

Children's Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on the Rights of the Child (2020 Update)



The Committee on the Rights of the Child (CRC) is mandated to monitor the implementation of the International Convention on the Rights of the Child (ICRC), which has been ratified by 196 States. By ratifying the ICRC, States commit to respect and ensure the rights protected by the Convention of each child within their jurisdiction without discrimination. The rights protected include the rights to life, health (including protection from the dangers of environmental pollution), education (including development of respect for the natural environment), privacy, family and home, an adequate standard of living, and cultural rights.

The Committee has three main functions: the State reporting pro-

cedure; General Comments and Statements; and the Communications procedure (a quasi-judicial complaints mechanism). This note describes the work of the Committee on climate change under each of those functions.

General Comments and Statements

The CRC mentioned climate change in General Comment No. 15 on health (2013) (paragraphs 5 and 50), saying that climate change “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.” It also

referred to climate change in its General Comment No. 20 on adolescence (2016) (paragraphs 2 and 12).

In 2016, the CRC held a Day of General Discussion on Children’s Rights and the Environment that discussed climate change. The Committee issued recommendations, including articulating that “States should understand their obligations to respect and protect children’s rights against global climate change. Such protection requires urgent and aggressive reductions in greenhouse gases, guided by the best available science.”

In September 2019, amidst the Fridays for Future climate mobilizations of children and youth

across the world, the CRC issued a statement voicing support for children campaigning on climate change and emphasizing that they have a legal right to have their views listened to and taken into account on issues concerning their future, such as climate change and the environment. Welcoming the active and meaningful participation of children as human rights

defenders, the Committee underlined in particular children's right to freedom of expression, protected by Article 13 of the ICRC.

Also in September 2019, the Committee joined with four other human rights treaty bodies (HRTBs) to adopt a landmark Joint Statement on human rights and climate change.

State reporting procedure

Climate change has been a topic of regular discussion in the CRC's review of States Parties' compliance with the ICRC since 2010, when it highlighted the impacts of climate change on children in its Concluding Observations (COBs) to Grenada (CRC, Grenada, 2010) and noted Japan's increased

Joint Statement by the CRC and four other HRTBs on human rights and climate change

The CRC, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on Migrant Workers, and the Committee on the Rights of Persons with Disabilities jointly adopted a statement on human rights and climate change in September 2019. The statement articulates the legal obligations of the 196 States that have signed the relevant UN human rights treaties (ICEDAW / women's rights, ICRC / children's rights, ICESCR / economic, social, and cultural rights, ICRPD / rights of persons with disabilities, and ICMW / rights of migrant workers) in the context of climate change.

The statement warns that climate change threatens the right to life, the right to food, the right

to adequate housing, the right to health, the right to water, and cultural rights. It also underscores that some groups are more vulnerable to the risk of harm than others: "those segments of the population already marginalised or in vulnerable situations or that, due to discrimination and pre-existing inequalities, have limited access to decision-making or resources, such as women, children, persons with disabilities, indigenous peoples and persons living in rural areas." Further, it recognizes the agency of those most impacted by climate change and emphasizes an inclusive, multi-stakeholder approach with wide participation in climate policy-making.

The statement stresses that States must, as a matter of human rights law, implement emissions cuts reflecting the highest possible ambition, including by phasing out fossil fuels, promot-

ing renewable energy, combating deforestation, and ensuring financial flows, investments, and incentives are consistent with low-emissions pathways. It also underscores the obligations of States to regulate private actors and hold them accountable for climate harms occurring domestically and extraterritorially. It warns States that: "Failure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States' human rights obligations."

The statement concludes by saying that the HRTBs will continue to "keep under review" the impacts of climate change on human rights. Therefore, we can expect that climate change will continue to be a topic of focus in the work of the CRC.

