, Dissenting Opinion of González, C.J. (Wash.).

58 *Advisory Opinion*, n 15, para. 604.

59 *Lighthiser et al. v. Trump*, 2025, No. 2:25-cv-00054, (D. Mont.).

60 *Dunn et al. v. Public Service Commission of Wisconsin et al.*, 2025, No. 2025CV002797 (Wis. Cir. Ct. Dane Cnty.).

61 Christina Eckes, Jasmina Nedevska, and Joana Setzer, "Separation of Powers," in *The Cambridge Handbook on Climate Litigation,* eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 145.

lenge to legislation – a function of the legislature.[62] However, several child/youth-involved climate cases have started to change this tendency. The *Oposa v. Factoran*[63] ("*Oposa*") appellate court said that it is not despite, but indeed because of legislation which violates fundamental rights, that the courts are required to intervene.[64] Other courts in child/youth-involved climate cases have decided in the same direction,[65] and found that it is premature to consider the separation of powers question at pre-trial, and that it must not prevent claimants from accessing the court.[66]

Some child/youth-involved climate judgments favour a legal interpretation which gives effect to fundamental rights when addressing the separation of powers doctrine. In *Mathur v. Ontario*,[67] a Canadian court embraced the judicial obligation to intervene where fundamental rights are at stake, saying it is especially important because of the complex and contentious nature of climate change. In *Thomson v. Climate*,[68] the court found the basis for judicial intervention in the importance of addressing climate because of its wide-reaching effects on everyone, but set out limits to judicial intervention. At the same time, the child/youth-involved climate cases provide guidance on the limits of such intervention. They defer to the other branches of state to decide on the best way to achieve the result necessary to protect fundamental rights and implement the law.[69]

A useful test was devised by the court in *Groundwork Trust v. Minister of Environmental Affairs*[70] ("*Deadly Air*"), which made an order directing a minister to bring into effect regulations to limit air pollution. It reasoned that if legislation is *necessary* to enforce a right, the court can and must make an order directing the state to legislate. This court also left the contents of the legilslation to the discretion of the Minister. In *ENVironnement JEUnesse v*

62 *Foley et al. v. Sweden*, 2025, M2022/01018, Swedish SC. See Sabin Center summary https://www.climatecasechart.com/document/anton-foley-and-others-v-sweden-aurora-case_5963. Accessed 30 September 2025.

63 *Oposa*, n 15.

64 ACRiSL, "Minors Oposa v. Secretary of the Department of Environment and Natural Resources 33 I.L.M. 173 (1994) – Philippines," (undated), https://www.acrisl.org/casenotes/m2ll8m8skjpglk8-83mk2. Accessed 30 September 2025.

65 For example, *Urgenda*, n 9. Unofficial English translation of the Supreme Court decision, 19. Available at https://www.climatecasechart.com/document/urgenda-foundation-v-state-of-the-netherlands_3297?q=separation+of+powers. Accessed 30 September 2025.

66 For example, *Navahine*, n 10. Decision and Order Denying Motion to Dismiss, 6 April 2023, No. 1CCV-22-0000631 (Haw. Cir. Ct. 1st Cir.), para. 8.

67 *Mathur et al. v. His Majesty the King in Right of Ontario*, 2020, Denial of Motion to Dismiss, OONSC 6918, Superior Court of Justice, Ontario, paras. 125–140.

68 *Thomson v. Minister for Climate Change Issues*, 2017, NZHC 733, High Court of New Zealand, para. 134.

69 For example, *Klimaatzaak*, n 15, decision of the Brussels Appeal Court, 158. See also *Deadly Air*, n 15, decision of the Supreme Court of Appeal, para. 51.

70 *Deadly Air*, n 15, decision of the Supreme Court of Appeal, 2025, para. 36.

Canada[71] ("*Jeunesse*"), the court of first instance directly refers to justiciability and the doctrine of separation of powers, saying it must not prevent a court from hearing a rights-based case. The *ICJ Advisory Opinion* also supported this approach when it confirmed the importance of human rights law in determining states' obligations. These interpretations have, and will hopefully continue, to encourage other courts to further develop the law related to admissibility so as to give effect to the right to access justice.

2.5 Declaring Rights and Duties

Child/youth-involved climate cases, where they have passed the admissibility phase, have significantly contributed to legal clarity on the existence and scope of the right to a healthy environment in domestic and international law. Through declaratory relief, the courts have interpreted and declared the law in relation to climate change, clarifying the parties' rights and duties. Some child/youth-involved climate cases made crucial connections between the right to a healthy environment, climate change, and other fundamental human rights. They have obtained remedies which, for instance, declare that chronic air pollution caused by fossil fuel burning violates the right to health and a healthy environment.[72]

There have been several other legal milestones which contributed to the international recognition of the right to a healthy environment, as noted in Chapter 2. The work of the UN Special Mechanisms, decisions by the UN General Assembly and Human Rights Committee, and the adoption of several climate-related treaties by states all contributed to the growing acceptance of the right over time. In its General Comment No. 26[73] – which was prompted by child/youth-involved climate litigation in *Sacchi* – the UN Committee on the Rights of the Child confirmed that the "right to a clean, healthy and sustainable environment" of which "a safe and stable climate" is a substantive element, is implicit in the CRC.[74] This was the first time a UN human rights treaty body formally recognised the right. The Committee explains that its dynamic interpretation is based on developments in international law and is informed by, among other things, the findings of regional and domestic courts recognising some form of the right to a healthy environment, and the relation-

71 *ENVironnement JEUnesse v. Procureur General du Canada,* 2021, 1871, Québec Appeal Court, paras. 46–72.

72 *Deadly Air*, n 15; *Moncayo*, n 15. See also Climate Law Accelerator Toolkit "Moncayo v. PetroAmazonas" (undated), https://clxtoolkit.com/map/moncayo-v-petroamazonas-ministry-of-energy-and-non-renewable-natural-resources-and-ministry-of-the-environment/. Accessed 30 September 2025.

73 Committee on the Rights of the Child, *General Comment No. 26 on Children's Rights and the Environment with a Special Focus on Climate Change* (2023), CRC/C/GC/26, 22 August 2023.

74 *Ibid*., para. 63.

ship between human rights and the environment.[75] Much of this regional and domestic jurisprudence consists of developments arising from child/youth-involved climate litigation.

The journey to an undeniable right to a clean, healthy, and sustainable environment involves the *ICJ Advisory Opinion*, which recognises the right and confirms that all states have a duty to protect it.[76] The work of young students from the Pacific Island States brought this case to the ICJ and advocated for the inclusion of human rights in the opinion.[77] The ICJ also refers to the jurisprudence of other courts as part of the building blocks towards its finding.[78] The child/youth-involved climate cases made arguments based on the existence of the right to a stable climate, despite it not being codified in law. The courts, in finding in their favour, interpreted and developed the law to find that the right to a stable climate exists. For example, the Constitutional Court in *Do-Hyun v South Korea* ("*Do-Hyun*") declared that the constitutional right to a healthy environment addresses the harm and risks related to climate change and that the state has an obligation to protect such rights, and must therefore take steps to address climate change.[79] These approaches are reflected in subsequent international law developments on the right to a stable climate.[80]

Some courts benefited from an existing constitutional provision containing the right to a healthy environment.[81] However, the courts still had to make the connection between the right to a healthy environment and climate change. For instance, the *Held* court confirmed that the fundamental right to a clean and healthful environment is part and parcel of the environmental system that sustains life. These cases have expanded our understanding of the environmental right to include a sustainable climate. Other child/youth-involved climate cases argued that the right to a stable climate forms part of the right to health or life. The German court in *Neubauer* relied on these rights, saying that the state's duty to protect the right to health and life "encompasses the duty to protect life and health against the risks posed by climate change."[82]

75 *Ibid*., par. 9.

76 *ICJ Advisory Opinion*, n 15, para. 134.

77 Save the Children International, "Vanuatu Teen Climate Activist to Address Historic Climate Justice Hearings at the International Court of Justice," 2 December 2024, https://www.savethechildren.net/stories/vanuatu-activist-climate-justice-icj#:~:text=Vepaia%2C%20a%20young%20climate%20activist%20from%20Vanuatu%2C%20is,tackle%20the%20climate%20crisis%20and%20protect%20future%20generations. Accessed 43 October 2025.

78 *Ibid*., para. 385, 391.

79 *Do-Hyun*, n 15, analysis memo in English provided by Plan 1.5, 4. Available at Sabin Center for Child Change Law Climate Litigation Database, "Do-Hyun Kim et al. v. South Korea," (undated), https://www.climatecasechart.com/document/do-hyun-kim-et-al-v-south-korea_2dd5?q=do-hyun. Accessed 30 September 2025.

80 For example, *ICJ Advisory Opinion*, n 15.

81 *Do-Hyun*, n 15*; Herrera Carrion*, n 15*; Held*, n 8*; Deadly Air*, n 15.

82 *Neubauer*, n 7, Order of the First Senate, 24 March 2021, para. 1.

The *Urgenda* and *VZW Klimaatzaak v. Kingdom of Belgium*[83] courts made the critical connection between climate change and the rights to life (ECHR Article 2) and to private and family life (ECHR Article 8), saying that climate change can translate into violations of these rights.

Some child/youth-involved climate cases have also resulted in declarations of other rights being violated, like the right to equality, confirming the connection between climate change and other human rights. The *Neubauer* decision finds that the state's attempt to offload all its climate obligations on future generations violated the rights to freedom and equality by "locking them into a carbon-intensive future that would inevitably require burdensome mitigation measures."[84] In *Billy*, the HRC found that Australia's failure to address climate change violated the claimants' right to enjoy their minority culture. These important connections between climate change and human rights are an essential contribution of the child/youth-involved climate cases.

Child/youth-involved climate litigation has also given courts opportunities to clarify states' duties in relation to specific climate change issues. A common defence raised by governments in climate cases is that climate change is a "state of affairs" that cannot be attributed to them. A declaration by a court regarding the scope of the duties of states can settle such a dispute. The *Deadly Air* court found that the state can be held accountable for a "state of affairs" if it is coupled with state inaction in the face of human rights violations. Child/youth-involved climate cases have resulted in successful judicial reviews of government decisions that violate rights. In the *African Climate Alliance v. Minister of Mineral Resources and Energy* ("*Cancel Coal*")[85] case, a South African court found that a minister had a duty to consult with children and to consider their best interests when making a decision to include additional coal-fired power in its energy plans for the future. Because it had not fulfilled that duty, the Court set aside the decision, forcing the government to restart the decision-making process, which now must include a Child Rights Impact Assessment (CRIA, discussed in Chapter 3). Furthermore, several child/youth-involved climate cases have expanded the jurisprudence on the precautionary and proactive nature of states' duty of care in relation to climate change. They have established that states can be held responsible for both action, inaction, and insufficient action.[86] These findings refute the defence sometimes offered by states, saying that they cannot be held accountable where they have not actively done something unlawful. Some child/youth-involved climate cases, therefore, confirmed that inaction can be a rights violation.[87]

83 *Klimaatzaak*, n 15.

84 Christina Voigt and Joe Udell, "Duty of Care," in *The Cambridge Handbook on Climate Litigation*, eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 235.

85 *Cancel Coal*, n 15.

