

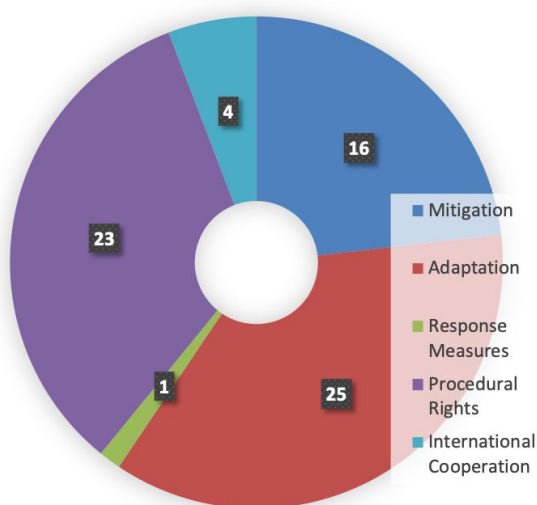
Children's Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on the Rights of the Child (2022 Update)



This note reviews the outputs of the Committee on the Rights of the Child (CRC) related to climate change in 2020 and 2021 and complements our [previous note](https://bit.ly/CRCclimate2020) dedicated to such outputs up to 2019 (bit.ly/CRCclimate2020).

Themes Addressed in the 2020/2021 Outputs of the CRC



Outputs of the CRC in 2020 and 2021, by Country Category

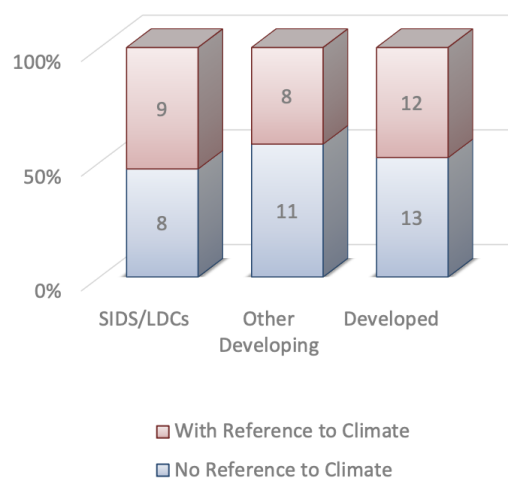


Figure 1 (left): Themes Addressed in the 2020/2021 Outputs of the CRC

Figure 2 (right): Outputs of the CRC in 2020 and 2021, by Country Category

In the past six years, the Committee on the Rights of the Child (CRC) has increasingly raised concerns about the impacts of climate change on children's rights in its State reporting procedure and its General Comments and thematic work. Despite the challenges presented by the COVID-19 pandemic and the move to online work in 2020 and 2021, the Committee continued to highlight climate change concerns in its questions and recommendations to States.

The CRC referred to climate change in 29 State review processes – in either Concluding Observations (COBs), Lists of Issues (LOIs), or Lists of Issues Prior to Reporting (LOIPRs) – in 2020 and 2021, out of a total of 61 outputs.

Contrary to its previous practice of raising climate change more frequently in the review of Small Island Developing States (SIDS)/Least Developed Countries (LDCs) and developing States (18 in total), the CRC addressed the matter with both developed and developing countries in a balanced manner over the last two years. The CRC raised the issue in 11 reviews undertaken in 2020 and 2021.

In relation to the themes addressed by the CRC in 2020 and 2021, the Committee followed the trend from previous years of paying great attention to issues of adaptation (25 references) and of participation and empowerment of children in climate change policy making and initiatives (23 references).

The Committee paid increased attention to States' obligations to **mitigate** climate change. While in 2020, this was addressed in relation to four countries (LOI to Zambia, LOIPR to Sweden, LOI to Poland, and COB to Austria), in 2021, it was raised in 12 outputs (four COBs and eight LOIs/LOIPRs). For example, in 2020, the Committee asked Sweden to provide information on its measures to reduce greenhouse gas emissions and to make electricity production from 100% renewable sources. The Committee asked Sweden to describe its measures to ensure that "the activities of private and publicly owned companies, both onshore and offshore, in particular companies in the fossil fuel industry, take into consideration the impact of climate change on the rights of the child." The Committee recommended that Austria "conduct an assessment of policies related to the transportation

sector and the impacts of resulting atmospheric pollution and emissions of greenhouse gases on children's rights" as well as "eliminate any subsidies contributing to the promotion of modes of transportation undermining the rights of children to the highest attainable standard of health." In 2021, it recommended that Poland "[a]dopt urgent mitigation measures in line with greenhouse gas emission targets and deadlines compliant with the international commitments set forth in the Paris Agreement" and "[p]hase out the funding of coal-fired power plants and accelerate the transition to renewable energy." In its COB to Switzerland, the Committee recommended that the State party reduce its emissions in line with its international commitments and "ensure that the Federal Council strategy of net zero emissions by 2050 is implemented in accordance with the principles of the Convention," including by looking at the aviation and transport sector. Further, the Committee raised States' obligations of international cooperation relating to climate change in recommendations or questions to four States in 2020 and 2021. In its COBs to both Tuvalu and the Cook Islands, after recommending a series of concrete measures to address the risks to children's rights posed by climate change, the Committee recommended



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that the State “[s]eek bi-lateral, multi-lateral, regional and international cooperation in implementing these recommendations.”