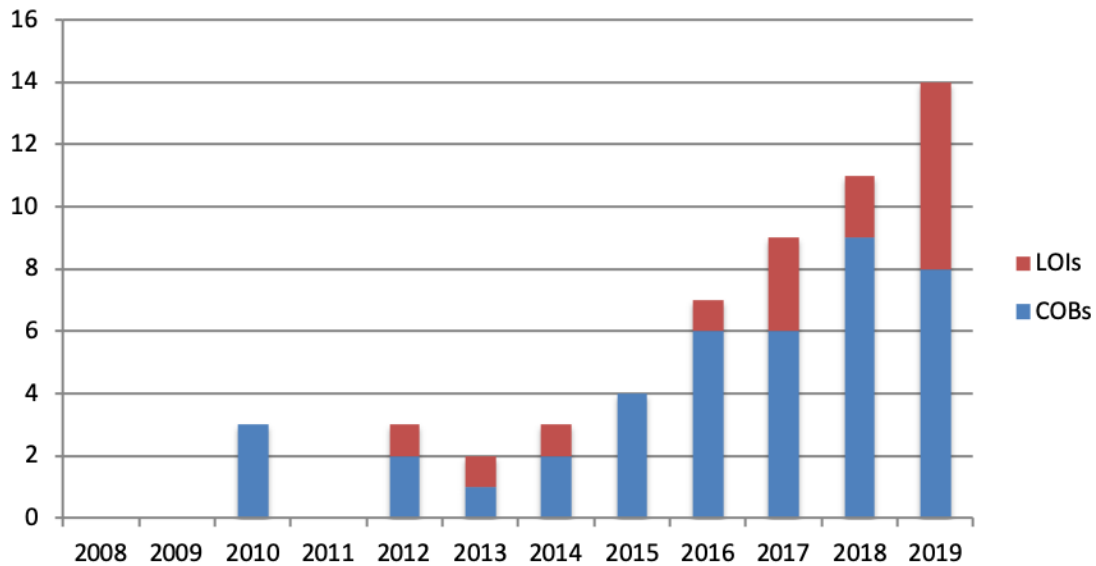


Figure 1: CRC’s climate change references in Concluding Observations and Lists of Issues, 2008 – 2019

allocation of resources to assist developing countries with measures “against climate change” (CRC, Japan, 2010).

Between 2008 and 2019, the CRC issued 41 recommendations to States and 15 Lists of Issues (LOIs) addressing climate change. This means that 23% of all States reviewed by the CRC between 2008 and 2019 received a recommendation on climate.

As Figure 1 shows, the CRC’s attention to climate change has grown steadily over time, peaking in 2019 with 14 total mentions of climate change (6 LOIs, 8 COBs) under its State reporting procedure. In 2019, 47% of all States reviewed by the CRC received a COB on climate change.

When the type of country¹ receiving the climate recommendations is considered, it can be seen in Figure 2 that the largest proportion of the COBs (22) on climate were made to Small Island Developing States (SIDS) and Least Developed

Countries (LDCs). This equates to 54% of the CRC’s climate COBs going to SIDS and LDCs.

Many of those COBs pointed to the vulnerability of SIDS and LDCs to the impacts of climate change and urged those States to ensure children’s participation in climate decision-making and to seek international assistance to

enable them to address climate change. For example, the CRC recommended that St. Vincent and the Grenadines “seek bilateral, multilateral, regional and international cooperation in the areas of disaster risk reduction, mitigation and adaptation to the effects of climate change” (CRC, St. Vincent and the Grenadines, 2017).

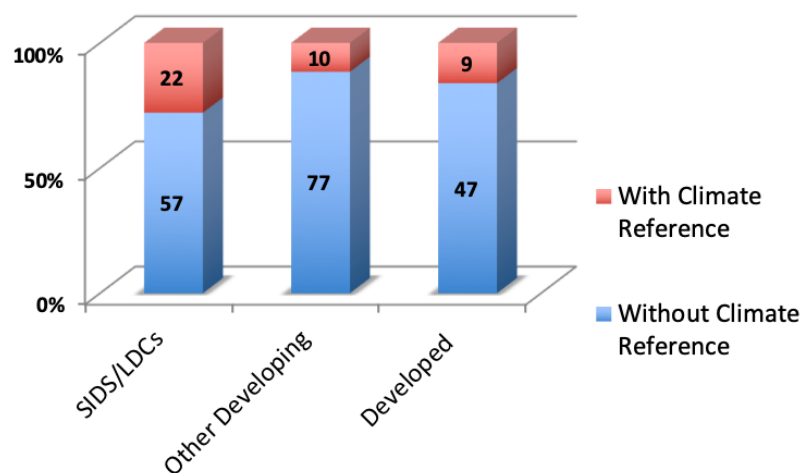


Figure 2: CRC’s climate change references in Concluding Observations, by country type, 2008 – 2019

Over the 12 years covered by this research, the CRC made climate-related recommendations in 28% (22 COBs) of its reviews of SIDS and LDCs, while it made climate-related recommendations in only 16% (9 COBs) of reviews of developed countries and only 11% of reviews of other developing countries (10 COBs).

Figure 3 shows the CRC’s climate COBs categorized according to the following themes: mitigation, adaptation, procedural rights, and international cooperation.