86 *Neubauer*, n 7; Voigt and Odell, "Duty of Care" n 84.

87 See also *Deadly Air*, n 15.

The duty of states to take action has been established in some of these cases. According to the *Urgenda* court, where there is a risk of serious environmental harm that may adversely affect individuals' well-being in the short or long term, an obligation to take measures arises.[88] In both *Oposa* and *Held*, the courts hold that states are responsible not only for the protection of the environment but also for the enhancement thereof.[89] The states' duty is a proactive duty to mitigate climate change, individually and collectively.[90] The collective and proactive approach is also adopted by the CRC Committee in its General Comment No. 26, it has been argued.[91] The Committee has been described as calling "for urgent collective action by all States to mitigate greenhouse gas emissions, in line with their human rights obligations," noting that "historical and current major emitters should take the lead in mitigation efforts."[92]

The duty to mitigate climate change proactively is illustrated in the arguments and findings on the nature of the right to life in the context of climate change, which – as many child/youth-involved climate cases demonstrate – is about more than solely not dying. According to the applicants in *Lighthiser*:

> A government's deprivation of the fundamental right to life does not occur only at death. The fundamental right to life, as the Framers intended, includes the right of living, breathing persons to enjoy this terrestrial existence and pursue happiness in living. By natural extension, for children and youth whose organs and bodies are still developing, the right to life includes their ability to develop healthfully into their full adult living form.[93]

It is notable that part of the logic of the court in its findings regarding state duties is the nature of child development, pointing to the impact of child/youth involvement in climate cases. The *Oposa* court described the right to a balanced and healthful ecology as so fundamental that its existence is assumed, from the very dawn of humanity. Many child/youth-involved climate litigants therefore relied on rights which they understood to be fundamental and challenged courts to grapple with and codify these fundamental rights.

88 *Urgenda*, n 9, para. 2019, 5.2.3.

89 *Oposa*, n 15; *Held*, n 8.

90 Voigt and Odell, "Duty of Care" n 84, 246. See also *Klimaatzaak,* n 15, 2023, para. 283; *Neubauer,* n 7, 2021, 197.

91 Patricia G. Ferreira, "Common but Differentiated Responsibilities and Respective Capabilities," in *Cambridge Handbook on Climate Litigation,* eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 320–343, 328, 333.

92 *Ibid*.

93 *Lighthiser*, n 59, petition, para. 255. See also *Juliana*, n 5, 2016, 217 F. Supp. 3d 1224, District Court Oregon; and *Urgenda*, n 9, 2019, para. 2.58.

2.6 Injunctions: Can the Courts Tell the State What to Do?

Some child/youth-involved climate cases have resulted in interesting injunctive relief – that is, orders to act or refrain from acting in a particular way. As has already been discussed, some courts have found that the decision to take specific action regarding climate change falls within the exclusive domain of the executive and legislature, and have refused such relief. In some cases, orders have been obtained ranging from general orders to ones which specify particular actions, requirements, and timeframes. These child/youth-involved cases push the boundaries of available climate relief. For instance, in *Urgenda*, the court specified that GHG emissions must be limited to 25% below 1990 levels by 2020. This order is groundbreaking in that no other court had previously made such an order on a basis other than a legislative mandate[94] (although the limitations posed by the actual figure are outlined in Chapter 6).

Courts in some child/youth-involved climate cases have found that private actors can be ordered to act or refrain from acting in a way which affects climate change, and states can be ordered to regulate the activities of private actors. For example, in *Moncayo v PetroAmazonas*[95] ("*Moncayo*"), the Ecuadorian court ordered the phase-out of gas flares by 2030. Findings against non-state actors align with the ICJ's subsequent findings on states' responsibility to regulate fossil fuel burning activities in their territory, which, if unaddressed, may amount to an internationally wrongful act.

The *Future Generations* judgment contains a wide array of specific and comprehensive remedies. The state (Colombia) was ordered to formulate a short, medium, and long-term action plan to counteract the deforestation rate in the Amazon, with the "participation of the plaintiffs, the affected communities and interested population."[96] All municipalities in the Colombian Amazon are ordered to update and implement land management plans, including "preventative, mandatory, corrective, and pedagogical measurable strategies, oriented towards climate change adaptation." Several corporations must also create action plans "which counteract, through police, judicial or administrative measures, the deforestation problems reported." Lastly, the state must construct an intergenerational pact for the life of the Colombian Amazon, to adopt measures to reduce deforestation and greenhouse gas emissions. These orders and their level of specificity may fall well out of bounds of some states' interpretation of the separation of powers. It is encouraging, however, to see such a progressive example of creative, participatory remedies in a climate case.[97]

94 See Sabin Centre website, *Urgenda entry*, https://www.climatecasechart.com/document/urgenda-foundation-v-state-of-the-netherlands_3297. Accessed 3 October 2025.

95 *Moncayo*, n 15.

96 *Future Generations*, n 6, para. 14.

97 *Ibid*.

Despite the widespread reluctance to address rights violations caused by legislation based on the separation of powers doctrine, some child/youth-involved climate cases have successfully argued that legislation is unconstitutional or otherwise in violation of rights standards. In *Neubauer*,[98] the Court found that Germany's Federal Climate Protection Act does not distribute the carbon emissions budget proportionally between current and future generations, ordering the legislature to amend its laws to set explicit provisions for reduction targets from 2031 onwards. Other courts in child/youth-involved climate cases have made similar findings.[99]

The child/youth-involved cases have also included remedies aimed at increasing participation in public decision-making processes related to climate change, and enhanced access to information in the form of orders to gather data and make climate information available to the public. For instance, the *Navahine* settlement order makes provision for ongoing long-term engagement through a youth advisory council.[100] The *Billy* and *M.E.V. v Finland*[101] ("*M.E.V.*") decisions contain orders which require data collection involving particularly affected communities, which must inform future decision-making. In *Youth Verdict v Waratah*[102] ("*Youth Verdict*"), the parties adopted court-sanctioned agreements regarding the requirements for culturally appropriate consultations on Indigenous land.[103]

Child/youth-involved climate cases have established the precedent that compensation can be granted for climate-related harm. In *Billy*,[104] the HRC made the first recommendation for compensation to people whose rights were violated by government inaction to prevent climate change harm. The CRC Committee recommended reparations to Sami children for climate-related harms in *M.E.V.* The *ICJ Advisory Opinion* subsequently confirmed the legitimacy of compensation as a climate remedy, which will likely lead to requests for such relief in future cases.

Child/youth litigants have brought crucial climate cases to courts globally at the domestic and international levels. They have redefined what is possible for courts in the face of a global problem that must be tackled collectively at a domestic level, each according to their fair share. Some cases have established important principles and involved remedies that are creative and involve

98 *Neubauer*, n 7.

99 For example, *Do-Hyun*, n 15; and *Kain*, n 15. See also Joana Setzer and Catherine Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot," *LSE,* 2024, https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2024-snapshot/. Accessed 17 September 2025, 26.

100 *Navahine*, n 10. See also *Six Youths*, n 16.

101 *M.E.V.*, n 15.

102 *Youth Verdict*, n 15.

103 *Ibid.* See also Youth Verdict, "First Law Protocol," (undated), https://www.youthverdict.org.au/first-law-protocol. Accessed 30 September 2025.

104 *Billy*, n 15.

public participation. The "human rights turn"[105] in climate litigation includes pioneering child/youth-involved climate applications pushing for judicial engagement with human rights, often with revolutionary outcomes.

3. Cases Where the Law Was Developed

As already discussed, not all child/youth-involved climate cases are successful. Figure 7.1 shows that 23 of 54 decided cases were successful (and 31 were unsuccessful).[106] The failure of these 31 applications to progress the law belies the impact of these applications/cases. There have been some truly exciting outcomes which have had an effect on the law. The significance of many child/youth-involved climate cases, even those that have not proceeded to trial, has been outlined in Chapter 6. Even in cases in which litigants did not achieve the legal remedies sought, there can be contributions to the development of the law.

The most important developments are related to the expansion of a human rights-based approach to climate law. Under this umbrella, these cases have expanded the content of the right to a stable climate and safe environment, as well as the extent of the duties of the state in terms of its protection and implementation. They have developed the content of specific related rights, like the right to enjoy one's culture and the right to life, which depend on the right to a healthy environment. Children's cases have challenged the significant barriers to access to courts in climate cases. This extends to procedural matters and the law surrounding the ability to bring cases in the public interest or on behalf of others. They have been relied upon as legal precedent across jurisdictions. For example, the *Billy* claimants rely on *Juliana* and *Urgenda*,[107] and the *Billy* decision is cited in the judgments in *M.E.V.* and the *ICJ Advisory Opinion*.[108] The Inter-American Court of Human Rights draws extensively on the work of the CRC in relation to *Sacchi* and General Comment No. 26.[109] Child/youth-involved climate litigation has contributed significantly to the development of climate rights and child rights law, affecting their wider community.[110] This section explores the way in which child/youth-involved climate litigation has influenced international child rights law, as well as human

105 Jacqueline Peel and Hari M. Osofsky, "A Rights Turn in Climate Change Litigation?" *Transnational Environmental Law* 7, no. 1 (2018): 37–67.

106 A reminder that *Soubeste* was withdrawn because the aims had been met, which we consider a success. *Soubeste*, n 13.

107 *Ibid.*, para 139. *Billy*, n 15, complaint para. 206.

108 *M.E.V.*, n 15, Views of the Committee, para. 5.5; ICJ para. *144* and *381.*

109 *IACHR Advisory Opinion*, n 15, 62,

110 Aoife Daly *et al.*, "Participation and Postpaternalism Child/youth Climate Action and the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 33 (2025): 562–593; Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law" n 2.

rights in climate governance in general – illustrating their role as leaders in the climate movement.

The successes are not limited to countries which are anglophone and/or European. There have been many successes in child/youth-involved climate cases in Latin America and Asia from 2020 to 2025. In the Mexican child/youth-involved climate application of *Nuestros Derechos al Futuro y Medio Ambiente Sano v. Mexico*[111] ("*Nuestros Derechos*") in 2022, the court recognised the standing of NGOs to defend the right to a healthy environment and held that the Mexican government has a duty to reduce fossil fuel use, increase clean energy, and meet its international commitments to reduce greenhouse gas emissions. In *Woodpecker v. South Korea*[112] ("*Woodpecker*"), in 2024, South Korea's Constitutional Court declared a provision of the country's climate law unconstitutional, marking the first partial victory in climate litigation in Asia and deciding in favour of more robust climate protection measures in South Korea.[113]

3.1 A Human Rights Approach to Climate Change

Child/youth-involved climate cases helped establish the link between climate issues and human rights generally. Notable cases in this regard include the Colombian *Future Generations* case, where the court recognised that the "fundamental rights of life, health, the minimum subsistence, freedom, and human dignity are substantially linked and determined by the environment and the ecosystem."[114] It clearly connected climate change and a variety of human rights, and it has been cited in many cases globally since then, bolstering connections to human rights in climate claims. Two other early child/youth-involved cases have been instrumental in concretising the link between human rights and climate change. The judgments in *Neubauer*, brought by nine teenagers and young adults, and *Urgenda*, where children were among the 889 claimants, have been equally influential in climate litigation, cited across jurisdictions.

