

Children’s rights and the environment are “indivisible, interlinked, and interdependent.”<sup>1</sup> Although there is increasing awareness of the relationship between children’s rights and the environment, how to best safeguard those rights and effectively remedy child rights violations due to environmental harms is still in question. Although litigation focusing on the intersection of children’s rights and the environment is only just emerging, the Convention on the Rights of the Child (“CRC”) is considered one of the strongest avenues to legally challenge climate change as a children’s rights crisis on the international stage.<sup>2</sup>

Now the most widely ratified human rights convention in the world, the CRC is a legally binding instrument recognizing the human rights of children and “the importance of international cooperation for improving the living conditions of children in every country.”<sup>3</sup> The CRC is also one of the few human rights treaties that explicitly references the environment and requires countries to take steps to protect the environment in order to safeguard children’s environmental rights.<sup>4</sup> The Committee on the Rights of the Child (“Committee”), the United Nations (“U.N.”) body which monitors the implementation of the CRC, has further recognized that ensuring both healthy and sustainable environments are necessary to preserve children’s environmental rights.<sup>5</sup> Although the CRC lays a modest foundation in recognizing children’s environmental rights, it does not include a punishment mechanism that forces States to address environmental issues.<sup>6</sup> Thus, States’ political will to recognize and combat climate change both domestically and through coordinated international efforts is essential to safeguard children’s environmental rights.<sup>7</sup>

Children have a role to play in framing environmental degradation as detrimental to children’s rights in order to pressure States into prioritizing environmental protections. But in order to influence States’ decisions on environmental protections, children must be recognized as stakeholders, individuals that have “the right to be heard, the right to participate, and the right to decision-making.”<sup>8</sup> Thus, the CRC provides several mechanisms for children and their advocates to highlight children’s rights issues and pressure their governments to effectuate change. First, children can directly participate in the Committee’s reporting process in order to highlight issues

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<sup>1</sup> U.N. Comm. On the Rights of the Child, Rep. of the 2016 Day of Gen. Discussion Children’s Rights and the Env’t at 8 [hereinafter DCD].

<sup>2</sup> Ivano Alogna & Eleanor Clifford, *Climate Change Litigation: Comparative and International Perspectives* 18, British Inst. of Int’l & Comp. L. (Mar. 9, 2020).

<sup>3</sup> Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, Preamble [hereinafter CRC].

<sup>4</sup> DCD, *supra* note 1, at 6.

<sup>5</sup> DCD, *supra* note 1, at 3.

<sup>6</sup> Susan E. Brice, *Convention on the Rights of the Child: Using a Human Rights Instrument to Protect Against Environmental Threats*, 7 *Geo. Int’l Envtl. L. Rev.* 587, 593 (1995).

<sup>7</sup> Pauline Robert, *Are the rights of children enough to protect them from environmental harm?*, Ctr. for Int’l Env’t L. Blog (Oct. 1, 2016)

<https://www.ciel.org/rights-children-enough-protect-environmental-harm/>

<sup>8</sup> Karen E. Makuch, Sunya Zaman & Miriam R. Aczel, *Tomorrow’s Stewards: The Case for a Unified International Framework on the Environmental Rights of Children*, 21 *Health & Hum. Rts. J.* 203, 209 (June 2019).

in their home countries, which may or may not have been included in prior reports.<sup>9</sup> Second, non-governmental organizations (“NGOs”) and other advocacy organizations can help legitimize children’s voices in the environmental debate using the framework of the CRC.<sup>10</sup>

Finally, under the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (“Third Optional Protocol”), children can directly petition the CRC Committee to make their voices heard on the international stage.<sup>11</sup> The Third Optional Protocol, which came into force in April of 2014, allows children to petition the CRC Committee to seek “redress of human rights violations where domestic remedies are grossly inadequate or absent.”<sup>12</sup> Even though the Third Optional Protocol has only been ratified by a quarter of the States that have ratified the CRC, activists are embracing this relatively new legal avenue to demand international intervention to address climate change as a children’s rights crisis.<sup>13</sup> Most notably, in September of 2019, sixteen youth activists filed a complaint with the Committee under the Third Optional Protocol against Argentina, Brazil, France, Germany, and Turkey, arguing the actions of these five countries caused and perpetuated the climate crisis in violation of the children’s human rights.<sup>14</sup> The U.N. now has the opportunity to legitimize both petitioners’ framing of climate change as a children’s rights issue and petitioners’ legitimacy as stakeholders in international discussions of environmental activism.

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<sup>9</sup> CRC art. 12(2); *see also* Save the Children UK & UNICEF, Every Child’s Right to be Heard: A Resource Guide on the U.N. Committee on the Rights of the Child General Comment NO. 12 at 1 (2011).

<sup>10</sup> Howard Davidson, *Does the U.N. Convention on the Rights of the Child Make a Difference?*, 22.2 Mich. State Int’l L. Rev. 497, 512 (2014).

<sup>11</sup> Sonja C. Grover, *The Convention on the Rights of the Child Communications/Complaints Procedure and the Convention General Implementation Articles 3* (1st ed. 2015).

<sup>12</sup> *Id.*

<sup>13</sup> *See* Alogna & Clifford, *supra* note 2, at 18.

<sup>14</sup> Petition Submitted under Article 5 of the Third Optional Protocol to the United Nations Convention on the Rights of the Child, *Sacchi et al v. Arg. et al.*, ¶ 25 (Sept. 23, 2019).