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General Comment No. 26 of the Committee on the Rights of the
Child

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Isidora Čolić BA

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Dr. Vasilka Sancin

Abstract

Diese Masterarbeit untersucht den Einfluss des Allgemeinen Kommentars Nr. 26 (GC26) auf die nationale Klimapolitik in Bezug auf die Umweltrechte von Kindern, insbesondere in der Schweiz und in Mexiko. Die GC26, die vom Ausschuss für die Rechte des Kindes (CRC) herausgegeben wurde, betont die Integration von Kinderrechten in den Rahmen von Klimamaßnahmen und hebt die Rechte auf Bildung für nachhaltige Entwicklung, Jugendbeteiligung und eine gesunde Umwelt hervor. Die Dissertation untersucht, wie die Schweiz und Mexiko GC26 in ihre Verpflichtungen unter dem Übereinkommen der Vereinten Nationen über die Rechte des Kindes (UNCRC), dem Rahmenübereinkommen der Vereinten Nationen über Klimaänderungen (UNFCCC) und dem Pariser Abkommen einbeziehen. Durch eine vergleichende Analyse zeigt die Studie Kontraste auf, die durch die sozioökonomischen und kulturellen Kontexte der einzelnen Länder geprägt sind, und untersucht die starke Umweltresilienz der Schweiz und die soziopolitischen Herausforderungen Mexikos, insbesondere in Bezug auf Klimaaktivismus und Bildungszugang. Anhand von Fallstudien, nationalen und internationalen politischen Dokumenten und Rechtsprechung werden in dieser Studie bewährte Verfahren und Herausforderungen bei der Umsetzung internationaler Rahmenwerke in wirksame nationale Politiken aufgezeigt. Sie befasst sich auch mit der Rolle der Justiz in Klimaprozessen, die die Rechte von Kindern betreffen, und analysiert spezifische Fälle, um die Auswirkungen des Engagements von Jugendlichen in der Klimapolitik zu bewerten. Die Ergebnisse zeigen, dass die Integration der GC26 in die nationale Politik Lücken in den Umwelt- und Bildungssystemen überbrücken kann und eine Politik fördert, die Kinder und Jugendliche aktiv in die Klimapolitik einbezieht. Die Studie schließt mit umsetzbaren Empfehlungen für politische Entscheidungsträger, die sich für einen inklusiven Ansatz zur Klimagovernance einsetzen, der die Stimmen der Kinder und die Umweltrechte in den Vordergrund stellt.

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Abbreviations

Abbreviation	Definition
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Art	Article
Arts	Articles
CCPI	Climate Change Performance Index
CC	climate change
CRC	Committee of the Rights of the Child
CNDH	Comisión Nacional de los Derechos Humanos (CNDH) [National Human Rights Commission]
COP	Conference of the Parties
DNNA	Dirección de Derechos de Niñas, Niños y Adolescentes
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FSIO	Federal Social Insurance Office
GC2	General Comment No. 2
GC26	General Comment No 26 on Children's Rights and the Environment with a Special Focus on Climate Change
GHG	greenhouse gases
HarmoS Agreement	The Intercantonal Agreement on Harmonisation of Compulsory Education
LGCC	Ley General de Cambio Climático [General Climate Change Law]
LGDNNA	Ley General de los Derechos de Niñas, Niños y Adolescentes [General Law on the Rights of Girls, Boys, and Adolescents]
NDC	Nationally Determined Contribution
NEM	La Nueva Escuela Mexicana (New Mexican School)
NHRI	Independent National Human Rights Institutions
p.	page
para	paragraph

paras	paragraphs
pp.	pages
SAJV	Schweizerische Arbeitsgemeinschaft der Jugendverbände (Swiss Association of Youth Organisations)
SCJN	Suprema Corte de Justicia de la Nación [Mexico's Supreme Court of Justice]
SDGs	Sustainable Development Goals
SEMA	Secretaría de Ecología y Medio Ambiente (Secretariat of Ecology and Environmental Affairs in Quintana Roo, Mexico)
SIPINNA	Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes [National System for the Comprehensive Protection of Girls, Boys, and Adolescents]
Strategy 10-20-40	Estrategia Nacional de Cambio Climático visión 10-20-40 [National Climate Change Strategy: Vision 10-20-40]
SYFC	Swiss Youth For Climate
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNFCCC	United Nations Framework Convention on Climate Change

Chapter 1: Introduction

1.1 Background

Climate change (CC) poses a profound threat to everyone worldwide. It is particularly disproportionately affecting children's health, education and overall quality of life. For example, children born in 2020 are projected to be significantly more exposed to extreme weather events than those born in 1960, highlighting the urgent need to address their specific vulnerabilities in CC policies.¹ In response to the pressing triple planetary crisis - climate emergency, biodiversity collapse and pervasive pollution, the General Comment No. 26 (GC26) was developed by the Committee on the Rights of the Child to address the urgent and systemic threats to children's rights worldwide, and was circulated in August 2023. This comment provides important guidance on how to protect children's rights, as set out in the Convention on the Rights of the Child (UNCRC)², in the face of environmental crises.

This master's thesis analyses the potential impact of GC26, focusing on three key axes: the right to be heard, education for sustainable development, and climate action that actively involves children and youth. These axes provide the framework through which this study will explore how Switzerland and Mexico are incorporating these commitments into their national policies. The thesis examines the extent to which both countries implement the UNCRC as interpreted by GC26, and how they align their legislative frameworks to enhance CC strategies, particularly in the areas of education and youth participation.

Although the thesis revolves around GC26, it also addresses the role of binding international legal instruments as critical mechanisms in both Switzerland and Mexico. Specifically, the UNCRC, the United Nations Framework Convention on Climate Change (UNFCCC)³, and the Paris Agreement (PA) are central to shaping policies that weave children's rights into climate

¹ Siri Luthen, Erin Ryan, and Jack Wakefield, *Born Into the Climate Crisis: Why We Must Act Now to Secure Children's Rights* (Save the Children International 2021), p. 7.

² United Nations, 'Convention on the Rights of the Child' (OHCHR20 November 1989) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>>.

³ United Nations, 'United Nations Framework Convention on Climate Change' (United Nations 1992) <<https://unfccc.int/resource/docs/convkp/conveng.pdf>>.

action initiatives. This analysis assesses the effectiveness of these combined frameworks in upholding children's environmental rights and ensuring their participation in climate governance.

The study also proposes strategies to strengthen Switzerland and Mexico's climate policies by ensuring that the voices of children and youth are actively included in climate governance.

1.2 Aim and Relevance of the Study, and the Research Question and Hypothesis

Children are uniquely vulnerable to the impacts of CC due to their developing bodies and their dependence on adults for protection and care. Protecting their rights and ensuring their active participation in climate action is essential to achieving sustainable and equitable solutions.

This Master's thesis is highly relevant for several reasons. First, it addresses the critical intersection between children's rights, education for sustainable development and climate action, with a focus on ensuring that children's voices are heard and their rights are integrated into national climate policies. GC26 emphasises the importance of mainstreaming children's rights in environmental policies, particularly in relation to CC. As parties to the UNCRC, Switzerland⁴ and Mexico⁵ are bound by international obligations to protect children's rights, including their right to participate in environmental decision-making and to live in a healthy environment.

Second, this study analyses international climate agreements, such as the UNFCCC and the PA, which call for inclusive climate action. These frameworks emphasise the need to include all populations, especially children, in climate governance. By analysing how Switzerland and Mexico implement these international legal instruments, this research provides valuable insights into the practical integration of these commitments into national policies. This is

⁴ Switzerland ratified the UNCRC on 24 February 1997, with entry into force on 26 March 1997. The Federal Social Insurance Office oversees Switzerland's reporting on UNCRC implementation. Switzerland ratified all three Optional Protocols. See Federation of Switzerland, Federal Department of Foreign Affairs (FDFA), 'UN Human Rights Treaties: Convention on the Rights of the Child' <https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/international-law/un-human-rights-treaties/convention-on-the-rights-of-the-child.html> accessed 20 August 2024.

⁵ Mexico ratified the UNCRC on 21 September 1990, with entry into force on 20 October 1990. The Ministry of Foreign Affairs is responsible for Mexico's reporting on UNCRC implementation. Mexico has ratified the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution, and child pornography, but not (yet) the third Optional protocol on individual communications. See Government of Mexico, Ministry of Foreign Affairs, 'UN Human Rights Treaties: Convention on the Rights of the Child' <https://www.gob.mx/sre> accessed 20 August 2024.

particularly important as it examines how these countries have incorporated the GC26 into their legislative frameworks, providing a child-focused lens for climate action.

The comparative analysis of Switzerland and Mexico provides a unique perspective. Switzerland, a high-income country with a strong track record in environmental resilience, contrasts with Mexico, a middle-income country with significant socio-economic challenges, including its large indigenous population. This study shows how different socio-economic, political and cultural contexts influence the implementation of children's rights in climate policy. By comparing these two countries, the thesis identifies best practices and highlights challenges that can inform broader global policy recommendations.

Furthermore, the inclusion of Switzerland is particularly relevant because of its involvement in climate litigation. The recent case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* before the European Court of Human Rights (ECtHR) highlighted the state's obligations to address CC in order to protect human rights. This case provides a unique perspective on the role of courts in addressing climate-related human rights violations and sets a precedent for future climate litigation.

This study is relevant for its potential to bridge the gap between international legal frameworks and national policy implementation and contributes to the broader goals of sustainable development and the protection of vulnerable populations, particularly children. It provides practical recommendations for policymakers, educators and advocates, highlighting how GC26 can be used to ensure that children's voices are an integral part of global climate governance.

The central research question guiding this master thesis is:

"How can the GC26 influence national climate policies regarding education for sustainable development and youth participation and what could be the practical outcomes for children's environmental rights? "

This master's thesis hypothesises that the effective integration and understanding of GC26 as an interpretive guide to the Convention on the Rights of the Child enhances national policies on education for sustainable development and youth participation in climate action. The thesis demonstrates that the synergistic influence of both the Committee's interpretive guidance and binding international frameworks leads to more effective climate policies that better address

the disproportionate impacts of CC on children. In order to prove the hypothesis the thesis investigates how Switzerland and Mexico interpret and apply the guidance provided by GC26 in their national policies, particularly regarding children's environmental rights and participation in climate action. It compares the methods and effectiveness of youth participation in climate action and education for sustainable development in the two selected states, and assesses how they engage young people in these areas. It also analyses how they incorporate the right to be heard into their climate action policies, particularly in terms of involving children and youth in decision-making processes, and evaluate the effectiveness of mechanisms that enable children's voices to be integrated into national climate strategies and the extent to which their participation influences policy outcomes. It explores how binding international agreements like the UNCRC and UNFCCC are implemented in the national frameworks of Switzerland and Mexico, and how GC26 supports the interpretation and implementation of these treaties, particularly in relation to the UNCRC, including assessing the gaps and challenges in this regard and identifying areas where both countries can strengthen their approach to ensure the protection and promotion of children's environmental rights. Finally, it offers actionable recommendations on how Switzerland and Mexico can utilise GC26 to enhance their climate action and education policies, ensuring children's rights are at the forefront.