Some early child/youth-involved climate cases on the human rights impacts of climate change laid the foundation for the many human rights-based climate cases which came after them.[115] The *ICJ Advisory Opinion* settled the question, if there was still any, that human rights law is crucial to interpreting states' duties in the context of climate change, citing the CRC and children's

111 *Nuestros Derechos*, n 15.
112 *Woodpecker*, n 15.
113 Alongside *Do-Hyun*, n 15, which was joined.
114 *Future Generations*, n 6, 13.
115 Voigt and Udell, "Duty of Care" n 84.

rights specifically,[116] and citing the *IACHR Advisory Opinion* as doing the same.[117] Many child/youth-involved climate cases have advanced the principle that a human rights-based approach must be employed when engaging with climate action and law. The South Korean Human Rights Commission was prompted to conduct a study on human rights and climate change, following a failed petition brought by 41 South Koreans, including youth. Their report includes a clear finding that a human rights-based approach is necessary to address climate change. The subsequent successful *Do-Hyun* and *Woodpecker* cases in South Korean courts may have drawn from these findings.

The recognition of intersections between the climate crisis and the right to health, including a healthy environment, has also been a powerful element in many child/youth-involved climate litigation. The emerging principle is that the environment, including the climate system, is a prerequisite for the enjoyment of all rights, and that the rights of individuals are inextricably linked to the rights of the collective and those of nature.[118] Many such cases have left no doubt that rights related to the environment are assumed or implicit in their national laws. The *Oposa* court found a functioning ecosystem to be so fundamental that it is "assumed to exist from the inception of humankind." This is echoed in one of the interim *Juliana* decisions (which still stands), which comments that the "plaintiffs' public trust rights both predated the [US] Constitution and are secured by it".[119] This court says that the rights that the complainants seek to safeguard are "implicit" in the concept of ordered liberty, using the same word as the Committee in General Comment 26 to justify its existence.[120]

Child and youth litigants have managed to impress upon the courts the essential, but also urgent, nature of rights relating to the environment and climate. This has led to a finding that the right to a healthy environment is not dependent on the availability of resources, but is immediately, as opposed to progressively, realisable.[121] It has also led to courts finding that the nature of the corresponding duty is affirmative and proactive.[122]

116 It has been noted, however, that the ICJ, while widely referring to the CRC, did not refer directly to *Sacchi* or to General Comment No. 26. See further Ann Skelton and Ruhama Yilma Abebe, "The Missing Children in the ICJ Climate Change Advisory Opinion," Observatory Piece, 15 August 2025, https://www.leidenlawblog.nl/articles/the-missing-children-in-the-icj-climate-change-advisory-opinion. Accessed 19 September 2025.

117 *IACHR Advisory Opinion*, n 15, para. 385.

118 Wewerinke-Singh and Maxwell, "Human Rights" n 31, 188.

119 *Ibid*., 272.

120 Rachel M. Pemberton and Michael C. Blumm, "International Atmospheric Trust," in *Cambridge Handbook on Climate Litigation,* eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025), 250–274.

121 Melanie Murcott, "Minding the Gap: The Constitutional Court's Jurisprudence Concerning the Environmental Right," *Constitutional Court Review* 13 (2023): 164. *Deadly Air*, n 15.

122 *Held*, n 8.

3.2 Rights to Culture/Indigenous Rights

Chapters 3 and 6 examined the effects of child/youth action and litigation on particular child rights. One right – the right to enjoy one's minority culture (CRC Article 30) – should be highlighted here again as it is so crucial in relation to child/youth-involved climate litigation. It is among the five most relied upon arguments by children and youth in climate cases – that culture is being harmed by the climate crisis. While only three cases explicitly cite CRC Article 30,[123] 14 others rely on the point that culture is being harmed, without mentioning the CRC.[124] Many of these cases are brought by children who form part of Indigenous communities themselves,[125] and who detail the ways in which climate change limits their ability to practise their Indigenous culture.

These child/youth-involved climate cases establish a connection between climate change and cultural rights. They emphasise that climate change impacts can violate the right to enjoy culture, and that the state has a duty to address the impacts and protect children and their communities, and preserve their right to culture.[126] They have also set a legal precedent that recognises the victim status of those who allege a violation of a cultural right on the basis of climate change.[127] To prove they have standing, the claimants must show they suffer damage. The HRC, in *Billy*, found that even incremental harms to culture are concrete enough damage to the right for the purpose of establishing victim status, because it is the individual interferences which eventually lead to the death of a culture.[128] So, victim status does not only arise once the culture is extinct, but as soon as interferences occur.

In *M.E.V.*, the CRC Committee made the explicit link between CRC Articles 24 and 30. Three sisters between 13 and 16 years old from the multigenerational Sámi reindeer herding family objected to mineral exploration works on traditional lands, which they argued would limit their ability to benefit from the transmission of their culture and livelihood. The CRC Committee found a violation of CRC Article 30. To establish victim status, the CRC Committee cited the *Billy* decision, which considered the threat of cultural extinction to be concrete and imminent, as opposed to a theoretical possibility. The CRC Committee said that current interferences with the Sami culture are enough to establish harm (and therefore standing):

123 *Saachi*, n 11; *M.E.V.*, n 15*; Environmental Justice Australia (EJA) v. Australia*, 25 Oct 2021, UN Special Rapporteurs on Environment; Indigenous Peoples; Persons with Disabilities.

124 *Billy*, n 15; *Youth Verdict*, n 15.

125 *Juliana*, n 5, Saachi, *M.E.V.*, n 15*, Children's Petition to the UN Secretary General to declare a climate emergency,* 10 Nov 2021, UN Secretary General; *Navahine*, n 10.

126 For example, *Billy*, n 15.

127 *M.E.V.*, n 15.

128 *Billy*, n 15.

> [T]aking into account the intergenerational nature of Indigenous Peoples' right to transmit their culture to new generations, it is precisely because a chain of cultural transmission is interfered with much earlier than an Indigenous culture is destroyed (through action or inaction) that the admissibility conditions of victimhood and substantiation are already met when such interference with cultural transmission occurs.[129]

An Australian court in *Youth Verdict* looked in great detail at cultural rights, contributing to the growing jurisprudence emerging from the child/youth-involved climate cases. Like in the abovementioned cases, this court recognised the limiting effects of climate change on the efforts of First Nations people to:

> [T]each their children about their sea country. If, as adults, these children are displaced from their country, that will risk severing their relationship to their country and culture. That intersection of rights and impacts for First Nations children is an additional consideration for this right.[130]

The ability to learn about one's culture from previous generations also relates to CRC Article 29 (c), which protects the child's right to develop (through education) about their culture. The court expressly states that cultural rights are both collective and intergenerational.[131] And that its intergenerational aspect is inherent in the right to maintain and develop culture.[132] The affected people in this case are also Torres Strait Islanders, similar to those in the *Billy* case. As in the case of *Billy*, the *Youth Verdict* court finds that displacement as a result of climate change has the potential to destroy culture. This can be linked to the rights of children who are forcibly displaced, enshrined in Article 22 of the CRC. The recognition that climate displacement is a violation of rights is important to the rights of children who may in the future need to flee low-lying island states that lose their entire territory because of rising sea levels caused by climate change.

The ICJ acknowledged this risk in its *Advisory Opinion*, where it confirmed that states that host persons displaced by climate change have a non-refoulement duty in terms of which a person may not be returned to their state of citizenship/last residence if it would endanger their lives. The Court also confirmed that these states would not lose their statehood if they lost their territory to rising sea levels. This was an important finding for the debate about whether "climate refugees" can be recognised as being protected under the

129 *M.E.V.*, n 15, para. 5.5.
130 *Youth Verdict*, n 15, para. 1601.
131 *M.E.V.*, n 15, para. 9.14.
132 *Ibid.*

UN Convention on the Status of Refugees. The Court does not find that the Convention on the Status of Refugees applies, but rather that one aspect of refugee protection (non-refoulement) will apply to them. The *Youth Verdict* court found that when balancing the rights of Indigenous peoples against other rights and interests in the context of climate change, the gravity of losing one's home and culture at the same time favours preserving the right of Indigenous persons above other interests. This was also the first case in which a court heard evidence from First Nations people in accordance with their traditional cultural protocols.

US plaintiffs often cite cultural rights. Two cases were successful and were based in part on cultural rights.[133] The *Navahine* children refer to themselves as "keiki o ka 'āina" in the court papers, which means children of this land in the local language. The plaintiffs use the Indigenous language to describe various concepts in the papers. The resulting settlement agreement states that "Hawai'i faces immediate threats to our cultural and economic survival." The *ICJ Advisory Opinion* also specifically refers to Indigenous peoples as a group of concern.

Several cases, which were dismissed or are pending a hearing/judgment, cite injuries to "cultural and spiritual practices,"[134] and emphasise the value of Indigenous knowledge for climate solutions, assert children's right to culture, and the ongoing responsibility to pass these on to future generations.[135] They refer to their right to "develop their full potential as heirs to their millennia-old culture and society."[136] They continue to highlight the connection between climate harms and the violation of their cultural rights.[137] Their concrete injuries include "cultural and religious deprivation."[138] The youth in *Atencio v Mexico*[139] claim climate change is "a profound environmental injustice disproportionately impacting native peoples."[140] In *Lighthiser*, the latest US youth case, the claimants call it their right to practise culture.[141]

133 *Held*, n 8; and *Navahine*, n 10, 2.
134 *Funk et al. v. Wolf et al.*, 2017, 158 A.3d 642, Supreme Court of Pennsylvania, para. 20.
135 *Clean Air,* n 44, para. 103.
136 *Lho'imggin*, n 54, para. 92.
137 *AS et al. v. Presidency of Türkiye et al.,* 2024, Turkey Constitutional Court. Atlas Sarrafoğlu, Ela Naz Birdal, and Seren Anaçoğlu, "Stand By Us in Our Climate Lawsuit Against the President Erdoğan – Türkiye," *Change.org*, (undated), https://www.change.org/p/stand-by-us-in-our-climate-lawsuit-against-the-president-erdo%C4%9Fan. Accessed 30 September 2025.
138 *Genesis,* n 46, para. 340.
139 *Atencio et al. v. State of New Mexico,* 2025, S-1-SC-40980 N.M., New Mexico Supreme Court.
140 *Atencio*, n 139, para. 405.
141 *Lighthiser*, n 59, para. 265.

3.3 Intergenerational Equity

Parker et al. write that climate change is fundamentally a problem of intergenerational justice.[142] The term "intergenerational equity" has emerged as one of climate law's most important human rights concepts,[143] as outlined in Chapter 2. This is because of the pervasive nature of the climate crisis across time and space, and the fact that the majority of stakeholders, present and future children, are disproportionately affected by the climate crisis.[144]

This is reflected in the child/youth-involved climate cases. Forty-nine of the child/youth-involved climate cases refer specifically to "intergenerational equity" or "intergenerational rights." Where applicants do not refer directly to intergenerational equity, they mention the interests of future generations, or their right to equality with previous generations.[145] The child/youth-involved climate cases make the argument, which has been adopted by courts, that the intergenerational nature of climate change requires an approach that balances the interests of adult generations, current youth and children, and future generations. The *ICJ Advisory Opinion* confirms its importance by including it as one of five key guiding interpretive principles that must be applied when interpreting the law relating to states' climate obligations.[146] Child/youth-involved climate cases have added much-needed substance to this vital concept, as well as to the concept of the interests of future generations. Intergenerational equity has been part of youth litigation since the beginning. The *Future Generations* judgment provides a comprehensive description of intergenerational equity. The court explains that:

> [N]atural resources are shared by all inhabitants of Planet Earth, and by their descendants or future generations who do not yet have a physical hold of them, but who are tributaries, recipients, and owners of them, even if they, in a contradictory way, are increasingly insufficient and limited. Thus, without an equitable and prudent approach to consumption, the future of humankind may be compromised due to the scarcity of

142 Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World" n 2.