The category that received the least attention in the CRC’s COBs was mitigation, with only ten COBs. The recommendations on mitigation ranged from reducing emissions by phasing out fossil fuel use, to transitioning to renewable energies, to regulating harmful practices by the private sector. The halting of deforestation and regeneration of land were also raised as mitigation measures, more than by any other Committee. Further, the CRC drew attention to the emissions caused by extraterritorial investments in its COBs to Japan calling on the country to “reconsider [its] funding of coal-fired power plants in other countries and ensure that they are gradually replaced by power plants using sustainable energy” (CRC, Japan, 2019).

As can be seen, 32 of the CRC’s climate COBs focused on adaptation, often providing detailed recommendations as to which measures should be taken by the State to protect the rights of communities at risk. An example is the CRC’s COB to Niger, recommending that the State party “take



Figure 3: CRC’s climate change references in Concluding Observations, by category, 2008 – 2019

measures to strengthen policies or programmes to address the issues of climate change and disaster risk management” and that such policies and programs “include measures to protect children’s rights to housing, sanitation, food, water and health and ensure the full and meaningful participation of communities at risk, including children, at both the national and the regional levels” (CRC, Niger, 2018).

The next most commonly addressed categories were procedural rights and international cooperation, both of which were addressed in 28 COBs. The importance of children’s participation in climate policy-making was regularly emphasized, including in its COB to Australia, in which the Com-

mittee expressed “concern and disappointment that the protest of children calling on government to protect the environment received a strongly worded negative response from those in authority, which demonstrates disrespect for their right to express their views on this important issue” (CRC, Australia, 2019).

Figure 4 shows the further categorization of the CRC’s climate COBs according to sub-themes.

In the category of procedural rights, the sub-themes of public participation and of education and empowerment both received significant attention from the Committee. Many of the CRC climate recommendations called for children’s participation in

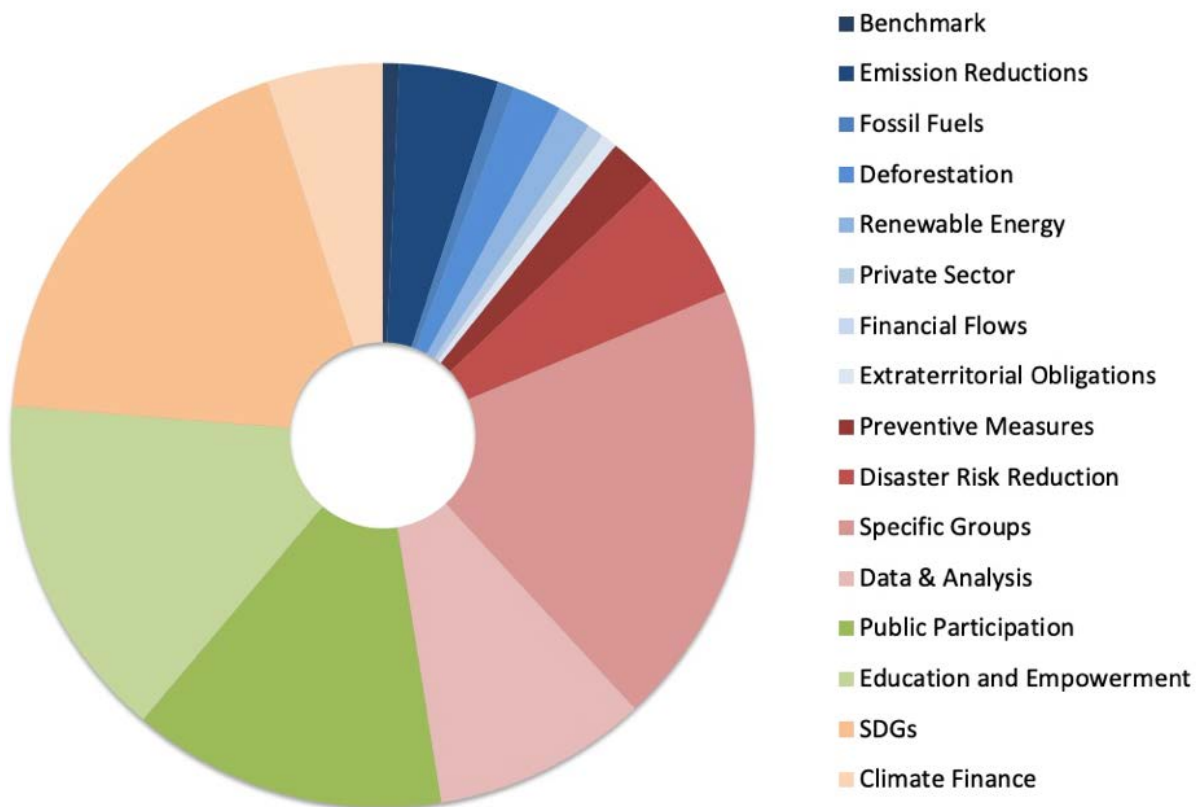


Figure 4: CRC’s climate change references in Concluding Observations, by sub-theme, 2008 – 2019