1.3 Methodology

This master thesis employs a comparative case study methodology with the focus on the right to be heard, education for sustainable development, and climate action that includes children and youth. These areas are explored through the lens of both countries' interpretations and applications of the UNCRC and other relevant international agreements such as the United Nations Framework Convention on Climate Change (UNFCCC) and the PA.

A detailed comparative legal analysis is conducted to evaluate how Switzerland and Mexico interpret and implement GC26 within their respective national legal frameworks. This includes reviewing both countries' legislative measures, policy documents, and national reports submitted to the CRC, as well as other relevant environmental and climate laws. The focus is on identifying the extent to which each country aligns its national policies with the rights-based

guidance provided by GC26, particularly in relation to children's environmental rights, the right to be heard, and education for sustainable development.

This research relies heavily on the analysis of primary documents, including national climate strategies, legal frameworks, policy reports, and shadow reports submitted by NGOs. Specific attention is paid to the practical application of international frameworks and their incorporation into national legislation. In addition to GC26 and the UNCRC, the research examines key legal instruments in Mexico and the relevant Swiss legal frameworks. This analysis is complemented by international reports and case law to provide a comprehensive understanding of the legislative processes.

The thesis evaluates the methods and effectiveness of youth participation in both countries. This includes analysing the mechanisms in place for children and youth to be heard in climate action, as well as the impact of their participation on policy outcomes. The research considers national consultations, youth councils, and civil society initiatives, as well as specific cases of youth-led climate litigation.

A critical assessment is conducted to identify gaps and challenges in the implementation of GC26, UNCRC and UNFCCC, in both Switzerland and Mexico. The research highlights areas where national policies fail to adequately address children's rights in the context of CC and explores the barriers to effective youth participation in environmental governance.

Based on the findings from the comparative analysis, the study provides actionable policy recommendations for strengthening the integration of children's rights and youth participation in national climate policies. These recommendations focus on how Switzerland and Mexico can better implement GC26 and other binding international treaties to enhance the protection of children's environmental rights and support youth engagement in climate action.

To gain deeper insights into the practical application of education for sustainable development and youth participation in climate action, semi-structured interviews were conducted with two key groups. First, interviews with members of Swiss Youth for Climate provided a better understanding of the tangible outcomes of youth engagement in Switzerland's climate policies. These interviews shed light on how young people perceive their role in shaping climate action and the real-world impact of their involvement. Second, interviews were conducted with

experts in education who have carried out field analyses on the implementation of the Nueva Escuela Mexicana (NEM) in Mexico. These experts provided valuable insights into how education for sustainable development is integrated into this new educational framework and its effectiveness on the ground. The semi-structured format of the interviews allowed for flexibility, enabling the exploration of specific themes relevant to each interviewee's expertise while maintaining consistency across key topics. The transcripts of these interviews are included in Appendix 1 for reference, ensuring transparency and providing additional qualitative data to support the analysis in this study.

The study outline is as follows:

Chapter 2: International Legal Framework for Children's Environmental Rights

Chapter 2 examines the historical context and purpose of the UNCRC, focusing on key articles related to children's environmental rights, such as Articles 12, 24, and 29. It also analyses how binding treaties like the UNFCCC and the Paris Agreement intersect with children's rights, with particular emphasis on youth participation in environmental governance and education for sustainable development.

Chapter 3: General Comment No. 26

Chapter 3 provides an overview of GC26 and its relevance to the UNCRC. It outlines the key provisions, including the right to a healthy environment, the right to be heard, and education for sustainable development, and explains how these provisions inform national policies. The chapter also justifies the selection of Switzerland and Mexico as case studies, emphasising their contrasting socio-economic and political contexts, which offer diverse perspectives on the implementation of international frameworks for children's environmental rights.

Chapter 4: Switzerland's National Climate Policies and Children's Rights

Chapter 4 explores Switzerland's national climate policies and the integration of GC26 and the UNCRC into Swiss legislation. It analyses how Switzerland has implemented the UNCRC, particularly regarding children's environmental rights, education for sustainable development, and the right to be heard. Additionally, it analyses implementation of UNFCCC, and evaluates Switzerland's approach to youth participation in climate governance and environmental education, discussing the gaps and challenges in integrating children's voices into policy-making.

Chapter 5: Mexico's National Climate Policies and Children's Rights

Chapter 5 examines Mexico's national climate policies and the implementation of GC26 and the UNCRC within its legal framework. It analyses how Mexico has integrated the UNCRC with respect to environmental rights, focusing on education for sustainable development and children's right to be heard. The chapter also explores Mexico's mechanisms for implementing UNFCCC, as well as involving children and youth in climate action, emphasising education for sustainable development and the participation of indigenous communities in environmental policies.

Chapter 6: Comparative Analysis of Gaps and Challenges

Chapter 6 provides an overview of the comparative analysis between Switzerland and Mexico regarding the implementation of international frameworks for children's environmental rights. It identifies gaps in Switzerland's climate policies, particularly concerning youth participation and environmental education, and analyses Mexico's challenges in integrating children's environmental rights, with a focus on indigenous participation and implementation barriers. The chapter concludes with recommendations for strengthening the integration of GC26 into national policies in both countries, emphasising the need to enhance youth participation and education for sustainable development.

Chapter 7: Conclusions and Broader Implications

Chapter 7 presents a comparative analysis of Switzerland and Mexico's integration of children's rights within national climate policies, examining the broader implications of these findings in the context of recent advancements in international climate and human rights law. The chapter underscores the importance of aligning national policies with GC26 to better address the vulnerabilities and agency of children in climate action. It concludes with specific recommendations for both countries to enhance child-centred climate policies, advocating for reforms that ensure meaningful youth participation, improved legal frameworks, and strengthened environmental protections for future generations.

Chapter 2: International Legal Framework on Children's and Environmental Rights

The international legal framework on the rights of the child is comprehensive and includes a number of treaties and conventions that set global standards for the protection and best interests of children. The International Covenant on Civil and Political Rights (ICCPR)⁶, in particular Articles 23 and 24, emphasises the family as the fundamental unit of society and mandates special measures to protect children without discrimination. Regional instruments such as the African Charter on the Rights and Welfare of the Child further elaborate on these rights and address the specific challenges faced by children in the African context.⁷ In addition, treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁸ and the Convention on the Rights of Persons with Disabilities (CRPD)⁹ intersect with children's rights on issues of gender equality and inclusion. While this comprehensive legal landscape provides valuable context, this thesis will centre on the UNCRC and the UNFCCC, as these frameworks are most directly relevant to the core hypothesis.

2.1. The United Nations Convention on the Rights of the Child (UNCRC)

Adopted in 1989, the UNCRC serves as a comprehensive human rights treaty that focuses on the rights and protection of children around the world. Its primary purpose is to recognize and institutionalise rights specific to children. It ensures children's entitlement to inherent human dignity and addresses their unique needs and vulnerabilities. The UNCRC outlines several substantive rights, including the right to life and development and protection from abuse and exploitation and emphasises the importance of education, health care, and economic security.¹⁰ The UNCRC consists of 54 articles that detail the obligations of states to respect, protect, and fulfil these rights¹¹ and emphasises the principle that the best interests of the child should be a

⁶ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

⁷ African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (1990).

⁸ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW)

⁹ Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD)

¹⁰ United Nations Convention on the Rights of the Child, art 6 (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

¹¹ Ibid.

primary consideration in all actions concerning children. In addition to codifying universal standards for the protection of children, the UNCRC also requires states parties to report on their compliance. This provides a global framework for advocacy and accountability for children's rights.

The 1989 UNCRC emerged from a century-long evolution in recognizing children's rights, shaped by historical milestones and a shifting view of children as rights holders rather than mere recipients of adult protection.¹² Early efforts began with the International Labor Organization's 1919 conventions against child labour, followed by the League of Nations' 1924 Declaration of the Rights of the Child.¹³ Post-World War II developments, especially the 1959 UN Declaration of the Rights of the Child, further advanced these protections.¹⁴ NGOs like Save the Children¹⁵, and UNICEF, played crucial roles in advocating for a rights-based framework, reflecting the urgent need for a binding international treaty as children continued to suffer amid global conflicts and social upheaval.¹⁶ The UNCRC thus culminated in a comprehensive and legally binding framework, with Optional Protocols^{17 18} adopted to address specific threats, such as children in armed conflict and child exploitation, underscoring a commitment to uphold children's rights universally. In 2011, the Optional Protocol on the communications procedure¹⁹ was adopted to further strengthen the UNCRC. This procedure allows children or their representatives to submit complaints about violations of their rights directly to the CRC. This mechanism is groundbreaking in that it provides a platform for children to seek justice at the international level. In doing so, it enhances the enforceability of the rights enshrined in the UNCRC and its protocols.

¹² Sharon Detrick, 'The Origins, Development and Significance of the United Nations Convention on the Rights of the Child' in The United Nations Convention on the Rights of the Child 20. https://doi.org/10.1163/9789004632745_004.

¹³ Ibid., p. 19.

¹⁴ Cynthia Price Cohen, 'United Nations Convention on the Rights of the Child: Developing International Norms to Create a New World for Children' in Kathleen Alaimo and Brian Klug (eds), *Children as Equals: Exploring the Rights of the Child* (University Press of America 2002) 49.

¹⁵ Ann Nehlin, 'Exporting Visions and Saving Children: The Swedish Save the Children Fund' (Linköping Studies in Arts and Science 494, 2009) 12.

¹⁶ Dominique Marshall, 'Humanitarian Sympathy for Children in Times of War and the History of Children's Rights, 1919–1959' in James Marten (ed), *Children and War: A Historical Anthology* (New York University Press 2002) 184.

¹⁷ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (adopted 25 May 2000, entered into force 12 February 2002) 2173 UNTS 222.

¹⁸ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (adopted 25 May 2000, entered into force 18 January 2002) 2171 UNTS 227.

¹⁹ Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (adopted 19 December 2011, entered into force 14 April 2014) 2131 UNTS 222.