143 Aoife Daly, "Child and Youth Friendly Justice for the Climate Crisis: Relying on the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 32, no. 3 (2024): 632–661; Aoife Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC," *Netherlands Quarterly of Human Rights* 41, no. 3 (2023): 132–154.

144 Florencia Paz Landeira, "Temporalities in Crisis: Analysing the Sacchi v. Argentina Case and Children's Rights in the Climate Emergency," *Children & Society* 39, no. 4 (2025): 854–863.

145 Daly and Muller, "Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact" n 4.

146 *ICJ Advisory Opinion*, n 15, paras. 156, 157, 161.

> essential life resources. In this way, solidarity and environmentalism are related until they become the same.[147]

The *Sacchi* claimants make an interesting observation about why children are well placed to make the intergenerational equity argument. They say that the principle that the child's best interest must be considered a primary consideration in all matters concerning them is similar to the principle of intergenerational equity, which "places a duty on current generations to act as responsible stewards of the planet and ensure the rights of future generations to meet their developmental and environmental needs."[148] The interests of both current children and future generations must therefore always be considered while decisions are made that will affect them now and in the future. Some child/youth-involved climate cases, like *Children of Austria v Austria*,[149] situate the legal duty to consider the interests of future generations in the principle of intergenerational equity and the best interest principle, saying that it applies to children today in the individual sense, but also collectively to future generations.

Not only are children and youth well placed to make the argument, but some child/youth-involved climate cases have developed the idea that children have both the right and the duty to do so.[150] In *Deadly Air*, the court found that the applicants have the right to raise the interests of future generations in relation to climate change – the right to have the environment protected for future generations – even when they themselves are not experiencing harm.[151] This approach echoes the *Oposa* case, where the court held that children have the right to act on behalf of future generations because they are acting on their duty to protect them. Although the term is pervasive, the legal definitions of "future generations" are disputed. There is a need for clarification on legal standing, representation, and the balancing of the rights of living children and those who are yet to be born, who cannot speak for themselves.[152] The South African courts have interpreted this to mean that future generations do not have rights now. Still, the interests of future generations must be weighed when balancing rights, because they form part of the applicants' right to have the environment protected for future generations. This approach could provide a best practice for the controversy regarding granting rights to generations yet to be born.

Child/youth-involved climate cases have been instrumental in pushing the courts to consider the intertemporal issues inherent in climate change, in

147 *Future Generations*, n 6, 20.
148 *Sacchi*, n 11, petition, para 303.
149 *Children of Austria v. Austria*, 2023, VFGH 123/2023, Constitutional Court of Austria.
150 *Oposa*, n 15.
151 *Deadly Air*, n 15.
152 Aoife Nolan, "Children and Future Generations Rights before the Courts: The Vexed Question of Definitions," *Transnational Environmental Law* 13, no. 3 (2024): 522–546.

interesting ways. The *Request for an Advisory Opinion from the African Court on Human and Peoples' Rights*[153] asks the court to clarify what, if any, are the states' specific human and peoples' rights obligations to protect and safeguard the rights of individuals and peoples of the past (ancestral rights), present, and future generations affected by the adverse impacts of climate change, considering the relevant provisions of the African Charter on Human and Peoples' Rights.[154] The applicants argue that the African intergenerational approach, foregrounding communal duties, will require the courts to look at intergenerational equity from a past, present, and future perspective, considering the cyclical nature of Indigenous understandings of time. This shows how the child/youth-involved climate cases have managed to bring a non-Western approach to the law, which makes it more inclusive to the Global South and Indigenous groups. There is much evidence that the content and scope of the term "intergenerational justice" in human rights law, and as contained in the climate law context, have been developed and expanded by children/youth-involved climate litigation.

3.4 Solidarity

A strong feature of the child/youth-involved climate cases is a tendency to be inclusive and to act in solidarity with their fellow humans and the environment. This inclusivity applies to other children, adults, future generations, minority groups, and nature itself. Their remedies and arguments are characterised by solidarity with all in the living world, disrupting the individualistic nature of the modern human rights system. According to plaintiff Bejarano in the *Future Generations* case:

> The [principle] that was most important to me was solidarity … We're trying to convince the judge that something that's happening in 2017 is going to affect people who expect to be alive in 2040. For us, solidarity means three things: solidarity with those who live with us right now and with whom we share the same time and space; solidarity with those who are not here but are going to be alive sometime in the future; and solidarity with other sentient beings.[155]

153 *Request for an Advisory Opinion on the Human Rights Obligations of African States in Addressing the Climate Crisis*, 2 May 2025, No. 001 of 2025, African Court on Human and Peoples' Rights.

154 *Request for an Advisory Opinion from the African Court*, n 153, para. 93.

155 Isabella Kaminski, "'The Kids That Demanded Accountability': Colombian Future Generations Lawsuit Seven Years On," 28 May 2025, https://www.the-wave.net/colombian-future-generations-lawsuit-seven-years-on/#:~:text=In%20fact%2C%20work%20on%20such,it%20has%20not%20yet%20finished. Accessed 19 September 2025.

The focus in child/youth-involved climate cases on responsibilities to others is noticeable. All of these cases appear to contain an element of representing the rights and interests of others. As the Colombian court in *Future Generations* explains:

> The protection of fundamental rights not only involves the individual but implicates the "other" which includes both neighbour, including those in the future, and nature. The court says the rights of future generations and of nature is based on the "(i) ethical duty of the solidarity of the species and (ii) on the intrinsic value of nature."[156]

As outlined in Chapter 2, human rights law has an anthropocentric focus, which can be problematic when attempting to use it to deal with environmental harm. Young litigants seem to understand and promote the strong connection between themselves, others, and the environment, and they appear to then translate that for the courts.[157] Two child/youth-involved climate cases, *Future Generations* and *Herrera Carrion*, have led to the courts declaring that nature has rights. One recognised the Colombian Amazon as a "subject of rights" entitled to protection, conservation, maintenance, and restoration. Parker et al. argue that these kinds of new legal arguments have the potential to transform the law.[158]

Another area in which child/youth-involved climate cases seek to benefit others is *how* they bring their cases to court. The plaintiffs often express that they act in the interests of children everywhere, on behalf of future generations, minority groups, and more, claiming standing on behalf of others. The legal systems have not always been open to this approach, and the *actio popularis* (an action seeking to protect the public interest with no individual unique direct harm to the applicant) is not available in many places. However, several child/youth-involved climate cases have pushed those boundaries. *Six Youths v Minister of Environmental Affairs*[159] ("*Six Youths*") was brought as a popular action, with a request for an injunction, filed by young activists who are members of the Engajamundo and Fridays for Future Brasil. Their opponents argued that they are not entitled to bring such an application on behalf of a group. The *Nuestros Derechos* court recognised that NGOs have legal standing to file amparo lawsuits (constitutional challenges) to defend the right to a healthy environment. In *Future Generations*, the Colombian Supreme Court extended the scope of the special "tutela" application, usually confined to individuals, to address the climate change needs of a group, based on the case's strong connection to human rights. The Court allowed the claim to proceed to trial, reasoning that the tutela would be well placed to deal with the in-depth, interrelated, and communal human rights issues presented by

156 *Future Generations*, n6, para. 5.2, decision (unofficial translation).
157 Parker *et al.*, "When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation Around the World" n 2.
158 *Ibid.*, 71.
159 *Six Youths*, n 16.

climate change. Once again, the child/youth-involved climate cases enjoin courts to employ a purposive approach to interpretation.

Dozsa writes that children use bold approaches to representation, invoking the interests of current and future children.[160] Several groups are at a disadvantage when it comes to accessing justice. Children, people living in poverty, women, and persons with disabilities are just some of the categories that face barriers to justice, particularly in accessing courts. Future generations, being unborn, are unable to represent themselves in proceedings.[161] The child/youth-involved climate cases have set some crucial precedents in relation to representing those who are unlikely to be able to bring their own cases to court. The first child/youth-involved climate case, *Oposa*, set an important precedent in 1995. The Supreme Court of the Philippines found that the 45 child applicants were entitled to represent themselves, others of their generation, and future generations, based on the concept of intergenerational responsibility. By asserting their right to a healthy environment, the applicants were also, at the same time, performing their obligation to protect the right to full enjoyment of a balanced and healthful ecology for future generations.

Leonela Moncayo, ten years old, a plaintiff in *Moncayo*, sums up the child/youth approach aptly:

> I'm very happy because, finally, justice has been served. We're going to restore nature, for all the sick children, for the people, for the parents who have fought to stay healthy, for the families that have also kept fighting if only to grow a few crops, for the families who live under the flares and have had to abandon their land.[162]

The approach in child/youth-involved climate cases, therefore, frames climate change as a communal problem. This perspective seems to be driving young climate advocates to seek legal solutions in solidarity with all beings, across time and space. These approaches have been framed as radical and disruptive,[163] which may be the necessary component to break through the business-as-usual stalemate.

160 Kata Dozsa, "Shouldering the Burden of Intergenerational Justice: Children and Youth Representing Future Generations in Climate Change Politics, Law and Litigation," in *European Yearbook on Human Rights*, eds. Philip Czech *et al.* (Cambridge: Intersentia, 2023), 29–52, 45.

161 Nolan, "Children and Future Generations Rights before the Courts: The Vexed Question of Definitions" n 152; Daly, "Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment Through the UNCRC" n 143.

162 Amazon Frontlines, "Court Rules Against Ecuador's Oil Industry in Appeal by Children Living Next to 'Flares of Death,'" 27 January 2021, https://amazonfrontlines.org/chronicles/amazon-lawsuit-gas-flaring/. Accessed 30 September 2025.

163 Elizabeth Fisher, Eloise Scotford, and Emily Barritt, "The Legally Disruptive Nature of Climate Change: Dutiful, Disruptive and Dangerous Dissent," *The Modern Law Review* 80, no. 2 (2017): 173–201; Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law" n 2.

4. The Ways in Which Cases Have Had a Societal Impact

Child/youth-involved climate cases have not only been successful through legal victories but also through extra-legal impacts. They have resulted in remarkable gains in awareness-raising and movement-building, bolstering support for climate advocates to confront the fossil fuel sector and complacent governments. There is much power in the image of a child tackling the climate crisis.[164] As Donger notes, "a case with an institutional face may garner less public attention or empathy than one with a human face."[165] Even when cases are unsuccessful, they can lead to favourable outcomes without the legal relief.[166] Whatever their success in a technical sense, their outcomes tend to be broader than the court's order in legal and social terms.