climate and disaster decision-making. For example, the Committee asked Mozambique to “ensure that the specific vulnerabilities and needs of children, as well as their views, are taken into account in the development of policies or programmes addressing the issues of climate change and disaster risk management” (CRC, Mozambique, 2019).

States were also frequently urged (21 times) to ensure that children receive education on climate change. For example, the Committee recommended that Palau “include climate change adaptation and disaster-risk reduction in the school curriculum and establish school-based programmes, such as early warning systems and training on what to do in the event of a natural disaster” (CRC, Palau, 2018).

The vast majority of the COBs in the international cooperation category focused on the link with the Sustainable Development Agenda. The Committee commonly drew the State’s attention to target 13B (regarding climate action) of the Sustainable Development Goals (SDGs) (e.g., CRC, Guatemala, 2018) and sometimes to target 3.9 (regarding air pollution) (e.g., CRC, Belgium, 2019).

The CRC was less likely to raise the topic of climate finance and when it did, the recommendations mostly addressed SIDS and LDCs, suggesting that they seek international assistance to support their mitigation and adaptation efforts. It made one recommendation to a developed State on increasing climate finance commitments (CRC, United Kingdom, 2016).

Communications Procedure

The CRC has not issued any decisions on climate change under its communications procedure. However, one petition focusing exclusively on issues related to climate change has been submitted to the CRC.

Children’s climate petition to the UN Committee on the Rights of the Child

On September 23, 2019, 16 children filed a complaint against Argentina, Brazil, France, Germany, and Turkey under the Third Optional Protocol to the ICRC. These countries were targeted for being members of the G-20 and for having ratified the Third Optional Protocol to the ICRC, enabling

the submission of individual petitions to the CRC against those States. The petitioners allege that in knowingly causing and perpetuating climate change, the States have failed to take the necessary measures to respect, protect, and fulfill the children's rights to life (Article 6), health (Article 24), and culture (Article 30) under the Convention. In addition, the petitioners claim that the adoption of climate policies that merely delay decarbonization effectively shifts the burden of climate change onto future generations, amounting to a violation of their right to have children's best interests be a primary consideration in actions that concern them (Article 3).

By way of relief, the petitioners seek findings that, by recklessly perpetuating life-threatening climate change in disregard of scientific evidence, the respondent States are violating the petitioners' rights to life, health, culture, and the prioritization of the child's best interests. They also seek recommendations that the respondent States:

- review and amend their laws and policies to ensure that mitigation and adaptation efforts are accelerated in order to protect the petitioners' rights;
- initiate cooperative international action to establish binding and enforceable measures to mitigate the climate crisis and prevent further harm to children; and
- ensure the children's right to be heard and to express their

views freely, in all efforts to mitigate or adapt to the climate crisis.

The Committee has registered the communication as five separate cases, one against each of the five States. At the time of publication of this synthesis note, the CRC had not yet released a decision regarding the admissibility and merits of the petitions.

The average length of time between the submission of communications to the CRC and the adoption of the decision is currently approximately two years.

Compilation of Key CRC statements on climate change

All Concluding Observations adopted by the CRC can be accessed here: bit.ly/CRCcobs.

On **the reduction of emissions and the need to phase out fossil fuels (mitigation)**, the CRC has stated that States must:

- reduce emissions of greenhouse gases in line with international commitments to avoid a level of climate change threatening the enjoyment of children's rights, particularly the rights to health, food, and an adequate standard of living (CRC, Japan, 2019) and in a manner that reflects the highest possible ambition (Joint Statement, 2019);
- establish safeguards to protect children, both domestically and extraterritorially, from the negative impacts of fossil fuels (CRC, Norway, 2018) by ensuring that their specific vulnerabilities, needs, and views

are taken into account (CRC, Belgium, 2019);