Every right in the UNCRC should have equal weight, but when we analyse its relationship and impact on environmental rights, some stand out more than others. According to Lucy Smith, an expert and former member of the CRC, there are four central principles that underpin the entire UNCRC. First, Article 1 states that the best interests of the child must be a primary consideration in all child-related actions. Second, Article 2 prohibits discrimination of any kind. Third, Article 6 recognizes the child's inherent right to life and ensures his or her survival and development to the fullest extent possible. Finally, Article 12 guarantees the child's right to freely express his or her views on matters affecting him or her and ensures that these views are given due weight.²⁰

In addressing environmental factors related to children's health, Article 24 of the Convention mandates that States Parties commit themselves to the highest attainable standard of health for children and explicitly recognizes the right to access to health services. This article highlights several measures that States must take to fulfil this right, such as reducing infant and child mortality, providing necessary medical care, and combating disease and malnutrition. Importantly, it calls for the integration of environmental considerations by mandating the provision of safe, nutritious food and clean drinking water, while recognizing the critical impact of environmental pollution. This approach not only emphasises the traditional aspects of health care, but also broadens the scope to include environmental sanitation, which is critical to the prevention of child health problems. In addition, the article encourages international cooperation to improve access to health care, particularly in developing countries, reflecting a global commitment to a comprehensive framework for children's health that is linked to environmental safety.²¹ In addition, Article 29(e) emphasises the importance of developing respect for the natural environment.²²

It is arguable that CC and environmental rights encompass all four of the foundations mentioned by Lucy Smith. Torunn Grindheim, Spord Borgen and Eriksen Ødegaard²³ suggest

²⁰ Elin Eriksen Ødegaard and Jorunn Spord Borgen, *Childhood Cultures in Transformation : 30 Years of the UN Convention of the Rights on the Child in Action towards Sustainability* (Brill | Sense 2021) 3.

²¹ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 24.

²² Ibid, art 29(e).

²³ L Torunn Grindheim, J Spord Borgen and E Eriksen Ødegaard, 'In the Best Interests of the Child: From the Century of the Child to the Century of Sustainability' in Elin Eriksen Ødegaard and Jorunn Spord Borgen (eds), *Childhood Cultures in Transformation: 30 Years of the UN Convention on the Rights of the Child in Action Towards Sustainability* (Brill Sense 2021) p. 19.

three themes that they see as emerging and characterised by paradoxes and ambivalence regarding children's protection, participation and recreation in the wake of the Century of the Child - all with the overarching goal of being in the best interests of the child.²⁴ The first theme begins with the right of children to be protected, which is an overarching goal of the UNCRC. Articles 2, 3, 15, 16, 17, 19, 20, 22, 25, 31 and 38 refer to the concepts of protection or safeguarding. The second theme is the child's right to be heard²⁵ and the third theme is the child's right to play and recreation.²⁶ The authors further argue that the paradoxes and ambivalences surrounding the protection of children's best interests pose significant challenges in the allocation of responsibilities across generations, structures, cultures and established knowledge bases.²⁷ Children's freedom of expression or right to be heard, typically understood as participation, is often more limited than similar rights afforded to adults, and their spaces for participation are segregated from those of adults.²⁸ In addition, children's rights to play and recreation are often restricted by adults. Determining what is "good" for children is challenging, as it is difficult to distinguish between legitimate fears and genuine pleasures, and to identify who benefits from these determinations.²⁹ Finally, the authors highlight paradoxes and uncertainties as catalysts for change and transformation in both research and practice. They argue for forward-looking and sustainable transdisciplinary approaches to research design and practice, with multidisciplinary collaboration among experts, citizens, and policy makers, in an effort to make decisions that are in the best interests of the child.³⁰

It is also crucial to recognize that the UNCRC may reflect an "adult-centred" perspective on human rights that tends to privilege the views and experiences of rational adults over those of children³¹ and thus emphasises the importance of contexts, situations and cultures of interaction. Children have the right to be involved in discussions, programs and decision-making processes related to CC, according to their level of maturity. As future stewards of our

²⁴ UNCRC (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 2.

²⁵ Ibid, arts 12, 13.

²⁶ Ibid, art 31.

²⁷ L Torunn Grindheim, J Spord Borgen and E Eriksen Ødegaard, 'In the Best Interests of the Child: From the Century of the Child to the Century of Sustainability' in Elin Eriksen Ødegaard and Jorunn Spord Borgen (eds), *Childhood Cultures in Transformation: 30 Years of the UN Convention on the Rights of the Child in Action Towards Sustainability* (Brill Sense 2021) p. 20.

²⁸ Ibid, pp. 21-23.

²⁹ Ibid, p. 24.

³⁰ L Torunn Grindheim, J Spord Borgen and E Eriksen Ødegaard, 'In the Best Interests of the Child: From the Century of the Child to the Century of Sustainability' in Elin Eriksen Ødegaard and Jorunn Spord Borgen (eds), *Childhood Cultures in Transformation: 30 Years of the UN Convention on the Rights of the Child in Action Towards Sustainability* (Brill Sense 2021) pp. 29-30.

³¹ D Kennedy, *The Well of Being: Childhood, Subjectivity, and Education* (State University of New York Press 2006).

water resources and environmental stewards in their homes and communities, their role is critical. Although children are adversely affected by global warming, they should be seen not only as victims but also as proactive contributors to these critical issues.³² James, Jenks, and Prout suggest that we should see children as "agents" capable of contributing to the culture in their families and communities.³³ This is of utmost importance, as GC26 also emphasises the importance of recognizing and facilitating participation in social, economic, cultural and civic life, respecting their evolving capacities and individual circumstances. The UNCRC emphasises the importance of listening to children's perspectives, and GC26 further emphasises the importance of listening to children in the future. It is therefore essential to cultivate a culture of mutual participation or "reciprocal participatory culture" that critically examines the notion of "the other" and the categorization of individuals as such. A child should not be seen merely as "the other," someone who must quickly conform to adult norms. Instead, they should be recognized as active participants with their own perspectives and rights.³⁴ For example, Article 12 is notable not only for its content, but also for its recognition of the child as a complete individual, endowed with integrity, personality, and the capacity for active participation in society. This recognition contributed to making Article 12 one of the most debated provisions during the drafting of the UNCRC.³⁵ Beyond participation, another significant challenge that emerges when examining context and structure is that children face a formidable obstacle due to their age. Without adult support, children typically do not have access to the necessary information, knowledge, skills, or persuasive power, nor do they have the economic resources necessary to identify and access the limited "effective" remedies available to address the CC harms that affect them.³⁶

Education for sustainable development is another important component when discussing children as "agents". The OECD 2030 interviews with children and young people have provided important insights into their concerns about well-being and access to education. These young people express a desire for security and the freedom to shape their own identities and

³² S Sanz-Caballero, 'Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child' (2013) 13 *Ethics in Science and Environmental Politics* p. 9.

³³ A James, C Jenks, and A Prout, *Theorizing Childhood* (Polity Press 1998).

³⁴ L Karlsson, 'Studies of Child Perspectives in Methodology and Practice with 'Osallisuus' as a Finnish Approach to Children's Reciprocal Cultural Participation' in Elin Eriksen Ødegaard and Jorunn Spord Borgen (eds), *Childhood Cultures in Transformation 30 Years of the UN Convention on the Rights of the Child in Action Towards Sustainability* (Brill Sense 2021)

³⁵ L Lundy, "'Voice' Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33 *British Educational Research Journal* p. 928.

³⁶ S Sanz-Caballero, 'Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child' (2013) 13 *Ethics in Science and Environmental Politics* p. 9.

futures. They also seek a sense of belonging and want to make an active contribution to the well-being of society. In educational settings, they emphasise the need to be respected as learners and individuals, and the importance of recognizing their knowledge, skills and creativity. This perspective is consistent with the principles of Article 12 of the UNCRC, which advocates for respect and serious consideration of children's views.³⁷ Therefore, after issuing the GC26, the question should be asked whether another Optional Protocol that addresses the obligations of States with respect to children and the environment and issues such as CC should be elaborated?

While the Optional Protocol to the UNCRC on a Communications Procedure does not specifically address environmental rights, it provides a mechanism that could be used to address issues where environmental degradation impacts children's rights enshrined in the UNCRC. As a result, the Protocol indirectly facilitates the protection of children's rights in the context of environmental degradation by allowing complaints that link environmental degradation to violations of children's rights to be brought before the CRC.

As we adapt to new challenges such as environmental degradation and CC, the UNCRC framework must evolve. The inclusion of optional protocols has strengthened its protections against specific vulnerabilities, such as involvement in armed conflict and exploitation. These improvements not only increase accountability, but also allow for more immediate responses to rights violations. Going forward, it's imperative that interpretations of the UNCRC respond dynamically to global issues and ensure that children's rights are upheld in all contexts, including their right to a safe and healthy environment. This underscores the need for continued commitment and innovative approaches to the effective implementation of the UNCRC to ensure the rights and well-being of children worldwide.

The CRC was established with the adoption of the UNCRC in 1989. Its creation marked a significant step forward, as it introduced the concept of States' obligations to implement public policies focused on children's rights.³⁸ The Committee serves as a channel of communication and ensures that States comply with the rights set forth in the Convention, and one of the

³⁷ OECD, 'Future of Education and Skills 2030' (OECD) <<https://www.oecd.org/en/about/projects/future-of-education-and-skills-2030.html>>.

³⁸ J R P Veronese and W H M Muniz Falcão, 'Can the Child Speak? Possibilities of Direct Communication with the UN Committee on the Rights of the Child' (2019) XIX *Anuario Mexicano de Derecho Internacional* 211, DOI: <http://dx.doi.org/10.22201/ijj.24487872e.2019.19.13323>.

Committee's primary functions is to review State reports and interpret the provisions of the UNCRC.³⁹

The UNCRC itself makes no explicit mention of the establishment of an Independent National Human Rights Institutions (NHRI), but in 2002, the General Comment No. 2 (GC2) on the function of independent NHRIs for the advancement and defence of children's rights filled this gap. According to GC2, States Parties are required by article 4 of the UNCRC to adopt all applicable legislative, administrative, and other measures; the setup of an NHRI is specifically one of these broad measures of implementation.⁴⁰ In particular, the Committee states that the establishment of an NHRI falls “within the commitment made by States parties upon ratification to ensure the implementation of the UNCRC and advance the universal realisation of children’s rights”. It clarifies further that NHRIs “are complementary to effective government structures for children; the essential element is Independence” and their role is “to monitor independently the State’s compliance and progress towards implementation and to do all it can to ensure full respect for children’s rights”.⁴¹ Furthermore, it explains that while performing their mandate, NHRIs may be required “to develop projects to enhance the promotion and protection of children’s rights, it should not lead to the Government delegating its monitoring obligations to the national institution”.

2.2 The United Nations Framework Convention on Climate Change (UNFCCC)

Since its adoption in 1992, the UNFCCC has been the principal international framework for addressing CC through global cooperation. With 198 Parties⁴², the UNFCCC aims to stabilise GHG concentrations in the atmosphere to prevent dangerous anthropogenic CC and to enable natural adaptation and sustainable development. The goal is to achieve net-zero GHG emissions by balancing emissions with removals through natural processes and technological innovation. The UNFCCC provides a structural basis for ongoing cooperation, but does not enforce specific quantitative commitments. The Conference of the Parties (COP), the treaty's governing body, meets regularly to assess progress and coordinate international climate policy,

³⁹ Ibid.

⁴⁰ CRC, 'General Comment No 2: The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child' (15 November 2002) UN Doc CRC/GC/2002/2

⁴¹ Ibid.