4.1 Implementing Court Orders

Often, obtaining a court order is only half the fight. The implementation of the order may require a separate process of action and may take a long time to achieve, if achieved fully at all. Asghar Leghari, who fronted a landmark climate lawsuit in Pakistan, said "[a]t the end of the day, I realised that you can have a very nice and well-written decision by a Supreme Court and nothing changes."[167] This section investigates the practical, real-world outcomes of the child/youth-involved climate cases. What becomes clear is that the impact of the cases is significant, often because of sustained actions by child/youth actors to realise court orders.

The outcomes of a case can be varied and can change over time as circumstances change. Some are tangible and positive before being compromised by a political regime change, as was the case in *Future Generations* described below, or some other external factor. Either way, they have a lasting effect on their contexts. In the *Oposa* case, the plaintiffs won their case, which found that the issuance and renewal of logging permits violate the right to a healthy environment. According to the Sabin Database summary, the judgment did not actually result in the cancellation of the existing permits.[168] They had

164 Daly, *ibid.*

165 Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights Through Legal Argument and Legal Mobilization" n 2, 285.

166 *Colorado Oil & Gas Conservation Commission et al. v. Martinez*, 2019, 17 SC 297, Supreme Court of Colorado. Sabin Centre for Climate Change Law, "Martinez v. Colorado Oil & Gas Conservation Commission – The Climate Litigation Database," https://www.climatecasechart.com/collections/martinez-v-colorado-oil-gas-conservation-commission_2b44d3. Accessed 30 September 2025.

167 Kaminski, "'The Kids That Demanded Accountability': Colombian Future Generations Lawsuit Seven Years On" n 155.

168 Sabin Center database, https://www.climatecasechart.com/document/future-generations-v-ministry-of-the-environment-and-others_f076. Accessed 23 September 2025.

been discontinued since the early 1990s, which coincides with the launch of the case, but it is not clear what effect the case had on this. The judgment, reportedly, had an immediate protective effect. For instance, a logging ban was imposed in old-growth forests, and the number of logging permit holders was reduced. It also led to formal, publicly available legal remedies which deter threats of degradation to the environment.[169]

There can sometimes be much activity post-judgment. The *Future Generations* judgment, for instance, was not implemented effortlessly.[170] The court order provided broad and innovative relief, as already discussed. Reportedly, the government failed to comply with the court order within the short timeframes, but it managed to hold workshops in five Amazonian municipalities with various stakeholders, including youth.[171] After the order, many young people beyond the plaintiffs and workshop participants became involved in the cause online. Some agencies even volunteered to contribute to the processes of their own volition, and the president directed additional actors to become involved, addressing some of the key problems that remain, including the complications of reaching the most far-flung communities in the Amazon.

The context is crucial to implementation. The election of a new administration in Colombia had a negative effect on the implementation. The intergovernmental pact for the Amazon is still outstanding, although reportedly in progress. As of 2025, approximately 70% of municipalities had updated their land use plans. As for the other deforestation plans the court ordered, there is a gap between what the state says and what is publicly available, and it is difficult to monitor the progress. Deforestation rates have gone up and down in the years after the judgment, but these are intertwined with political, social, and other factors that are hard to separate in terms of causes. Government actors engaged in violent removals of Indigenous people from the land. Dejusticia, which supported the plaintiffs, says that the case's success lies in the fact that it helped raise awareness about deforestation at the government and local levels, provided a mechanism for institutional change, and jurisprudence that supports ongoing advocacy. A countrywide movement seemed to spring up after the judgment. One plaintiff, interviewed years after the judgment, said: "For

169 ACRiSL, "Minors Oposa v. Secretary of the Department of Environment and Natural Resources 33 I.L.M. 173 (1994) – Philippines" n 64. ELAW: Environmental Law Alliance Worldwide, "Philippines," https://elaw.org/elm/philippines. Accessed 30 September 2025.

170 Kaminski, "'The Kids That Demanded Accountability': Colombian Future Generations Lawsuit Seven Years On" n 155.

171 ESCR-Net, "STC 4460-2018," 22 January 2019, https://www.escr-netorg/caselaw/2019/stc-4360-2018/. Accessed 30 September 2025.

the past seven years, it has been very common to hear about deforestation. But in 2017, very few people were talking about [it]."[172]

In some cases, children/youth challenged specific activities for which the government provided authorisation (project cases). Following the legal victory in *Youth Verdict*, the Queensland government rejected the Environmental Authority Application by Waratah Galilee Coal Mine Coal Company. This is despite the Land Court's recommendations not being legally binding. The mining project did not go ahead, and the repercussions of the case are significant for future environmental authorities. In *Cancel Coal*, the court set aside the decision to procure additional coal-fired electricity on the basis that children's rights were not considered. The new Integrated Resource Plan for energy, which was drafted during the course of the case, contains no new coal. In fact, the most notable change in the latest update is the addition of renewable energy sources. Disappointingly, gas flaring in Ecuador has increased since the *Moncayo* case found the practice of gas flaring to be a violation of children's right to health and the right to a healthy environment.[173] The girls and their lawyers remain hopeful. They see the judgment as one part of the long process that will lead to eventual victory.[174]

Some child/youth-involved climate cases brought about significant legislative changes in their respective countries after the case concluded. In Germany, the 2021 Constitutional Court ruling in the *Neubauer* case led to immediate legislative amendments to revise interim emission targets and a move to bring forward the net-zero target date.[175] Outgoing Chancellor Merkel pushed through a new version of the national climate law, bringing the target date for net zero forward by five years to 2045. Goals to cut emissions were also set for after 2030.[176] Shortly after the *Do-Hyun* case was launched, the South

172 Kaminski, "'The Kids That Demanded Accountability': Colombian Future Generations Lawsuit Seven Years On" n 155.

173 Amnesty International, "Ecuador: Stop Climate-Destroying Gas Flares," 3 September 2024, https://amnesty.ca/online-action/ecuador-stop-climate-destroying-gas-flares/#:~:text=The%20government%20of%20Ecuador%20is%20not%20complying%20with,the%20Amazon%20by%20state-owned%20and%20private%20oil%20companies. Accessed 19 September 2025.

174 Maxwell Radwin, "Ecuador Banned Gas Flaring Over a Year Ago. Why is it Still Happening?," 12 April 2023, https://news.mongabay.com/2023/04/ecuador-banned-gas-flaring-over-a-year-ago-why-is-it-still-happening/. Accessed 19 September 2025.

175 Isabella Kaminski, "A Very Bureaucratic Approach to the Most Existential Threat of the Century': Neubauer and the German Climate Case Three Years On," *The Wave*, 2 October 2024, https://www.the-wave.net/neubauer-german-climate-case-three-years-on/. Accessed 30 September 2025.

176 David Rising and Frank Jordans, "Germany Aims for Net Zero Emissions by 2045, 5 Years Earlier," *AP Newsroom*, 5 May 2021, https://apnews.com/article/europe-germany-business-environment-and-nature-government-and-politics-0095de00226f0727559dcb7f2daa8ff7?ref=the-wave.net. Accessed 19 September 2025.

Korean government passed a new net-zero law.[177] The court found that specific legislative provisions violate the plaintiffs' environmental rights, granting legislators a grace period to fix the flaw by 28 February 2026.[178] Montana's legislators passed a bill repealing the entire energy policy after the *Held* case was launched, but before the trial was due to start.[179] The plaintiffs and Our Children's Trust are working to ensure the judgment is implemented through collaboration with grassroots organisations and communities. Because the *Held* judgment struck the requirement to ignore climate harms in impact assessments, Montana's state agencies are now legally required to include the effects of greenhouse gas emissions in their analysis when reviewing permit applications for major projects like power plants and coal mines. The implementation of the final orders in *Do-Hyun* and *Held* will need to be monitored as they are quite recent to the time of writing of this chapter, but some legislative changes had already taken place even before their finalisation. These cases show how litigation pressure can and has spurred action to legislate before an order is even handed down.

Child/youth-involved climate cases have resulted in policy being amended in favour of plaintiffs. Following the *Urgenda* appeal judgment, the Dutch state announced big cuts to coal generation, and in 2021, further plans for implementation were released.[180] Apparently, despite admitting that major changes have taken place, the plaintiffs are not yet satisfied with the outcomes and have threatened to sue again.[181] Implementation of the 25% decrease in GHG made good progress during COVID, which is not fully attributable to the government, considering global GHG emissions plummeted. Emissions

177 Justin McCurry, "South Korea Vows to go Carbon Neutral by 2050 to Fight Climate Emergency," *The Guardian*, 28 October 2020, https://www.theguardian.com/world/2020/oct/28/south-korea-vows-to-go-carbon-neutral-by-2050-to-fight-climate-emergency. Accessed 30 September 2025.

178 Isabella Kaminski, "Foetus Fronts Legal Challenge Over Emissions in South Korea," *The Guardian*, 24 June 2022, https://www.theguardian.com/world/2020/oct/28/south-korea-vows-to-go-carbon-neutral-by-2050-to-fight-climate-emergency. Accessed 19 September 2025.

179 Lesley Clark, "Montana Judge Refuses to Cancel First U.S. Climate Trial," *E&E News by POLITICO*, https://www.eenews.net/articles/montana-judge-refuses-to-cancel-first-u-s-climate-trial/. Accessed 30 September 2025; Dana Drugmund, "Montana Repeals State Energy Policy as Climate Trial Nears," *De Smog*, 3 April 2023, https://www.desmog.com/2023/04/03/montana-repeals-state-energy-policy-as-climate-trial-nears/?ref=the-wave.net. Accessed 30 September 2025.

180 Climate Law Accelerator, "Urgenda v. the Netherlands," https://clxtoolkit.com/casebook/urgenda-foundation-v-the-netherlands/#:~:text=The%20government%20announced%20large%20cuts%20to%20coal%20generation,to%20happen%20in%20order%20to%20reduce%20national%20emissions.%E2%80%9D. Accessed 30 September 2025.

181 Isabella Kaminski, "Urgenda Two Years On: What Impact has the Landmark Climate Lawsuit Had?," *The Wave*, 25 May 2022, https://www.the-wave.net/urgenda-two-years-on/. Accessed 19 September 2025.

picked up again thereafter. An indication of impact is the fact that there has been serious backlash for the Dutch government. Some coal companies sued the Netherlands because of the loss of coal income, using the Energy Charter Treaty (ECT). The ECT was the topic of another youth case, *Soubeste v Austria*[182] ("*Soubeste*") at the ECHR, which the plaintiffs said protects investors in the fossil fuel energy, making it difficult for states to attain climate goals. The *Soubeste* case was finally withdrawn after most of the respondent states had either withdrawn or had declared their intention to withdraw from the ECT.[183] In August 2025, the Netherlands announced its withdrawal from the Energy Charter Treaty.[184] It is hard to determine the impact of these two cases on the demise of the ECT, but it has certainly played a role in the Netherlands' decision to withdraw after it was sued in two instances following an action seeking to implement the *Urgenda* order, and building pressure as a result of *Soubeste*. Politicians say "[t]his decision to exit the ECT will create shockwaves through the whole system" and "[t]he message is clear: The world has changed. States cannot accept a blanket protection of dirty investments anymore."[185] *Urgenda* lawyer, Van Berkel, says that, as well as influencing the government, the case has shifted public opinion about climate change in the Netherlands.[186]

In the groundbreaking *Navahine* case, where 13 ʻōpio (youth) of Hauai successfully negotiated a settlement which requires the Hauai Department of Transport to reach a zero emissions target from all transport, significant progress has been made. By the end of June 2025, the "Hawaiʻi Energy Security and Waste Reduction Plan" had been published online for comment, with several accompanying public hearings for feedback in person.[187] The plaintiffs are pleased with the progress.[188] The Hawai'i Youth Transportation Council – a youth-led advisory body is already involved in and shaping decisions on the

182 *Soubeste*, n 13.