The Committee devoted increased attention to financial and business actors’ contribution to environmental harm. In 2021, 11 outputs referred to those actors, compared to only one in 2020. In its Concluding Observations to Switzerland, the Committee expressed concern about the State party’s high greenhouse gas emissions, “in particular through investments made in fossil fuels by its financial institutions.” It recommended ensuring “that private and publicly owned financial institutions take into consideration the implications of their investments upon climate change and the resulting harmful impacts on children, including introducing regular monitoring and evaluation of financial institutions with regard to their investment activities and adopting binding rules for these institutions.”

With regard to the duty to regulate private actors, in its 2021 LOIPR to South Africa, the Committee requested information on the measures taken “[t]o ensure that the activities of private and public companies, in particular companies in the fossil fuel industry, take into consideration the impact of climate change on the rights of the child.”

In 2020, and perhaps in response to the increasingly strong child and youth mobilizations and advocacy on climate change and the environment, the Committee

resolved to revive its **Working Group on children’s rights and the environment**. This is an internal group of five members of the Committee. They will focus their attention on this topic to ensure that it receives the appropriate attention in the Committee’s work. In 2021, the Committee announced that it would start working on its next **General Comment on children’s rights and the environment with a special focus on climate change**, addressing substantive, procedural, and heightened obligations owed to children. As the Committee’s [Concept Note](#) explains, the General Comment will first look at children’s rights and the environment, addressing issues related to environmental pollution, loss of biodiversity, and climate change, potentially through the lens of four general principles: non-discrimination; best interests; the right to life, survival, and development; and the views of the child. Then, it will focus on specific thematic issues on climate change, informed by “the science around climate change and its effects on children’s rights.” The Committee will undertake consultations with children, State parties, and experts from relevant fields in 2022.

Individual Communications

In 2021, the CRC decided the case [Sacchi et al. v. Argentina, Brazil, France, Germany, and Turkey](#) (104/2019, 105/2019, 106/2019, 107/2019, 108/2019). In 2019, 16 children filed a petition to the CRC against Argentina, Brazil, France, Germany, and Turkey, claiming that those State parties violated their rights under the Convention on the Rights of the Child, as they made insufficient cuts to greenhouse gases and failed to curb the emissions of the world’s biggest emitters. The petitioners asked the Committee to declare that the respondents caused and perpetuated the climate crisis, thus violating their rights. The Committee considered whether it would have jurisdiction under Article 5 of the Optional Protocol. Its reasoning provides valuable elements for future climate-related cases, particularly with regard to States’ responsibility for their own actions or omissions in relation to climate change, including extraterritorially.

The Committee explained that “when transboundary harm occurs, children are under the jurisdiction of the State on whose territory the emissions originated for the purposes of article 5 (1) of the Optional



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Protocol if there is a causal link between the acts or omissions of the State in question and the negative impact on the rights of children located outside its territory, when the State of origin exercises effective control over the sources of the emissions in question.” Interestingly, the Committee built its reasoning on extraterritorial jurisdiction upon the Inter-American Court of Human Rights’ Advisory Opinion OC-23/17 on the Environment and Human Rights. The Committee further noted that there is enough scientific evidence about the effects of climate change and that “the potential harm of the State party’s acts or omissions regarding the carbon emissions originating in its territory was reasonably foreseeable to the State party.” It added that State parties have effective control over the sources of climate-inducing emissions. Then, it addressed the causal link between the harm alleged by the petition authors and the State party’s actions or omissions to establish jurisdiction. The Committee concluded that the authors had sufficiently justified “that the impairment of their Convention rights as a result of the State party’s acts or omissions regarding the carbon emissions originating within its territory was reasonably foreseeable,” and that they “experienced a real and significant harm.” Thus, the Commit-

tee noted that it had jurisdiction under Article 5(1) of the Optional Protocol.

The Committee, however, deemed the claim inadmissible on procedural grounds, as it considered that the claimants had not exhausted domestic remedies, which is required by Article 7 of the [Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure](#). The Committee wrote an [Open Letter](#) to the authors, with a simplified explanation of the case. In this letter, the CRC stated, “we want you to know that the Committee spent many hours discussing your case, and we struggled with the fact that although we entirely understood the significance and urgency of your complaint, we had to work within the limits of the legal powers given to us under the Optional Protocol on a Communications Procedure (OPIC).”

It is important to note that more and more cases are being brought to courts and tribunals arguing that inadequate (or non-existent) State action on climate change is a breach of the State’s human rights obligations at the national and regional levels. The jurisprudence and work of the HRTBs can inform the



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interpretation of human rights norms with respect to climate change in those cases before the national and regional courts and tribunals. A number of cases and

communications brought to national and international courts and institutions reference the work of the HRTBs.

On the Frontlines of Climate Impacts: Samoa Hosts the First Regional Session of the CRC

The CRC held an extraordinary session in Apia, Samoa, in March 2020. This was the first time that a human rights treaty body had held a session in-country. The Committee held three Dialogues with States from the region (the Cook Islands, Micronesia, and Tuvalu) and developed the LOI for Kiribati. Since the session was located in the Pacific, a region already severely affected by climate impacts such as sea-level rise and more frequent damaging storms, climate change was a central topic throughout the session. It was discussed at each of the Dialogues with States and during a dedicated event on the challenges and opportunities of climate justice with 11 youth activists from the Pacific region. This session offered a unique opportunity for members of the Committee to meet a wide range of governmental actors and representatives of civil society stakeholders and see the impacts of climate change first-hand.



PHOTO FROM THE CRC'S SESSION IN APIA, SAMOA, IN MARCH 2020 © UN PHOTO/ALVARO HOYOS



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