⁴² United Nations Climate Change, 'Parties to the United Nations Framework Convention on Climate Change' (*Unfccc.int*) <https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states?field_national_communications_target_id%5B515%5D=515>.

emphasising the common obligations of all parties to monitor, report, and mitigate their GHG emissions and to prepare for climate impacts.⁴³

The UNFCCC is very clear on the obligations of Parties, and it is clearly stated in Article 4 under Commitments that all Parties are required to undertake several critical actions.⁴⁴ These include the development and periodic updating of national inventories of GHG emissions and removals using standardised methodologies, and the formulation of ongoing national and regional strategies for mitigation and adaptation to CC. Parties are also expected to promote the development and diffusion of technologies that reduce GHG emissions in various sectors, such as energy and agriculture, while promoting the sustainable management and conservation of carbon sinks, such as forests and oceans. They are also charged with integrating CC considerations into broader social, economic and environmental policies to minimise negative impacts. Commitments also extend to enhancing research, fostering international cooperation, and sharing information to better understand and address the impacts of CC. Education, public awareness and reporting to the COP on these efforts are also integral components of Parties' responsibilities under the UNFCCC. Broadly speaking, commitments or contributions under the UNFCCC can be categorised as outcome and/or action commitments. This means that such commitments may outline specific outcomes that countries are expected to achieve and/or define actions that they are required to undertake.⁴⁵

Although children are not specifically mentioned in the UNFCCC, the UNFCCC is of vital importance to all future generations and, more importantly, the UNFCCC acts as a central mechanism for a growing number of transnational governance efforts.⁴⁶ While GC26 and the UNFCCC are fundamentally different they both construct comprehensive frameworks for state obligations, particularly in addressing environmental issues. Despite the 31-year gap between them, a detailed analysis reveals several similarities in how they guide states in managing environmental impacts. These similarities underscore a consistent international focus on improving environmental governance through both advisory guidelines and legally binding agreements. GC26 emphasises the need for States to protect children from the adverse effects

⁴³ J A Leggett, 'The United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement: A Summary' p. 2.

⁴⁴ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107 (UNFCCC), art. 4.

⁴⁵ L Hermwille and others, 'UNFCCC before and after Paris – what's necessary for an effective climate regime?' (2017) 17 Climate Policy 150, DOI: 10.1080/14693062.2015.1115231 155.

⁴⁶ H Bulkeley and others, *Transnational Climate Change Governance* (Cambridge University Press 2014).

of environmental degradation and CC, to ensure their participation in decision-making processes⁴⁷ and to integrate children's rights into national environmental and climate policies.⁴⁸ Similarly, the UNFCCC requires Parties to develop and implement comprehensive national strategies to address CC through mitigation and adaptation.⁴⁹ Both instruments emphasise the importance of education and public awareness to empower and prepare younger generations and the general population to address environmental challenges.⁵⁰⁵¹ They also advocate for strong international cooperation and support, with GC26 focusing on the protection of children's environmental rights⁵² and the UNFCCC aiming to facilitate global efforts to reduce GHG emissions and enhance adaptive capacity. Together, these frameworks underscore the commitment to inclusive policy-making and the importance of protecting vulnerable groups, especially children, in the context of global environmental and climate crises.

Another interesting aspect of the UNFCCC is that the obligations of all parties are not the same - some countries have more responsibility than others. Differentiation among nations has been implemented by establishing a fixed and binary categorization, with traditional industrialised countries classified under Annex I of the UNFCCC and developing countries identified as non-Annex I countries.⁵³ As outlined in Article 4.2 of the UNFCCC, developed countries and other Annex I Parties have specific commitments to mitigate CC. They are required to adopt national policies aimed at limiting anthropogenic emissions of GHG and enhancing carbon sinks, with the aim of demonstrating leadership in reducing emissions consistent with the objectives of the UNFCCC. These countries are expected to return to earlier levels of GHG emissions, taking into account their specific economic circumstances and the need for sustainable growth. Annex I Parties, currently comprising 43 countries⁵⁴ will also be required to submit detailed information on their policies, measures and projected emissions to the COP, which will review this data on a regular basis. The methodologies for calculating emissions will be based on the best available science, and the adequacy of these commitments will be reviewed periodically.

⁴⁷ CRC GC26 (2023) UN Doc CRC/C/GC/26, paras. 26, 27, 28, 70, 77, 102.

⁴⁸ Ibid., paras 42, 67, 83.

⁴⁹ UNFCCC (opened for signature 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 4(2)(a).

⁵⁰ CRC, GC26 (2023) UN Doc CRC/C/GC/26, paras 9, 51-57.

⁵¹ UNFCCC (opened for signature 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 6.

⁵² CRC, GC26 (2023) UN Doc CRC/C/GC/26, paras 6, 7, 8, 21, 35, 44, 47, 73, 101.

⁵³ L Hermwille and others, 'UNFCCC before and after Paris – what's necessary for an effective climate regime?' (2017) 17 Climate Policy p. 150, DOI: 10.1080/14693062.2015.1115231.

⁵⁴ United Nations Climate Change, 'Parties to the United Nations Framework Convention on Climate Change' (*Unfccc.int*) <https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states?field_national_communications_target_id%5B515%5D=515>.

In addition, Annex I countries must coordinate their policies with other Parties, review their practices that contribute to increased emissions, and consider changes to Annex I and II lists as appropriate. Non-Annex I Parties may choose to voluntarily adhere to these commitments.⁵⁵ In addition, Annex II Parties, which are developed countries, have specific commitments to assist developing countries, particularly those most vulnerable to the impacts of CC, by meeting the costs of adaptation. These countries are also required to take practical steps to promote, facilitate and finance the transfer of environmentally sound technologies and know-how to developing countries. This assistance is intended to enhance the capacity of developing countries to implement the provisions of the UNFCCC. Annex II countries must assist in building local technological capacity in developing countries, while other nations and organizations in a position to contribute may also assist in this technology transfer effort.⁵⁶

3.2.2 Role and Relevance of COPs

Another important aspect of the UNFCCC is the COP - the main decision-making body of the UNFCCC. All member states, including both Switzerland and Mexico, meet at the COP to review the implementation of the UNFCCC and take the necessary decisions to ensure its progress. A key role of the COP is to evaluate national communications and emission inventories, and to assess countries' efforts to meet the UNFCCC's goals.⁵⁷ While children and youth are profoundly affected by CC and recognized as key agents of change, their formal inclusion in COP processes has evolved gradually over several sessions. It was not until COP11 in Montreal in 2005 that the first Conference of Youth (COY) was convened, creating a platform to strengthen youth engagement in climate dialogues, with a focus on policy documents, capacity building, skill-building workshops, and cultural exchange...⁵⁸ Subsequently, COP15 in Copenhagen in 2009 marked a significant milestone when the UNFCCC Secretariat granted provisional constituency status to youth NGOs, which consolidated under the banner of YOUNGO.⁵⁹ This development facilitated a cohesive youth voice in the climate negotiations. However, it took until COP26 in Glasgow in 2021 for youth participation to become significantly more visible. At this conference, over 47,479 young climate leaders actively contributed their perspectives and demands, with the COY16 Global

⁵⁵ UNFCCC (opened for signature 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 4(2).

⁵⁶ Ibid, art 4(2).

⁵⁷ UNFCCC, 'Conference of the Parties (COP)' (*Unfccc.int* 12 June 2019) <<https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-cop>>.

⁵⁸ UNFCCC, 'Conference of Youth (COY)' (*Unfccc.int*) <<https://unfccc.int/topics/education-and-youth/youngco/coy>>.

⁵⁹ UNFCCC, 'YOUNGO.' (*Unfccc.int* 2021) <<https://unfccc.int/topics/education-youth/youth/youngco>>.

Youth Position Statement articulating youth priorities directly to ministers and significantly influencing discussions.⁶⁰

In 2019, during the 25th Conference of Parties (COP25) in Madrid, a landmark event took place when global leaders and young activists came together to endorse the Intergovernmental Declaration on Children, Youth and Climate Action. This groundbreaking commitment marked a significant milestone in recognizing and prioritizing the role of children and youth in climate action, with the goal of strengthening inclusive and youth-focused climate initiatives at the national and global levels.⁶¹ To date, the Declaration has been signed by 52 countries, including Mexico, but not Switzerland.⁶² It represents an unprecedented set of commitments by nations to systematically integrate the unique needs, rights and perspectives of children into their climate policies and actions at all levels.⁶³ The Declaration underscores the increased vulnerability of children to CC, highlights their role as agents of change, and calls for immediate action. It reaffirms commitments under the PA and human rights conventions to ensure that children's rights are an integral part of climate action. The Declaration calls for recognizing children's right to a healthy environment, integrating their perspectives into climate action plans, strengthening their participation in climate processes, and increasing investment in youth-focused climate resilience and education.⁶⁴ While the Intergovernmental Declaration on Children, Youth and Climate Action is not legally binding, it is a critical tool for guiding global and national efforts to integrate children's perspectives and rights into CC policies.

Another very important milestone, especially for children, occurred two years later at COP27 in Egypt - for the first time in COP history, children and youth were mentioned seven and eleven times, respectively, in the Sharm el-Sheikh Plan of Implementation.⁶⁵ The Sharm el-Sheikh Plan of Implementation emphasises a comprehensive approach to integrating children's rights into global climate policy. The document recognizes the need to respect and address the rights of vulnerable groups, including children, and to align climate action with broader human

⁶⁰ COY, 'Global Youth Statement - COY16' (*ukcoy162023*) <<https://ukcoy16.org/global-youth-statement>>.

⁶¹ UNICEF, 'Declaration on Children, Youth and Climate Action' (*www.unicef.org* 11 September 2024) <<https://www.unicef.org/environment-and-climate-change/climate-declaration>>.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ UNICEF, 'Declaration on Children, Youth and Climate Action' (*www.unicef.org* 11 September 2024) <<https://www.unicef.org/environment-and-climate-change/climate-declaration>>.