183 *Ibid*.

184 London Daily, "The Netherlands to Leave Embattled Energy Charter Treaty," https://londondaily.com/the-netherlands-to-leave-embattled-energy-charter-treaty#:~:text=The%20Energy%20Charter%20Treaty%20%28ECT%29%20edged%20closer%20to,announced%20the%20decision%20in%20the%20parliament%20on%20Tuesday. Accessed 30 September 2025.

185 *Ibid*.

186 *Ibid*.

187 State of Hawaii Department of Transportation, "Hawaiʻi Energy Security and Waste Reduction Plan," https://highways.hidot.hawaii.gov/stories/s/h9gp-xxmt. Accessed 30 September 2025.

188 "Earth Justice and Our Children's Trust, State Plan to Reduce Transportation Emissions Released for Public Comment," press release, 30 June 2025, https://static1.squarespace.com/static/655a2d016eb74e41dc292ed5/t/6862d9dae1504656444af4e7/1751308762757/2025.06.30.PR+Navahine+ESWRP.pdf. Accessed 30 September 2025.

ground,[189] aiming to be a groundbreaking model for integrating youth into climate decision-making.[190] The Department has devised innovative tools for engagement with the project, like a calculator tool to aid decisions to prioritise projects that reduce "vehicle miles travelled."[191] Importantly, the Department has appointed a dedicated team to prioritise the implementation.

The collaborative approach in *Navahine* is presumably a continuation of the spirit of the settlement, when, as the team's lawyer, Joanna Ziegler says, the Department chose collaboration over confrontation, and the results are "undeniable and accelerating."[192] The implementation of this case shows the value of an order/settlement which encompasses ongoing intergenerational collaboration with the government. Part of the success seems to involve the continued allyship of NGOs like Our Children's Trust, who facilitate some of the administrative functions of the work. Joanna Ziegler:

> What began as thirteen young people refusing to accept climate inaction has become a comprehensive reimagining of how Hawai'i moves. The *Navahine* settlement proves that strategic legal action, youth leadership, and ongoing advocacy can achieve transformative policy change faster than traditional approaches.[193]

According to the Australian government's official response to the *Billy* recommendations, the government met with two of the petitioners to discuss adaptation measures and the government's response. They say they have held two regional roundtables in 2023 to co-design the Torres Strait and Northern Peninsula Area Climate Resilience Centre[194] and have established a mechanism for ongoing monitoring and inclusion of First Nations voices in climate policy.[195]

189 Updates from OCT via emailed newsletter dated 2 August 2025.

190 Our Children's Trust, "Youth Power is Steering the Future of Electric Transportation in Hawai'i," 1 August 2025, https://www.ourchildrenstrust.org/blog/youth-power-is-steering-the-future-of-electric-transportation-in-hawaii. Accessed 23 September 2025.

191 Earth Justice and Our Children's Trust, "State Plan to Reduce Transportation Emissions Released for Public Comment" n 188.

192 Joanna Ziegler, "One Year Later: Hawai'i's Climate Settlement Delivers Transformative Progress," *Our Children's Trust*, 1 August 2025, https://www.ourchildrenstrust.org/blog/one-year-later-hawaiis-climate-settlement-delivers-transformative-progress. Accessed 23 September 2025.

193 Ziegler, "One Year Later: Hawai'i's Climate Settlement Delivers Transformative Progress" n 192.

194 Australian Government, Department of Climate Change, Energy, the Environment and Water, "Torres Strait and Northern Peninsula Area Climate Resilience Centre," 4 June 2025, https://www.dcceew.gov.au/climate-change/policy/torres-strait-northern-peninsula-area-climate-resilience-centre. Accessed 23 September 2025.

195 Government of Australia, "Billy et al v Australia (3624/2019) Australian Government Response," https://www.ila-americanbranch.org/wp-content/uploads/2023/09/CCPR_B1.pdf. Accessed 30 September 2025.

Some judgments are quite recent and will need to be monitored for impact. The CRC recommendations in *M.E.V.* have not seen any concrete changes in practice.[196] There is no proof in the public domain that the exploration permit on Sami herding land has been revoked, either. The *Six Youths* case requires the Brazilian government to adopt more ambitious climate targets in the upcoming reporting of Nationally Determined Contributions (NDCs).

4.2 Impact without Court Relief

Some child/youth-involved climate cases have spurred respondents into action, even where judgments are not favourable. For example, the dismissed *Sacchi* case, which has been instrumental to the developments in international law, drew significant media attention, raising awareness of climate change across the world. It also led to General Comment No. 26 and the development of a special participatory process, which informed it, establishing best practice that can be duplicated. In *Martinez v. Colorado*,[197] seven children approached the court after the Colorado Oil and Gas Conservation Commission declined to consider their proposal for a new rule preventing future permits for drilling oil and gas wells. The case was dismissed, but the legislature went on to pass the requested legislation in any event. These results were prompted by the court application and may not have been possible without the threat of a judgment, bad press, or extended litigation.

Some cases never made it to trial but had a notable social impact. This is true for the *Juliana* case, which was ultimately dismissed, and yet is cited by many young litigants globally as the motivation for their cases.[198] The *Juliana* saga also prompted many to rally in support of the plaintiffs, even making amicus curiae submissions to the court on why the children should be heard in court, as the Montana Trial Lawyers Association did, sparking debates about children's access to justice and effective remedies through the courts and the child-friendliness of pre-trial procedures. Most child/youth-involved climate cases likely have had a broad impact on society, beyond the courts. They are not simply cases; they illustrate children's leadership in the global climate movement. One of the important impacts/outcomes of this climate litigation is that it has led to increased recognition of children and young people as co-creators of the policies shaping their present and future, which pushes societies beyond consultation towards authentic co-governance.

196 No record of Finland's response to the Committee on the Rights of the Child, which was due in April 2025, or any other evidence of implementation, could be found online as of August 2025.

197 *Martinez*, n 166.

198 For example, *Future Generations*, n 6; *Woodpecker*, n 15; Kaminski, "'The Kids That Demanded Accountability': Colombian Future Generations Lawsuit Seven Years On" n 155.

Despite the disappointing ruling in the *Sharma v. Minister for the Environment*[199] case, which ultimately rejected the children's argument that the minister has a special duty to children in relation to climate change, legislation was subsequently proposed that sought to impose a statutory duty on decision-makers to consider the health and well-being of current and future Australian children. The proposal has not yet been adopted, but the case illustrates that conversations about legislation can be prompted at government level by child/youth-involved climate cases.[200] Setzer and Higham write that public narratives on climate justice and governance are being influenced by climate litigation. This has been true for child/youth-involved climate cases as well.[201] Research supports the finding that information and awareness raised by climate litigation led to a positive change in public opinion and policy support. The research includes an analysis of the outcomes in *Neubauer*, which found that support for climate-positive policies increased notably when provided with information regarding the judgment.[202] The children's rights-focused *A Sud v. Italy*[203] case reportedly drew attention to the government's alleged inaction on climate change. According to Fantozzi, this helped shape the narrative in Italy.[204]

Another example of how cases that are legally unsuccessful can have important impacts is the *North Sea Fields* case.[205] This case led to changes in public narrative and awareness. A representative of the organisation supporting the youth, Natur og Ungdom, told the ACRiSL project that although it was a difficult experience for them to fail legally, there have been other impacts beyond the legal, such as a discourse that is now about the effects of oil on the climate crisis: "[now politicians] can't talk about climate mitigation without mentioning Norwegian oil."[206]

The *ICJ Advisory Opinion* has inspired a worldwide movement to collaborate and work in solidarity. Organised into a formal organisation called

199 *Minister for the Environment v. Sharma, A. et al.,* 2022, VID 389 of 2021, Federal Court of Australia.

200 Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 99, 49.

201 *Ibid.*

202 Nanna Lauritz Schönhage *et al.*, "Can the Court Bridge the Gap? Public Perception of Economic vs. Generational Inequalities in Climate Change Mitigation Policies," *Environmental Research Letters* 19 (2024).

203 *A Sud v. Italy*, 2024, Tribunale Ordinario Di Roma.

204 Setzer and Catherine Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 99, 49.

205 *Greenpeace Nordic and Nature & Youth v. Energy Ministry* (*The North Sea Fields Case*), 2024, Oslo District Court.

206 Aoife Nolan, Ann Skelton, and Karabo Ozah, *Advancing Child Rights Consistent Strategic Litigation Practice* (*ACRiSL,* 2022), 93, https://static1.squarespace.com/static/601a99dda1a4280a885bc0d6/t/649028aa518f87218df3a6fb/1687169203041/ACRiSL-Report.pdf. Accessed 30 September 2025.

Pacific Island Students Fighting Climate Change (PISFCC), youth activists helped move a theoretical legal discussion into a massive global operation that garnered support from thousands of civil society organisations and dozens of states across the world.[207] The World's Youth for Climate Justice (WYCJ) developed a handbook to guide states in their submissions to include youth rights.[208] They undertook intensive lobbying under the slogan "We're bringing the world's biggest problem to the world's highest court."[209] The efforts in the build-up to the ICJ hearing and the movement which emerged are arguably the most far-reaching and impactful global movement ever. Child/youth litigation is strong because of its rootedness in a movement, before, during, and after the court case. The movements are often bolstered by the litigation, and young litigants can go on to become prominent climate advocates (if they were not prominent advocates already), leaving a lasting mark. An important outcome is the effect of the case on the young plaintiffs themselves. They report becoming strong advocates and stewards of the new generation. It emboldens them to do more leadership work. Plaintiff Louisa Neubauer, for instance, was a Fridays for Future climate advocate before the court case, and is still working as a prominent activist on climate in Germany. Ayaka Melithafa, a *Sacchi* plaintiff, now acts as a Commissioner on the Presidential Climate Commission in South Africa and has established a climate foundation.[210] Many other young litigants have also gone on to become increasingly influential.

There is also evidence that child/youth-involved climate cases have strengthened intergenerational allyship. Adults have provided concrete support in cases, like in *Future Generations*, where prominent climate scientist James Hansen wrote an amicus brief supporting the case.[211] As discussed earlier, swathes of lawyers and MPs submitted an amicus submission to support the *Juliana* plaintiffs. The Centre for Child Law has joined three South African child/youth-involved cases to support their child rights claims. UN Special

207 Isabella Kaminski, "How Youth Activists Are Mobilising Ahead of a Landmark Climate Hearing," *The Wave*, 29 November 2025, https://www.the-wave.net/youth-mobilisation-international-court-justice-climate-change-advisory-opinion/. Accessed 30 September 2025; Pacific Islands Students Fighting Climate Change, https://www.pisfcc.org/. Accessed 30 September 2025.