- strictly regulate maximum air pollutant emissions, including those produced by private businesses (CRC, Spain, 2018), and hold private actors accountable for the harms they generate both domestically and extraterritorially (Joint Statement, 2019);
- develop a comprehensive national plan to reduce emissions of greenhouse gases by establishing targets and deadlines to phase out the domestic use and export of coal and accelerate the transition to renewable energy, including by committing to meeting 100% of their electricity needs with renewable energy (CRC, Australia, 2019);
- take measures to strengthen policies to address issues related to climate change, including stopping deforestation (CRC, Haiti, 2016), boosting solar energy, replanting trees, and regenerating land (CRC, Niger, 2018);
- discontinue financial incentives or investments in activities and infrastructure that are not consistent with low greenhouse gas emissions pathways, whether undertaken by public or private actors, as a mitigation measure to prevent further damage and risk (Joint Statement, 2019), including reconsidering the funding of coal-fired power plants in other countries (CRC, Japan, 2019);
- set out a clear legal commitment, with appropriate technical, human, and financial

resources, to scale up and expedite the implementation of plans to reduce air pollution levels, particularly coming from road transport (CRC, United Kingdom, 2016) and in areas near schools and residential areas (CRC, Malta, 2019);

- provide information about measures to reduce emissions in relation to the aviation and transport sector (CRC, LOIPR to Switzerland, 2019).

On the protection of rights from the impacts of climate change (adaptation), the CRC requires States to:

- place children's rights at the center of national and in-

ternational climate change adaptation and mitigation strategies, including through their domestic climate strategy, and in the framework of their international climate change programs and financial support (CRC, United Kingdom, 2016);

- collect disaggregated data identifying the types of risks faced by children, particularly children with disabilities (CRC, Solomon Islands, 2018), to a variety of disasters in order to formulate responses accordingly (CRC, Cabo Verde, 2019);
- reduce the vulnerabilities of and risks for children and families, including by main-

streaming child-specific and child-sensitive risk and vulnerability reduction strategies, for instance, by increasing the physical safety of school infrastructure and establishing school-based programs such as early warning systems (CRC, Solomon Islands, 2018);

- review emergency protocols to include assistance and other support to all children, particularly those with disabilities, during emergencies and natural disasters (CRC, Tonga 2019);
- strengthen the awareness of communities on disaster risk and prevention measures, as well as the need to move from risky to safe areas, and



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strengthen early warning systems, especially at the community level (CRC, Mozambique, 2019);

- strengthen their social safety nets and develop disaster-sensitive social protection frameworks so as to mitigate more effectively the multiple social, economic, and environmental impacts of climate change (CRC, Jamaica, 2015; CRC, Solomon Islands, 2018);
- invest sufficient human, technical, and financial resources in healthcare (CRC, Tonga, 2019) and routinely undertake health impact assessments, with particular attention to children, to inform legislation and policies related to climate change (CRC, New Zealand, 2016).

On **procedural rights**, the CRC affirmed that States are required to:

- develop toolkits for meaningful public consultation with children on issues that affect them (CRC, Australia, 2019) and place the rights and

participation of children at the center of national and international climate change adaptation and mitigation strategies (CRC, Malta, 2019);

- increase children's awareness of and preparedness for climate change and natural disasters with the active participation of schools, including by incorporating climate change into the school curriculum (CRC, Japan, 2019) and in teacher training programs (CRC, Samoa, 2016);
- ensure access to schools that are being or are likely to be affected by severe weather events, especially for those in remote or rural communities, and consider alternative methods of teaching (CRC, Vanuatu, 2017).

On **international cooperation and linkages with international frameworks**, the CRC has articulated that States must:

- consider their human rights obligations in light of the goals and targets provided by the Sustainable Development

Goals, particularly in relation to Goal 4 related to ensuring quality education (CRC, Lesotho, 2018) and Goal 13 related to climate action (CRC, Palau, 2018);

- seek the necessary technical and financial assistance from and cooperation with relevant international, regional, and bilateral partners to enable the progressive and full implementation of the Convention (CRC, Tuvalu, 2013);
- cooperate in good faith in the establishment of global responses addressing climate-related loss and damage suffered by the most vulnerable countries, paying particular attention to safeguarding the rights of those who are at particular risk (Joint Statement, 2019);
- support adaptation and mitigation efforts in developing countries, by facilitating transfers of green technologies and by contributing to financing climate mitigation and adaptation (Joint Statement, 2019).

¹In this note, countries are categorized in line with the United Nations Framework Convention on Climate Change (UNFCCC) Annexes.



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