⁶⁵ COP, 'Decision -/CP.27 Sharm el-Sheikh Implementation Plan' (UNFCCC 2022) UN Doc FCCC/CP/2022/-/CP.27 paras. 51, 55, 56, 57.

rights obligations. The document recognizes the significant contributions of indigenous peoples, local communities, urban areas and civil society, including young people and children, to CC mitigation and adaptation. It emphasises the critical need for collaborative and multi-level efforts to effectively address these environmental challenges.⁶⁶ The Plan explicitly recognizes the central role of children and young people as agents of change, It also expresses appreciation for the contributions of children and young people⁶⁷ and encourages future COP presidencies to continue to promote their meaningful participation in climate discussions.⁶⁸ This integration of children's rights and perspectives demonstrates a strategic approach to ensuring that climate policies are not only inclusive, but also forward-looking, taking into account the long-term impacts on future generations. In addition to the Implementation Plan, the COP27 Presidency organised the first-ever youth-led climate forum, the Sharm el-Sheikh Youth Climate Dialogue, which kicked off the Youth and Future Generation Day, bringing together high-level policymakers with young representatives from the Conference of Youth (COY17), who presented the aforementioned Global Youth Statement.⁶⁹

Just before COP28, UNICEF Deputy Executive Director Kitty van der Heijden underscored the urgency of addressing the impacts of CC on vulnerable populations, especially children, and the stakes involved in global climate policy responses. She said:

*"Our success or failure in tackling the climate crisis will be measured by two numbers. Staying below 1.5 degrees and protecting the 1 billion children whose lives are at risk from this crisis. The climate crisis is not only changing the planet. It is changing children. Children's bodies and minds are uniquely vulnerable to climate impacts, and children are disproportionately affected by this crisis that is not of their making."*⁷⁰

In partnership with the United Nations Children's Fund (UNICEF) and the CRC, the UAE COP28 Presidency hosted an expert intergenerational dialogue on December 8, 2023. The event, part of the COP28 Day on Youth, Children, Education and Skills, was entitled "From the Most Vulnerable to the Most Valuable: Placing Children's Rights at the Heart of Climate Action," and aimed to elevate the conversation on integrating children's rights into climate policy and action, reflecting the urgency and importance of addressing this critical issue in

⁶⁶ COP, 'Decision -/CP.27 Sharm el-Sheikh Implementation Plan' (UNFCCC 2022) UN Doc FCCC/CP/2022/-/CP.27 para 51.

⁶⁷ Ibid, para 57.

⁶⁸ Ibid, para 56.

⁶⁹ UNDP, 'Celebrating COP27 Wins for Young People | United Nations Development Programme' (UNDP25 January 2023) <<https://www.undp.org/blog/celebrating-cop27-wins-young-people>>.

⁷⁰ UNICEF, 'UNICEF at COP28' (unicef.org28 November 2023) <<https://www.unicef.org/rosa/press-releases/unicef-cop28>>.

global climate discussions.⁷¹ Although not directly on the official agenda, the session was inspired by GC26. In addition, there were several important milestones at COP28 that will directly affect both children and youth in the future. UNICEF Goodwill Ambassador Vanessa Nakate introduced four child climate activists from around the world, who spoke in the official press conference room about their experiences and issued calls to action for world leaders.⁷² For the first time at a COP, country negotiators, before entering discussions, listened to pre-recorded videos from children in 13 countries sharing their personal experiences with CC, emphasising the immediate and personal impacts of global climate issues.⁷³

Furthermore, the UAE created the role of Youth Climate Champion, building on the foundation of the COP27 Youth Envoy.⁷⁴ The transition from the "Youth Envoy" role at COP27 to the "Youth Climate Champion" at COP28 signifies a deepened commitment to elevating youth engagement in the climate dialogue. Initially, the Youth Envoy was tasked with coordinating youth programs and ensuring that young people's perspectives were communicated to the COP27 Presidency. This role served as a foundational step in formalising youth participation in climate negotiations. However, at COP28, the newly introduced "Youth Climate Champion" role broadened these responsibilities, emphasising not just representation but active leadership within the COP Presidency's core team. This expansion reflects a strategic move to embed youth directly into the leadership framework, empowering them to influence policy discussions more substantively and mobilise broader support for youth-driven climate initiatives.⁷⁵ The document entitled "Decision -CP/28 -/CMA.5 Presidency Youth Climate Champion" from COP28 marks a significant step forward in recognizing and structuring youth participation in global climate policy.⁷⁶ This decision reaffirms the essential role of children and young people as agents of change in the climate crisis and emphasises the establishment of the Youth Climate Champion role to enhance their meaningful participation.⁷⁷ It highlights various initiatives,

⁷¹ Ibid.

⁷² N Lakhani, 'Young People's Plea to Cop28: "World Leaders Owe It to Future Generations"' (*The Guardian* 6 December 2023) <<https://www.theguardian.com/environment/2023/dec/06/young-people-plea-cop28-world-leaders-owe-future-generations>> accessed 10 August 2024.

⁷³ UNICEF, 'UNICEF at COP28' (*unicef.org* 28 November 2023) <<https://www.unicef.org/rosa/press-releases/unicef-cop28>>.

⁷⁴ COP28 UAE, 'COP28 UAE Youth Climate Champion - COP28 UAE' (*Cop28.com* 2023) <<https://www.cop28.com/en/cop28-uae-youth-climate-champion#:~:text=In%20the%20face%20of%20escalating>> accessed 10 August 2024.

⁷⁵ COP28 UAE, 'COP28 UAE Youth Climate Champion - COP28 UAE' (*Cop28.com* 2023) <<https://www.cop28.com/en/cop28-uae-youth-climate-champion#:~:text=In%20the%20face%20of%20escalating>> accessed 10 August 2024.

⁷⁶ COP, 'Decision -CP/28 -/CMA.5 Presidency Youth Climate Champion' (COP28 2023) UN Doc FCCC/CP/2023/-/CMA.5.

⁷⁷ Ibid, paras 1, 4.

such as the organisation of youth pavilions and forums, aimed at elevating youth voices in climate discussions.⁷⁸ It also outlines operational details for the Youth Climate Champion, who is tasked with facilitating inclusive engagement and integrating children's and young people's perspectives into the UNFCCC process and beyond.⁷⁹ The decision encourages the broader involvement of the Youth Climate Champion in UNFCCC bodies and events to ensure that youth contributions are integrated into CC discussions at all levels.⁸⁰ This reflects a commitment to integrating the insights and energies of young people into the development of effective and sustainable climate action, and a significant shift towards recognizing and harnessing the unique contributions of young people in shaping resilient and inclusive climate policies.

The Presidency Youth Climate Champion aims to engage children across the 6 pillars of ACE

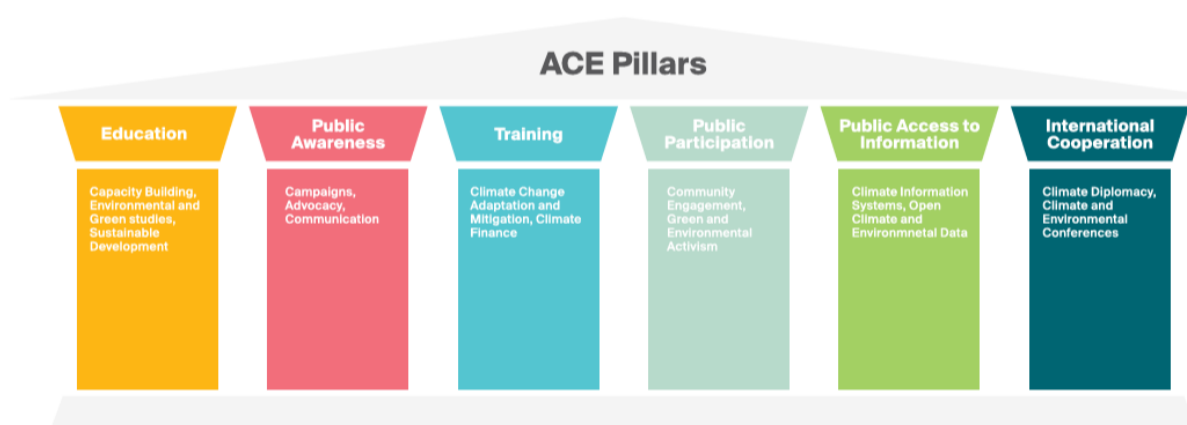


Figure 1 - ACE Pillars

COP28 also urged Parties to expand climate education and strengthen children's capacities in their adaptation strategies under the Global Goal on Adaptation. At the same time, the Global Stocktake called for the first-ever Expert Dialogue to address the unequal impacts of CC on children.⁸¹ In addition, at the RewirEd Summit, hosted by Dubai Cares, UNICEF and Generation Unlimited (GenU) launched the Green Rising initiative during the first COP Youth, Children, Education and Skills Day.⁸² The initiative aims to catalyse grassroots climate action led by children and youth, especially girls, in developing countries. From 2023 to 2025, Green

⁷⁸ Ibid. para 5.

⁷⁹ Ibid, para 10.

⁸⁰ Ibid, paras 11, 12.

⁸¹ UNFCCC, 'History of Children at COP: An Essential Stakeholder in the UNFCCC Process'.

⁸² Generation Unlimited, 'COP28: UNICEF & Generation Unlimited Launch Green Rising for Youth Climate Action at RewirEd Summit' (8 December 2023) <<https://www.generationunlimited.org/stories/cop28-unicef-generation-unlimited-launch-green-rising-youth-climate-action-rewired-summit>>.

Rising plans to engage at least 10 million young people in volunteering, green skills development, job creation and entrepreneurship, while leveraging a network of public, private and youth stakeholders to mobilise hundreds of millions more.⁸³ At COP28, many opportunities were provided for children and young people to become actively involved in finding solutions to CC that were started at COP21, 26 and 27. The results and outcomes of these many initiatives remain to be seen in the coming years. COP29, which will be held in Baku, Azerbaijan, in November 2024 under the theme "In Solidarity for a Green World," has stated that one of its frameworks for action will be an inclusive process for inclusive outcomes where diverse voices can be heard.⁸⁴ There is no doubt that the Youth Climate Change Champion will play a key role in engaging children and young people, along with all other key stakeholders.

As these initiatives unfold, a critical question remains: What additional measures must be taken to further enhance the inclusion and impact of youth and children in the ongoing climate dialogue and action?

2.2.3 Climate Change Litigation

CC litigation provides a means for civil society and individuals to hold governments and the private sector accountable for inadequate climate action. Plaintiffs often use a variety of legal strategies in national and international jurisdictions to force stronger mitigation and adaptation measures.⁸⁵

The rise of climate litigation plays an increasingly important role in shaping the scope and ambition of climate governance (medium evidence, high agreement).⁸⁶ Successful outcomes in these cases can pressure states to adopt more ambitious climate policies. In addition, legal challenges to the approval of high-emissions projects have set important precedents that advance climate action, and there has also been a notable increase in climate-related litigation

⁸³ Ibid.

⁸⁴ COP29, 'COP29 Azerbaijan - United Nations Climate Change Conference' (cop29.az2024) <<https://cop29.az/en>>.

⁸⁵ United Nations Environment Programme, *Global Climate Litigation Report: 2023 Status Review* (2023) ISBN 978-92-807-4052-3 <https://doi.org/10.59117/20.500.11822/43008> 7.