208 Edgardo Sobenes *et al.*, *The Youth Climate Justice Handbook* (World's Youth for Climate Justice, 2023), https://www.wy4cj.org/handbook?ref=the-wave.net; World Youth for Climate Justice, "Let's Hear What the World's Highest Court has to Say About Climate Change," https://www.wy4cj.org/?ref=the-wave.net. Accessed 30 September 2025.

209 Kaminski, "How Youth Activists Are Mobilising Ahead of a Landmark Climate Hearing" n 206.

210 Presidential Climate Commission, "Ayakha Melithafa," https://www.climatecommission.org.za/team/ayakha-melithafa. Accessed 30 September 2025.

211 *Future Generations*, n 6, amicus submission of James Hansen, https://www.dejusticia.org/wp-content/uploads/2018/01/Amicus-James-Hansen-Espan%cc%83ol.pdf. Accessed 30 September 2025.

Rapporteurs submitted amicus reports for *Sacchi*.[212] The *Duarte Agostinho*[213] plaintiffs worked closely with the elders in *Verein KlimaSeniorinnen Schweiz v. Switzerland*[214] and did public advocacy together.[215]

Child/youth-involved climate cases can also create negative narratives, unfortunately. Part of the reason can be poor attitudes to children and youth, and assumptions that they cannot make their own decisions to take part in climate action, but are rather being unduly influenced.[216] The *Held* case was widely publicised in Canada, France, and the UK.[217] It drew negative attention, saying that the *Held* plaintiffs were "weaponising" the legal system and criticising climate advocates as using "children to place their agendas and political theatre in the spotlight." The state's legal representatives were reportedly dismissive of the plaintiffs' experiences, characterising the trial as nothing more than "sweeping, dramatic assertions of the doom that awaits us all."[218] With the dramatic increase in the volume of child/youth-involved climate cases, these myths will hopefully be, ultimately, dispelled.

Setzer and Higham write that the intergenerational focus of climate litigation is causing a cultural shift, changing the way the world understands climate harm.[219] Wewerinke-Singh and Ramsay reflect on how climate cases challenge the dominant assumptions about time, responsibility, and legal subjectivity, reframing societal understanding of climate change.[220] Child/youth-involved

212 *Sacchi*, n 11, amicus curiae submissions on admissibility: D. Boyd and J. H. Knox (Special Rapporteurs on Human Rights and the Environment).

213 *Duarte Agostinho*, n 12.

214 *Verein KlimaSeniorinnen Schweiz et al. v. Switzerland*, 2024, App No. 53600/20, European Court of Human Rights.

215 See further Aoife Daly, "Older Swiss Women Just Set a Global Legal Precedent for Challenging their Nation's Climate Change Policy," *The Conversation,* 11 April 2024, https://theconversation.com/older-swiss-women-just-set-a-global-legal-precedent-for-challenging-their-nations-climate-change-policy-227629 Accessed 1 September 2025.

216 See further Daly, "Climate Competence: Youth Climate Activism and its Impact on International Human Rights Law" n 2.

217 Isabella Kaminski, "How the Montana Youth Trial was Reported Around the World," *The Wave*, 5 July 2023, https://www.the-wave.net/montana-youth-climate-trial-reported-world/; News Wires, "Landmark Youth Climate Trial Begins in US State of Montana," *France 24*, 13 June 2023, https://www.france24.com/en/americas/20230612-youth-take-state-of-montana-to-trial-over-climate-change?ref=the-wave.net; Dharna Noor, "'My life and my home': Young People Start to Testify at Historic US Climate Trial," *The Guardian,* 13 June 2023, https://www.theguardian.com/us-news/2023/jun/12/young-activists-held-v-montana-climate-change-first-constitutional-trial?ref=the-wave.net. Accessed 30 September 2025.

218 Kaminski, "How the Montana Youth Trial was Reported Around the World" n 216.

219 Setzer and Higham, "Global Trends in Climate Change Litigation: 2024 Snapshot" n 200, 49.

220 Margaretha Wewerinke-Singh and Alofipo So'o alo Fleur Ramsay, "Echoes Through Time: Transforming Climate Litigation Narratives on Future Generations," *Transnational Environmental Law* 13, no. 3 (2024): 547–568, 565. See also Paz Landeira, "Temporalities in Crisis: Analysing the *Sacchi v. Argentina* Case and Children's Rights in the Climate Emergency" n 144.

climate cases have played a significant and leading role in this effect.[221] They have highlighted the disproportionate impacts of climate change on younger generations and the problematic ways in which the law constructs time.[222] They are causing incremental shifts in traditional approaches of courts, as demonstrated in relation to changes in some courts regarding admissibility. These cases are also likely affecting global climate responses.

5. Conclusion

It is clear that most decided child/youth-involved climate cases now have some element of success for the environment. Where applications have been found admissible, 76% of cases have some success in their outcomes.[223] Even those cases that do not, inevitably have important social consequences in terms of raising awareness of the climate crisis. Through their climate litigation, children and youth are suggesting creative remedies to the crisis, based on arguments that disrupt the status quo.

The early youth victories in *Oposa*,[224] in the Philippines, *Future Generations*,[225] and *Neubauer*,[226] set a high bar for what would be possible to achieve through litigation, setting precedents that have been cited by youth and adults alike in many succeeding cases. The *Juliana*[227] case, although eventually dismissed, inspired an entire generation of cases and movements globally, including the *Future Generations* and *Neubauer* cases. It also informed *Held*,[228] which has been a huge win for climate litigation in the US and "shows that climate litigation with youth-based claims can reshape foundational principles of long-standing legal institutions."[229] Some dismissed cases, such as *Sacchi*,[230] have had a robust impact on the climate justice world. It contributed to major developments in international law, like the recognition of the right to a healthy environment, which includes a safe climate. These cases were just

221 Ole W. Pedersen and Katalin Sulyok, "Future Generations Litigation and Transformative Changes in Environmental Governance," *Transnational Environmental Law* no. 3 (2024): 464–474.

222 Florencia Paz Landeira, "Temporalities in Crisis: Analysing the *Sacchi v. Argentina* Case and Children's Rights in the Climate Emergency" n 144.

223 Where they have fully concluded. We have not included those pending. See Section 2.1. *Soubeste* could arguably be added to this. See n 13.

224 *Oposa*, n 15.

225 *Future Generations*, n 6.

226 *Neubauer*, n 7.

227 *Juliana,* n 5.

228 *Held*, n 8.

229 Dan Ziebarth, "Situating Held v. Montana in the Youth Climate Litigation Movement," *University of Vienna Law Review* 8, no. 1 (2025): 179–208.

230 *Sacchi*, n 11.

the beginning. Since then, many more cases have been successful in different ways, contributing to best practices in law and practice.

Their litigation has been inextricably linked to the broader phenomenon of child/youth-involved climate action. This phenomenon, for example, hugely contributed to the greater recognition in international law of the right to a healthy environment. This journey then culminated in the *ICJ Advisory Opinion*, which recognises the right to a healthy environment and confirms that all states have a duty to protect it. The work of young students from the Pacific Island States sparked this activity at the ICJ. The strong links, then, between legal gains made in climate cases and broader child/youth climate advocacy are clear.

Although many child/youth-involved climate cases have failed because of issues related to remedies (e.g., where the court does not agree that a mere declaration from the court would address the complainants' climate change complaints), some child/youth-involved climate cases have pushed the boundaries of admissibility in favour of applicants. In *Held* and *Navahine*, for example, it was held that a declaratory judgment will help resolve legal questions, even if it does not solve climate change. This constitutes a legal step forward for tackling climate change.

Child/youth-involved climate cases have led to significant progress in relation to the approach of many courts to the separation of powers doctrine. The courts in *JEUnesse* and *Urgenda*, for example, held that the doctrine did not prevent hearing climate cases. This climate litigation has also allowed courts to clarify what constitutes a violation of the right to a healthy environment and its corresponding duty. The *Deadly Air* court, for example, held that the state can be held accountable for a "state of affairs" if it is coupled with state inaction in the face of human rights violations. This case is the first to result in a finding of a violation of section 24 of the South African Constitution – the right to an environment that is not harmful to health and well-being – making a significant contribution to the rights jurisprudence.

Ensuring that children have participation rights was previously focused on ensuring that children themselves could be heard, and therefore increase the likelihood of progressing their own rights. As children are now taking cases to prevent the climate crisis for all of humanity, participation rights have taken on a new meaning. Such rights are no longer simply for children; they are there to benefit all of us. That includes those of us here now and generations that will be here in the future.

Not all the child/youth-involved climate cases have been successful, and some of them are still pending. They have collectively provided outcomes, however, which are crucial to the fight against climate change. Children and youth set out to make a real impact on the global and local response to climate change. They have achieved outcomes that have a tangible impact on their world. They have also paved the way for others who can rely on their successes

and legal developments caused by their cases.[231] The social impact of their work is in the growth and bolstering of the global climate justice movement, the education of the public, and the changed perspectives of adults. Through their capable leadership, they have garnered political will and increased participation for children in climate decision-making. Children and youth have positioned themselves as co-creators of law and policy, and political actors with significant influence on public opinion and the development of law.

Climate change has consequences for how humans live and interact with one another and their environment. It is therefore not just changing our physical landscape, but is also shaping the legal environment and, particularly, our understandings of constitutional and human rights.[232] Children and youth are playing an important role in legal responses to the failure of governments and corporations to mitigate the climate crisis.

231 Sam Bookman and Margartha Wewerinke-Singh, "Intergenerational Equity," in *The Cambridge Handbook on Climate Change Litigation,* eds. Margaretha Wewerinke-Singh and Sarah Mead (Cambridge: Cambridge University Press, 2025); Wewerinke-Singh and Maxwell, "Human Rights" n 31.

232 Dan Ziebarth, "Climate Law and Human Rights: How Do Courts Treat Rights in Their Decisions?" *UIC Law Review* 57, no. 2 (2024): 203.

8 Conclusion

The changing climate poses a threat to communities all around the world, and particularly to children.[1] Discussions of the climate crisis often overlook how the lived experiences and effects of the climate crisis intersect with various forms of social stratification and identity markers, such as class, race, gender, and age.[2] As Nixon has argued: "We may all be in the Anthropocene, but we are not all in it in the same way."[3] This critique is especially pertinent when analysing the ways in which the climate crisis is experienced by children and youth, whose exposure to environmental risks and adaptation capacities are shaped by their specific social and developmental contexts. Understanding these intersections is crucial to addressing the uneven distribution of climate impacts and envisioning more equitable responses to the ongoing crisis.[4] International human rights law can bring attention to both the human impacts of the climate crisis and also the experiences of groups who are particularly disadvantaged by it.

Children and youth are among those humans most affected by environmental impacts, particularly those under age five years,[5] 1.5 million of whom

1 UNICEF, "The Climate Crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index (Summary Report)," (August 2021), 4, www.unicef.org/media/105531/file/UNICEF_climate%20crisis_child_rights_crisis-summary.pdf. Accessed 8 March 2024.

2 Andreas Malm and Alf Hornborg, "The Geology of Mankind? A Critique of the Anthropocene Narrative," *The Anthropocene Review* 1, no. 1 (2014): 62–69; Jason W. Moore, *Anthropocene or Capitalocene? Nature, History, and the Crisis of Capitalism* (New York: PM Press, 2016).