⁸⁶ N K Dubash et al., 'Chapter 13: National and Sub-national Policies and Institutions' in *Climate Change 2022: Mitigation of Climate Change, Working Group III Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Intergovernmental Panel on Climate Change, Geneva 2022) https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_Chapter_10.pdf accessed 24 August 2024.

targeting private sector actors and financial institutions.⁸⁷ By November 2024, there are 822 cases against governments worldwide: 19 cases against governments, 30 on energy and power, 2 on environmental crimes, 276 on environmental assessment and permitting, 230 on GHG emissions reduction and trading, 156 on human rights, 12 on just transition, 13 on failure to adapt, 41 on biodiversity and ecosystem protection, 0 on public assembly, 6 on public trust, and 37 cases related to trade and investment, 1 on strategic litigation against public participation, 213 on corporations, 36 on protesters, and 15 classified as other.⁸⁸

Twenty-one of these cases against governments classified as human rights cases involve children and youth and span multiple countries, including Ireland, Estonia, Austria, Indonesia, Brazil, Ecuador, Australia, Germany, the United Kingdom, Canada, Colombia, Pakistan, and India, and address issues such as inadequate climate action plans, fossil fuel use, children's rights, human rights violations, failure to implement CC laws, and obligations under international climate agreements such as the Paris Agreement. The vast majority of cases are not successful on the merits and are dismissed for lack of justiciability, standing, or the court's decision to defer to the executive and legislative branches.⁸⁹

GC26 also emphasises the role of climate litigation, encouraging States to create mechanisms for collective complaints, such as class actions and public interest litigation, and to extend deadlines for addressing violations of children's rights due to environmental harm.⁹⁰ Given the complexity of these cases - especially those involving transboundary and cumulative impacts - strong legal representation is essential. Litigation can be lengthy, and international bodies often require exhaustion of domestic remedies first. To ensure justice, children should have access to free legal assistance, including legal aid and representation, and should be heard in proceedings affecting their rights. States should also take measures to reduce the financial risks faced by children in bringing public interest litigation.⁹¹

⁸⁷ Ibid.

⁸⁸ This data does not include the U.S. Sabin Center for Climate Change Law, 'Global Climate Change Litigation' (*Climate Change Litigation* 2024) <<https://climatecasechart.com/non-us-climate-change-litigation/>>.

⁸⁹ United Nations Environment Programme, *Global Climate Litigation Report: 2023 Status Review* (2023) ISBN 978-92-807-4052-3 <https://doi.org/10.59117/20.500.11822/43008> 7.

⁹⁰ CRC, GC26 (2023) UN Doc CRC/C/GC/26, para. 85.

⁹¹ Ibid, para. 86.

those of other vulnerable groups. This inclusion recognizes the unique vulnerability of children to climate impacts and affirms the importance of protecting their rights in the context of global climate initiatives. By emphasising children's rights, the PA aligns climate action with the protection and promotion of children's well-being, ensuring that children are at the centre of efforts to mitigate climate-related risks and build resilience.⁹⁸

The PA and the GC 26 converge on the fundamental objective of addressing CC with a special focus on children's rights and actively involving children in mitigation and adaptation processes. In addition, both urge States to recognize and fulfil their obligations to protect these rights in the context of environmental policies. The PA explicitly requires Parties to respect, promote and take into account their human rights obligations in their CC initiatives.⁹⁹ Correspondingly, GC26 emphasises the imperative of integrating children's rights into CC policies and actions, asserting that these rights are an essential component of the broader human rights agenda.¹⁰⁰ Both texts recognize the disproportionate impact of CC on vulnerable populations, particularly children. Throughout the entire document, the GC26 addresses the specific vulnerability of children to CC and advocates for protective measures tailored to their needs. The PA also recognizes the need to consider the vulnerability of all populations and communities, and calls for increased support and protection for those most at risk. It stipulates that adaptation measures should follow a country-specific, gender-responsive, participatory and fully transparent approach, taking into account the needs of vulnerable groups, including children, and ecosystems. Such actions should be informed by the best available scientific knowledge, as well as traditional, indigenous and local knowledge systems, and aim to integrate adaptation into relevant socio-economic and environmental policies, where appropriate.¹⁰¹ The PA also requires each Party to engage in adaptation planning processes and action implementation. This includes developing or enhancing plans, policies and inputs that assess CC impacts and vulnerabilities, thereby facilitating the formulation of prioritised actions that take into account vulnerable communities, especially children, and ecosystems.¹⁰²

⁹⁸ 'Paris Agreement' (adopted 12 December 2015, entered into force 4 November 2016) UN Treaty Series, Preamble.

⁹⁹ Ibid.

¹⁰⁰ CRC, GC26 (2023) UN Doc CRC/C/GC/26 para. 10.

¹⁰¹ PA (adopted 12 December 2015, entered into force 4 November 2016) UN Treaty Series, para. 5.

¹⁰² Ibid, para. 9(c).

In 2020, a critical year, countries faced a deadline to strengthen their initial NDCs, submitted prior to the 2015 PA.¹⁰³ These NDCs outlined commitments to achieve a sustainable, low-emission future, with targets to limit global temperature rise to between 1.5°C and 2.0°C, in line with the PA's goals.¹⁰⁴ Crucially, these commitments needed to integrate health and equity considerations. The importance of NDCs in the context of national implementation and their role in global climate goals is further analysed in the following chapter, which provides an in-depth comparison of how Switzerland and Mexico are approaching their climate commitments.

Based on the above, the UNFCCC and the PA, as well as the GC26 share common goals in addressing the needs and rights of children, who are both most affected by CC and key agents of change. These documents emphasise the need to involve children more meaningfully in decision-making and participatory processes. However, GC26 is notably more comprehensive and up-to-date, addressing various dimensions of children's rights in the context of CC, including their active participation, environmental education and protection from harm. The UNCRC and the UNFCCC recognize children and often include them among vulnerable groups affected by CC, but they do so in fewer sections and focus primarily on children as victims, rather than emphasising their role as active participants in climate action.

Chapter 3: General Comment No. 26

3.1 Brief overview and significance of General Comment No. 26 in the context of the UNCRC

Before delving into implementation of GC26, it is important to understand the nature and purpose of General Comments. General Comments are authoritative interpretations that provide guidance on how states should fulfil their obligations under international treaties.¹⁰⁵ While they do not introduce new legal obligations, they offer detailed explanations on treaty provisions, thematic issues, and cross-cutting human rights concerns, helping to ensure consistent and effective implementation of human rights standards. These comments often

¹⁰³ Courtney Howard, Yassen Tcholakov, and Ceecee Holz, 'The Paris Agreement: Charting a Low-Emissions Path for a Child Born Today' (2019) p. 4 *Lancet Planetary Health* e5 [https://doi.org/10.1016/S2542-5196\(19\)30246-3](https://doi.org/10.1016/S2542-5196(19)30246-3) accessed 25 August 2024.

¹⁰⁴ Ibid.

¹⁰⁵ V Sancin, 'General Comments and Recommendations' in Christina Binder, Manfred Nowak, Jane A Hofbauer, and Philipp Janig (eds), *Elgar Encyclopedia of Human Rights* (Edward Elgar Publishing 2022) p. 312 <https://doi.org/10.4337/9781789903621.general.comments.recommendations> accessed 12 November 2024.

reference relevant jurisprudence, international instruments, and best practices, thereby assisting states in respecting, protecting, and fulfilling human rights. Although not legally binding, General Comments carry significant weight and are frequently used by courts and international bodies to interpret human rights obligations, contributing to the clarity and consistency of international law.¹⁰⁶

GC26 specifically addresses children's rights in the context of environmental issues, highlighting the urgency of CC. It is a crucial addition to the UNCRC, explaining the link between children's rights and environmental crises such as CC, biodiversity loss and pollution - which together pose an acute threat to children worldwide. The drafting of GC26 was catalysed by global youth advocacy for environmental protection and reflects extensive consultations with young people that highlighted the serious impact of environmental degradation on their lives. It emphasises the need for a child rights-based approach to environmental protection, integrating the full range of children's rights under the UNCRC to protect them from environmental harm and recognizing their role as proactive stakeholders in environmental issues.¹⁰⁷

In addition, GC26 emphasises the concept of intergenerational equity, insisting that environmental decisions take into account their long-term impact on both present and future generations.¹⁰⁸ It robustly links children's health and education directives with environmental well-being, thereby outlining a comprehensive strategy for mainstreaming children's rights into the broader scope of global environmental governance, in line with frameworks such as the UNFCCC and the PA.¹⁰⁹ For human rights instruments (both binding and advisory), to be effective in addressing CC, they must be systematically integrated into the negotiations and their outcomes.¹¹⁰ Proposals have been made to strengthen this link, including through the development of guidelines for special rapporteurs, the drafting of General Comments by UN treaty bodies, and the collection of climate-related data through the Universal Periodic Review

¹⁰⁶ Ibid, p. 319.

¹⁰⁷ CRC, GC26 (2023) UN Doc CRC/C/GC/26. paras 2,7 and 12.

¹⁰⁸ CRC, GC26 (2023) UN Doc CRC/C/GC/26. para 11.

¹⁰⁹ Ibid, paras 9,10, 37.

¹¹⁰ Theodor Rathgeber, *Climate Change Violates Human Rights* (Heinrich-Böll-Stiftung 2009), p. 23.

(UPR).¹¹¹ In addition, discussions have explored the creation of a human rights institution within the UNFCCC.¹¹²

The implications for national climate policies are significant, although the implementation of advisory documents such as the General Comments may be limited. While these documents encourage the integration of children's rights into climate policies and promote the active engagement of children in environmental governance, the extent to which states adopt and apply these recommendations varies. Nevertheless, where applied, such engagement ensures that children are informed and able to participate in environmental protection and that their perspectives contribute to policy-making processes.¹¹³ GC26 calls on States to adopt environmental policies that are not only ambitious but also child-sensitive, emphasising proactive steps to reduce pollution, mitigate CC and conserve biodiversity.¹¹⁴ This approach highlights the essential role of children's rights in addressing the global environmental crisis and underscores the need for urgent and comprehensive action to ensure a sustainable future for all children.

3.2 Relevance of the comparison between Switzerland and Mexico

This master's thesis rigorously examines the strategies and effectiveness of youth engagement in environmental policies in Switzerland and Mexico, using the framework established by GC26. The analysis, which evaluates environmental resilience using multiple methodologies, consistently ranks Switzerland at the top, demonstrating its superior ability to withstand environmental pressures and challenges.¹¹⁵ The study also shows that developed countries generally have higher levels of environmental resilience than developing countries. Factors such as national capacities and vulnerabilities significantly influence these resilience rankings. In particular, countries with comprehensive strengths in coping capacities and mitigating vulnerabilities show higher resilience, even if their GHG emissions are low.¹¹⁶ Despite

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ CRC, GC26 (2023) UN Doc CRC/C/GC/26, paras 12, 32-34.

¹¹⁴ Ibid, para 65.

¹¹⁵ S. Ozdemir, 'Unveiling Environmental Resilience: A Data-Driven Multi-Criteria Decision-Making Approach' (2024) p.

108 *Environmental Impact Assessment Review* 107607.

¹¹⁶ Ibid.

challenges in formulating a satisfactory emissions reduction strategy, Switzerland remains among the world's top performers in environmental policy, currently ranking sixth.¹¹⁷

In addition, Switzerland aims to achieve net zero emissions, including credits, by 2050.¹¹⁸ Despite Switzerland's laudable achievements in these areas, the thesis critically assesses the country's less effective engagement of children and youth in climate governance and education for sustainable development at the national level. Such a review is essential to assess Switzerland's full commitment to the UNCRC and the recommendations outlined in GC26. The analysis highlights the deficiency within Switzerland's environmental strategy, where its leadership on CC contrasts sharply with its shortcomings in promoting youth participation, raising questions about the depth and inclusiveness of its environmental commitments.

Conversely, Mexico presents a different but equally important context for examining youth engagement in climate action. Despite increasing public awareness of environmental issues, Mexico holds a relatively low position (30th) in SGI rankings.¹¹⁹ Mexico implemented a major CC law in 2012, followed by an emissions reduction reform in 2013. Despite these efforts, it remains the second-largest greenhouse gas emitter in Latin America, with the oil industry posing a challenge to stronger environmental action. However, Mexico is seen as a leading environmental actor internationally, and both government and public awareness of environmental issues have significantly increased over the past generation.¹²⁰ The country's CC law, enacted in October 2012, has received international praise for its forward-looking stance.¹²¹ Despite facing significant socio-economic challenges, Mexico has made remarkable progress in engaging young people in environmental issues. The engagement of young Mexicans in environmental issues, such as during COP26 in Glasgow and COP15 in Kunming, highlights ongoing efforts to engage youth in shaping climate policy and resonates with the emphasis on youth participation in GC26.¹²² However, these efforts also reveal gaps in policy

¹¹⁷ Bertelsmann Stiftung, 'SGI 2022 | Switzerland | Environmental Policies' (www.sgi-network.org2022) <https://www.sgi-network.org/2022/Switzerland/Environmental_Policies>.

¹¹⁸ Ibid.

¹¹⁹ Stiftung B, 'SGI 2022 | Mexico | Environmental Policies' (2022) https://www.sgi-network.org/2022/Mexico/Environmental_Policies accessed 17 July 2024.

¹²⁰ Stiftung B, 'SGI 2022 | Mexico | Environmental Policies' (2022) https://www.sgi-network.org/2022/Mexico/Environmental_Policies accessed 17 July 2024.

¹²¹ Ibid.

¹²² EEAS, 'More than 200 Youngsters Participated in the Virtual Conference "Young Mexican Leaders for Climate Action and Promotion of Biodiversity"' (EEAS2021) <https://www.eeas.europa.eu/delegations/mexico/more-200-youngsters-participated-virtual-conference-%E2%80%9CYoung-mexican-leaders_en> accessed 17 May 2024.

implementation and enforcement that need to be addressed in order to fully realise the principles of the UNCRC as interpreted by GC26.¹²³ The country's rich cultural and indigenous heritage also plays a critical role in shaping its climate policies. Many of Mexico's indigenous communities are on the front lines of CC, and their traditional knowledge and practices are invaluable in developing sustainable solutions. Despite Mexico's robust legal framework, there are significant gaps in the implementation and enforcement of environmental laws. The CRIN report¹²⁴ notes persistent problems such as the lack of specific protocols to address environmental injustices affecting children and the general ineffectiveness in the actual realization of their constitutional rights due to structural and administrative barriers.

This comparative analysis not only highlights the different approaches taken by Switzerland and Mexico, but also their outcomes in terms of youth engagement and the effectiveness of these strategies in fostering long-term commitment to climate action among young people. The thesis thus illustrates the wide range of possible strategies for youth climate education and participation, each tailored to its specific national context, without criticizing each model, but rather learning from them. This analysis provides a balanced view that respects the unique circumstances of each country and draws valuable lessons to show how the guidelines of GC26 can be practically integrated into national strategies.

3.3 Understanding General Comment No. 26

3.2.1 Background and Objectives

GC26 provides an interpretive guide to the UNCRC, specifically focusing on how children's rights intersect with environmental issues and CC. The genesis of GC26 was heavily influenced by children's advocacy and participation, particularly highlighted during the Committee's 2016 Day of General Discussion on the Rights of the Child and the Environment.¹²⁵ More than 16,000 children from 121 countries contributed to this event, reporting on the grave impacts of environmental degradation on their communities and asserting their right to a healthy environment.¹²⁶ More importantly, these consultations emphasized that children are not just

¹²³ Ibid.

¹²⁴ Child Rights International Network, 'Children's Access to Justice for Environmental Rights Mexico' (May 2023).

¹²⁵ OHCHR, '2016 Day of General Discussion: Children's Rights and the Environment' (*OHCHR*23 September 2016) <<https://www.ohchr.org/en/events/days-general-discussion-dgd/2016/2016-day-general-discussion-childrens-rights-and>> accessed 18 July 2024.

¹²⁶ Ibid.

passive victims of environmental degradation, but "rights holders" and "agents of change" who should be recognized as active participants in environmental decision-making, advocating for policies that take into account the needs of present and future generations.¹²⁷

Recognizing the role of children as human rights defenders, GC26 emphasises the importance of children's participation in shaping effective and sustainable environmental policies. The comment goes beyond CC to address a wide range of environmental issues. It aims to clarify States' obligations under the UNCRC and provide guidance on the legislative and administrative measures needed to mitigate environmental harm. It also emphasises the importance of disseminating this information in accessible formats to ensure that children and stakeholders are well informed and can effectively contribute to its implementation.

Overall, GC26 seeks to promote a child rights-based approach to environmental protection, emphasising the intrinsic link between a clean, healthy environment and the full enjoyment of children's rights. This approach not only addresses the immediate impacts of environmental degradation but also considers the broader implications for future generations, advocating for intergenerational equity and the proactive engagement of children in environmental governance (United Nations, 2021).

3.2.2 Key Provisions of General Comment No. 26

Recognizing the heightened vulnerability of children to environmental degradation, GC26 expands on the broad range of rights affected by environmental issues under the UNCRC.¹²⁸ It outlines the obligations of States to integrate the protection of children's rights into environmental policy and governance. This section examines the key provisions of the Comment, emphasising the need for legal frameworks that not only prevent environmental harm, but also promote children's active participation in environmental decision-making

GC26 systematically addresses specific rights under the UNCRC. It links environmental degradation to violations of rights such as the right to life, health and participation, and underscores the urgent need for their protection under international law. States are urged to prevent and mitigate the disproportionate impact of environmental degradation on vulnerable

¹²⁷ Ibid.

¹²⁸ CRC, GC26 (2023) UN Doc CRC/C/GC/26.

groups, including indigenous children and children with disabilities.¹²⁹ The Comment emphasises that the best interests of the child¹³⁰ should guide all environmental policies and decisions, and that children's meaningful participation in these processes should be ensured.

The Comment also emphasises children's right to life¹³¹ and the highest attainable standard of health¹³² and calls on States to address the threats posed by pollution, CC and loss of biodiversity. It underscores the importance of children's right to be heard and advocates for mechanisms to enable children's participation in environmental governance¹³³ and highlights freedom of expression, association and assembly as essential and urges protection from repression for children engaged in environmental activism.¹³⁴

Access to information is highlighted as essential to empower children as informed participants in environmental advocacy.¹³⁵ The Commentary also recognizes the impact of environmental crises on children's risks of violence and exploitation, and urges States to act under Article 19 to protect them from these threats.

The Commentary also advocates education for sustainable development, urging States to integrate environmental education to equip children with the knowledge and skills necessary to address future environmental challenges.¹³⁶ Special attention is given to indigenous and minority children, calling on States to protect traditional lands and integrate indigenous knowledge into environmental governance. It also emphasises the right to play and recreation, and calls on States to ensure that recreational spaces are safe and free from environmental hazards. GC26 further emphasises the critical role of education systems in preparing children to face and address environmental challenges. It elaborates on the need for educational curricula to integrate comprehensive, scientifically accurate information on environmental issues, sustainability and CC, thus equipping children with the knowledge and skills necessary to actively participate in and contribute to solving these pressing global problems.¹³⁷ Paragraph

¹²⁹ Ibid, para 2.

¹³⁰ Ibid, paras 16-19.

¹³¹ Ibid, paras 20-25.

¹³² Ibid, paras 37-44.

¹³³ Ibid, paras 26-28.

¹³⁴ Ibid, paras 29-31.

¹³⁵ Ibid, paras 32-34.

¹³⁶ CRC, GC26 (2023) UN Doc CRC/C/GC/26, paras 51-57.

¹³⁷ Ibid, paras. 51-57.

27 of the Commentary emphasises that for children's participation to be genuine, active, meaningful and effective, it is essential to provide them with environmental and human rights education, age-appropriate and accessible information, and sufficient time and resources in a supportive and enabling environment.¹³⁸ States are called upon to integrate environmental and climate education into school curricula at all levels. Such education should not only focus on knowledge of environmental degradation and CC, but should also promote the skills and values necessary for sustainable development.¹³⁹

The comment outlines the basic elements of the right to a clean, healthy and sustainable environment. These include access to clean air, a safe climate and healthy ecosystems. States are urged to take proactive measures, such as reducing pollution, ensuring access to clean water, transitioning to clean energy and protecting biodiversity.¹⁴⁰ The comment also highlights that, despite being recognized as rights holders under the Convention, children often face barriers to legal standing in environmental cases, limiting their ability to enforce their rights. To address this, States should provide accessible remedies, including child-friendly complaint mechanisms, free legal aid and measures to reduce financial risks, to ensure that children can seek redress for environmental harm, including through class actions, transboundary claims and cases involving business enterprises.¹⁴¹

At the same time, GC26 addresses the responsibilities of business enterprises in protecting children's environmental rights and highlights the need for corporate accountability.¹⁴² It emphasises that States must regulate corporate actions to prevent environmental harm and provide effective remedies when violations occur. States are also encouraged to establish child-friendly judicial mechanisms to ensure access to justice for children whose rights have been violated.¹⁴³

Finally, the Comment highlights the importance of international cooperation, recognizing that global environmental challenges such as CC require collective action. It calls on States,

¹³⁸ Ibid. para 27.

¹³⁹ Ibid. para. 53-54.

¹⁴⁰ Ibid, paras 64-65.

¹⁴¹ Ibid, paras. 82-90.

¹⁴² CRC, GC26 (2023) UN Doc CRC/C/GC/26, paras 78-81.

¹⁴³ Ibid.

particularly major emitters, to take the lead in addressing CC in order to protect children's rights.¹⁴⁴

By elaborating on these provisions, GC26 provides a comprehensive framework for integrating children's rights into environmental governance at the national and international levels. It calls on States to develop child-centered policies that protect and promote the best interests of children in the context of environmental and climate challenges.