3 Rob Nixon, "The Anthropocene: The Promise and Pitfalls of an Epochal Idea," Edge Effects (2024), https://edgeeffects.net/anthropocene-promise-and-pitfalls/. Accessed 8 March 2024.

4 Anna Kaijser and Annica Kronsell, "Climate Change Through the Lens of Intersectionality," *Environmental Politics* 23, no. 3 (2014): 417–433.

5 World Health Organization, "Preventing Disease Through Healthy Environments: A Global Assessment of the Burden of Disease from Environmental Risks" (2016), https://apps.who.int/iris/bitstream/handle/10665/204585/9789241565196_eng.pdf?sequence=1. Accessed 8 March 2024; World Health Organization, "Don't Pollute My Future! The Impact of the Environment on Children's Health," 21 March 2017, www.who.int/publications/i/item/WHO-FWC-IHE-17.01. Accessed 8 March 2024.

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die annually due to environmental harm such as toxic air pollution and chemicals.[6] In General Comment No. 26 on children's rights and the environment with a special focus on climate change,[7] the UN Committee on the Rights of the Child states that the climate and environmental crisis is "an urgent and systemic threat to children's rights globally" and that states must immediately act to protect children's rights in this triple planetary crisis, which involves the climate crisis, biodiversity loss, and pollution.[8] The climate crisis, the Committee points out, is having dramatic effects on children's rights, including millions of children being driven from their homes by weather-related events.

In Chapter 2, we examined the interplay between children's rights and the climate crisis, underscoring the implications of recognising a child's right to a healthy environment. The right to a healthy environment has developed rapidly over the decades and is now a relatively established feature of the human rights landscape, although its meaning and application are contested.[9] Children are increasingly prominent when it comes to international efforts to mitigate the climate crisis. A powerful part of the picture of young climate advocacy has been the link between children, youth, and future generations – it demonstrates our responsibilities to each other more broadly, across countries and generations. Young climate advocates are challenging their societies to understand intergenerational justice. They are, for example, drawing attention to it in applications such as *Oposa v. Factoran*[10] and *Juliana v. United States*,[11] where they litigate to protect the environment not just for themselves but also for those who will be born after them.

Chapter 3 traced how the UN Convention on the Rights of the Child (CRC) contains numerous rights which are vital to protect children in the climate crisis, including provisions that make explicit reference to the environment, such as the right to health (enshrined in CRC Article 24). This instrument has gradually been seen to include the right to a healthy environment, and General Comment No. 26 has provided a detailed blueprint for state

6 WHO, "The Cost of a Polluted Environment: 1.7 Million Child Deaths a Year, Says WHO," 6 March 2017, News Release, www.who.int/news/item/06-03-2017-the-cost-of-a-polluted-environment-1-7-million-child-deaths-a-year-says-who. Accessed 8 March 2024; WHO, "Inheriting a Sustainable World? Atlas on Children's Health and the Environment" (2017), www.who.int/publications/i/item/9789241511773. Accessed 8 March 2024; WHO, "Children: Improving Survival and Well-being," 8 September 2020, www.who.int/news-room/fact-sheets/detail/children-reducing-mortality. Accessed 8 March 2024.

7 See Committee on the Rights of the Child, *General Comment No. 26: Children's Rights and the Environment with a Special Focus on Climate Change* (2023), CRC/C/GC/26, 22 August 2023.

8 *Ibid*., paras 63–64.

9 Azadeh Chalabi, "A New Theoretical Model of the Right to Environment and its Practical Advantages," *Human Rights Law Review* 23, no. 4 (2023): ngad023.

10 *Minors Oposa v. Secretary of the Department of Environment and Natural Resources*, 1993, Case No. 101083, Supreme Court of Manila.

11 *Juliana et al. v. United States*, 2025, US 24-645, US Supreme Court.

obligations that is groundbreaking not just for children's rights but for human rights more broadly. The Committee on the Rights of the Child understands health, it has been pointed out,[12] as "a state of complete physical, mental and social well-being" rather than merely the absence of ill-health,[13] and this inclines the Committee towards addressing modern and emerging environmental risks to children's rights, such as the climate crisis.[14] There are ways, then, in which the CRC and the Committee have greatly progressed the right to a healthy environment for all.

The right to life, survival, and development under CRC Article 6 is based on the right to life under international human rights law, but also contains specific emphasis on development for children, a crucial consideration in the climate crisis. The right to participation ensures children the right to express their views and influence decisions related to climate action. Yet, as shown, significant gaps remain between the formal recognition of children and youth participation and its meaningful implementation in policy arenas.

In Chapters 4 and 5, we aimed to map and analyse child/youth climate action. Until recently, children and youth had little voice in discussions around climate change. There is transformative potential in the child/youth climate action movement, both in climate justice debates and in human rights international law. Through child/youth climate action, children and youth are pushing the boundaries of participation rights enshrined in numerous ways in the CRC, and particularly via CRC Article 12. Mini-publics convened for children in Iceland, Scotland, and Ireland are exciting instances of child participation. Youth climate councils provide access to executive corridors (although not always access to influencing decisions). General Comment No. 26, inspired by young advocates, and co-drafted with them, has surfaced in very different arenas – Norway's National Human Rights Institution report on petroleum licensing,[15] for example, and at COP28.[16] This seems to be evidence of what Merry refers to as "vernacularisation":[17] global norms gain traction when local actors translate them into culturally resonant idioms. By actively engaging in

12 Francesca Ippolito, *Children's Environmental Rights Under International and EU Law* (The Hague: Springer, 2022), 96.

13 Committee on the Rights of the Child, *General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art. 24)* (2013), CRC/C/GC/15, 17 April 2023, para. 19.

14 Ippolito, *Children's Environmental Rights Under International and EU Law*, n 12, 96.

15 Nasjonal institusjon for Menneskerettigheter (NIM), "Høringsuttalelse: Forslag til Endring i Veileder til PUD/PAD," Consultation Response, 7 June 2024, https://www.nhri.no/wp-content/uploads/2024/06/Horingsuttalelse-fra-NIM-Forslag-til-endring-i-veileder-til-PUD-PAD.pdf. Accessed 4 September 2025.

16 Recording available at the official UNICEF YouTube channel, https://www.youtube.com/unicef. Accessed 5 April 2025.

17 Sally Engle Merry, "Transnational Human Rights and Local Activism: Mapping the Middle," *American Anthropologist* 108 (2006): 38–39.

local and global forums, children disrupt adult-centric frameworks and redefine political participation across generations.

Children and children's rights have to be mainstreamed in both public and private sector dialogues and action on climate change. The right to a healthy environment has been dramatically shaped by child/youth climate action, and it cannot be realised without meaningful input from children/youth as leaders in this space.[18] Yet there is a stark power imbalance between adults and children in climate governance. Even in cases where children are formally recognised as stakeholders in climate policy, their voices are often marginalised. International frameworks, such as the United Nations Framework Convention on Climate Change (UNFCCC), pay lip service to intergenerational equity, but rarely provide meaningful avenues for children's participation in climate governance. The limited influence that children do exert is often channelled through adult intermediaries – such as parents, educators, and policymakers – further diluting their autonomy and political citizenship. This has led to growing disillusionment among children/youth, many of whom feel that their futures are being sacrificed for the convenience of present-day political and economic interests.[19] Despite these barriers, children and youth have found alternative ways to make their voices heard. One of the most significant developments in recent years has been the rise of child/youth-involved climate litigation. These cases represent a significant shift in the way children are asserting their rights in the face of climate injustice.[20]

Those under the age of 18 years generally cannot vote to influence climate policy. Climate litigation has therefore been an avenue to ensure their input in forcing governments and others to mitigate the climate crisis, as outlined in Chapters 6 and 7. The data in the Youth Climate Justice case law database[21] indicates that children and youth, many of them under 18, are litigants in climate cases – at the time of writing (August 2025), there are 81 cases in the database, and the number is growing rapidly. Many of these cases have some element of success for the environment. Where applications are found admissible, 76% of cases have some legal success in their outcomes, in that they are at

18 Jonathan Todres, "Youth Voice Matters: The Critical Nature of Youth Participation in Achieving the Right to a Healthy Environment," *NEULR* 15, no. 2 (2023): 763.

19 See further Florencia Paz Landeira *et al.,* "COP and the Experiences of Children and Youth Considering the Rights of Children and Youth in Global Climate Governance," *The International Journal of Children's Rights* 33, no. 3 (2025): 733–767.

20 Elizabeth Donger, "Children and Youth in Strategic Climate Litigation: Advancing Rights through Legal Argument and Legal Mobilization," *Transnational Environmental Law* 11, no. 2 (2022): 263–289; Aoife Daly *et al.*, "Participation and Postpaternalism: Child/youth Climate Action and the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 33, no. 3 (2025): 562–593; Aoife Daly and Liesl Muller, "Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact," *Washington and Lee Law Review* 82, no. 3 (2025): 1049–1072.

21 Youth Climate Justice, Case Law Database, https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/. Accessed 27 August 2025.

least partially granted what they are seeking.[22] *Held v. Montana*, for example, showed that climate litigation with child/youth-based claims can reshape the principles of legal institutions.

Not all climate cases involve explicit reference to children's rights. All of these cases are strongly relevant to children's rights, however, and to human rights more broadly. There are issues relating to admissibility, with many cases not proceeding to a full hearing. Even when cases proceed to a full hearing, however, they may have a legal impact. *Sacchi v Argentina and others*, for example, contributed to a major development in international law regarding recognition of transboundary responsibility. The legal outcomes in these cases are just one part of the picture of children's contributions. There are also important social consequences of climate litigation in terms of raising awareness of the climate crisis. Litigation can be seen as a form of participation that transforms justice systems from sites of exclusion to arenas of intergenerational dialogue. Children's exercise of their participation rights is no longer solely focused on ensuring that children themselves are heard. Children are now taking cases to prevent the climate crisis for all of humanity.

Children and youth are increasingly becoming co-creators of the laws and policies shaping their present and future. This transformation not only advances the rights of children and youth but also contributes to democratic societies that are more inclusive and participatory. Adults involved in research, policy, and practice in this area (that is, climate advocacy with and for children/youth) are now working in a space of postpaternalism.[23] Children and youth are now among the leaders working for climate justice. This requires children and youth not only to participate in these matters affecting them, but also to be given space to start their own initiatives, and to work as equal allies with adults in at least some instances. Children and youth should not be instrumentalised as victims but seen for the active agents that they are. This will require institutional redesign, enforceable participation rights, and doctrinal development attuned to intergenerational equity.

The effects of the climate crisis point to an uncertain future for children in terms of their chances of enjoying a healthy environment. In the face of this, one obvious starting point is the analysis of their rights under international and domestic human rights frameworks. It is also important to acknowledge and analyse the contribution they themselves have made, and continue to make, to human rights, through the climate action that they are taking all over the

22 See Chapter 7, Section 2.1.

23 Daly *et al.*, "Participation and Postpaternalism: Child/youth Climate Action and the UN Convention on the Rights of the Child" n 23.

world. Children and youth are catalysts – not appendices – in the remaking of human rights in the face of the climate crisis. Their claims, practices, and victories (as well as their setbacks) reveal both the plasticity of legal norms and the limits of adult-dominated institutions. Their actions demonstrate their position as crucial actors in the sphere of human rights in this postpaternalist era.

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