Chapter 4: Bridging the Gap: Translating International Frameworks into National Legislation - Switzerland

4.1 Introduction

This chapter critically examines Switzerland's incorporation of the international frameworks - the UNCRC, PA and UNFCCC - into its national legal system, particularly in relation to children's environmental rights, education for sustainable development and youth participation. Building on the insights from the GC26, the analysis identifies significant gaps between Switzerland's legislative ambitions and its judicial enforcement. The selection of UNCRC articles for examination, in particular Article 12 on the right to be heard, and Article 29 on education, derives directly from the expansive scope of GC26. While Switzerland has strong constitutional provisions on environmental protection, the absence of explicit legal mechanisms that prioritise children's participation in environmental decision-making exposes critical weaknesses.

Also, this chapter explores Switzerland's multifaceted approach to environmental governance, looking not only at legislative and educational initiatives, but also at key court cases that highlight the strengths and limitations of the national framework. Landmark cases, such as those decided by the European Court of Human Rights, reveal the complex interplay between national policies and international human rights obligations, particularly in the areas of CC and children's rights. These cases serve as a critical lens through which to assess the effectiveness of Switzerland's commitments, highlighting areas of progress and identifying gaps that require further attention. By analysing these judicial interpretations alongside established legal and

¹⁴⁴ Ibid, paras 91-94.

educational structures, this chapter provides a comprehensive overview of Switzerland's efforts to apply its national framework to protect the environment and uphold children's rights.

4.2 Switzerland's Efforts in National Framework Application

The Swiss Federal Constitution explicitly incorporates the principles of environmental protection and sustainable development, demonstrating the country's commitment to preserving the natural environment. Article 73 emphasises the shared responsibility of the Confederation and the cantons to promote a balanced and sustainable relationship between the regenerative capacity of nature and the needs of the population.¹⁴⁵ This provision underscores the importance of sustainable development as a core principle of national governance. Article 74 reinforces this by mandating the federal government to enact measures to protect both the population and the natural environment from damage or harm. It establishes the "polluter pays" principle, requiring those responsible for environmental damage to bear the costs of preventing or remedying such damage.¹⁴⁶ The responsibility for implementing these environmental regulations lies primarily with the cantons, unless otherwise specified by federal law. However, children are not specifically mentioned in the context of environmental protection, although the preamble to the Constitution recognizes that Switzerland and its cantons have a responsibility towards future generations, which includes the duty to protect the environment.¹⁴⁷

4.2.1 Incorporation of the UNCRC into Swiss Law

Switzerland incorporates the UNCRC directly into its national legal system through its monist approach, whereby international treaties become part of domestic law upon ratification and are binding on state authorities.¹⁴⁸ For the provisions of the UNCRC to be enforceable in Swiss courts, they must be considered self-executing, meaning that they are sufficiently clear and specific to be applied without additional legislation.¹⁴⁹ While the UNCRC is incorporated into

¹⁴⁵ Swiss Confederation, *Federal Constitution of the Swiss Confederation* (adopted 18 April 1999, status as of 3 March 2024) art 73 <https://www.fedlex.admin.ch/eli/cc/1999/404/en>.

¹⁴⁶ Ibid. art 74.

¹⁴⁷ Ibid. preamble.

¹⁴⁸ Federal Department of Foreign Affairs (FDFA), 'Relationship between national and international law' <<https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/international-law/respect-promotion/national-international-law.html>> accessed 4 September 2023.

¹⁴⁹ The Incorporation Project, 'Incorporation Case Study: Switzerland' (One Pager, University of Edinburgh School of Law, February 2021) <<https://www.law.ed.ac.uk/sites/default/files/2021-02/Switzerland%20one-pager.pdf>> accessed September 03 2024.

Swiss law, effective enforcement depends on both federal and cantonal authorities actively implementing it, given Switzerland's "bottom-up federalism" that emphasises local governance.¹⁵⁰ Public authorities are constitutionally obliged to respect human rights when creating and interpreting laws and policies, but challenges remain due to the absence of a NHRI and uneven enforcement at different levels of government.¹⁵¹

In addition, the Swiss Constitution mandates that both the federal government and the cantons must observe international law. Although it does not explicitly provide procedures for resolving conflicts between domestic and international provisions, the established principle in Switzerland is that international law takes precedence over national legislation.¹⁵² This precedence arises from the obligation to fulfil treaties in good faith, as stipulated in Article 5 of the Swiss Constitution¹⁵³ and Article 26 of the Vienna Convention on the Law of Treaties¹⁵⁴. The Federal Council emphasises that all state organs must ensure their actions comply with Switzerland's international commitments. This principle has been reaffirmed by the Federal Supreme Court in several decisions¹⁵⁵, confirming that international law overrides conflicting domestic laws.

Switzerland has adopted several national laws and policies in line with the obligations set out in the UNCRC aimed at improving child protection, juvenile justice, education, health care and protection against economic exploitation. Key legislative frameworks such as the Federal Act on the Protection of Children and Adults¹⁵⁶, the Federal Act on Juvenile Criminal Law¹⁵⁷ and the Health Insurance Act¹⁵⁸, as well as provisions in the Swiss Civil Code, collectively ensure the well-being of children in family, educational and community settings. The following sections focus specifically on Switzerland's compliance with articles 12, 24 and 29 of the UNCRC in the context of environmental protection.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Federal Department of Foreign Affairs (FDFA), 'Relationship between national and international law' <<https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/international-law/respect-promotion/national-international-law.html>> accessed 4 September 2023.

¹⁵³ Federal Constitution of the Swiss Confederation (adopted 18 April 1999, entered into force 1 January 2000) art 5.

¹⁵⁴ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 26.

¹⁵⁵ Swiss Federal Supreme Court, Decisions BGE 125 II 417, BGE 128 IV 201, 2C_828/2011, 12 October 2012.

¹⁵⁶ Bundesgesetz über die Kindes- und Erwachsenenschutzbehörde (KESR) SR 211.

¹⁵⁷ Bundesgesetz über das Jugendstrafrecht (JStG) SR 311.1.

¹⁵⁸ Bundesgesetz über die Krankenversicherung (KVG) SR 832.10.

Education for Sustainable Development (Article 29)

The UNCRC has consistently emphasised the need for children's rights education to be a mandatory part of school curricula.¹⁵⁹ While not explicitly required by Swiss law, Switzerland has recently made progress in incorporating children's rights education into primary schools, with new regional language curricula including related activities. However, these are found in transversal guidelines rather than in subject-specific curricula, and many teaching materials lack references to children's rights.¹⁶⁰ Teachers often face challenges in implementing children's rights education, resulting in less than half of Swiss children being aware of their rights, and the UNCRC.¹⁶¹

In Switzerland, education is primarily administered at the cantonal level, although Articles 61a and 62 of the Swiss Constitution require the cantons to harmonise the structure and objectives of schooling.¹⁶² This has led to the adoption of an intercantonal agreement that harmonises educational practices across Switzerland. Compulsory education in Switzerland is administered by the cantons, which determine curricula, teaching materials, and the number of hours of instruction per subject. The Intercantonal Agreement on the Harmonization of Compulsory Education, known as the HarmoS Agreement, mandates the alignment of curricula across linguistic regions.¹⁶³ In the HarmoS Agreement, the concept of "environment" is succinctly addressed in Article 3, which states that "Pupils are encouraged to develop into independent individuals, to acquire social skills, and to cultivate responsible behaviour towards others and the environment."¹⁶⁴ This clause emphasises the need to incorporate environmental responsibility into the educational trajectory of students, aligning individual development with ecological stewardship. However, it lacks specificity regarding the inclusion of such principles in the compulsory curriculum, delegating responsibility to individual education systems while mandating harmonisation across cantons.

¹⁵⁹ Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021) 68..

¹⁶⁰ Rinaldi S, 'Challenges for Human Rights Education' (2017) 47(1-2) *Prospects* 87-100.

¹⁶¹ ZHAW (ed), *Children's Worlds National Report Switzerland* (2020).

¹⁶² Swiss Constitution, art 61(a), art 62.

¹⁶³ Interkantonale Vereinbarung Über Die Harmonisierung Der Obligatorischen Schule (HarmoS-Konkordat) 2007.

¹⁶⁴ Interkantonale Vereinbarung Über Die Harmonisierung Der Obligatorischen Schule (HarmoS-Konkordat) 2007, 7 para. 3.

In French-speaking cantons such as Vaud, the curriculum specifically includes elements of environmental education, emphasising the importance of a sustainable environment. Within this framework, the French-speaking cantons have adopted the "Plan d'études romandes" (PER), which is more detailed and mentions environmental protection under the section "Mathematics and Natural Sciences" as follows Respect for the environment¹⁶⁵, rational use of resources and waste management¹⁶⁶, positive and negative effects on people and the environment and rational use of them¹⁶⁷, production, use, regeneration or recycling and their effects on the environment¹⁶⁸. In the human and social sciences section of the curriculum, the aim is to develop students' awareness of the relevance of civic responsibility in local and global contexts. This section covers topics that explore the interdependencies between social, economic, political and environmental factors and global challenges such as water management, CC, energy, health, migration, food security and resource distribution, highlighting North-South imbalances. It also examines how states address these issues and their consequences for the interactions between people and the natural and built environment.¹⁶⁹ In terms of general knowledge, the focus is on the environment, complexity and interdependence, particularly through the study and critical analysis of the interactions between human activities and the environment in relation to economic, social and cultural models.¹⁷⁰ The entire subsection is dedicated to the protection of the environment, with the aim of comprehensively addressing environmental issues through interdisciplinary projects, particularly in the natural sciences and human and social sciences, with a focus on citizenship education. This approach allows schools to integrate different educational frameworks to effectively address environmental challenges and emphasises the importance of actively maintaining a viable environment through a variety of methods.¹⁷¹ In contrast to the HarmoS Agreement, the "Plan d'études romandes" provides more detailed provisions and is closely aligned with the recommendations of the GC26.

¹⁶⁵ Conférence intercantonale de l'instruction publique de la Suisse romande et du Tessin (CIIP), 'Plan d'Études Romand' (2008) <https://www.snes.edu/wp-content/uploads/PER_complet.pdf> 40 accessed 6 July 2024.

¹⁶⁶ Ibid, 268.

¹⁶⁷ Ibid, 270.

¹⁶⁸ Ibid, 293.

¹⁶⁹ Ibid, 306.

¹⁷⁰ Ibid, 308.

¹⁷¹ Conférence intercantonale de l'instruction publique de la Suisse romande et du Tessin (CIIP), 'Plan d'Études Romand' (2008) <https://www.snes.edu/wp-content/uploads/PER_complet.pdf> 40 accessed 6 July 2024 357.

In addition, Lehrplan 21, which was adopted by the 21 German-speaking and multilingual cantons and revised in 2016, includes a section called "Natur, Mensch, Gesellschaft (NMG)" or "Nature, Man, Society" that emphasises environmental protection. This component of the curriculum delves into various aspects of environmental studies, including the natural environment and the imperative of biodiversity and sustainable development (Section 2), the dynamics between human activities and the environment, such as energy consumption (Section 3), the impact and repercussions of technological advances on society and the environment (Section 5), the effects of consumer behaviour and the use of goods (Section 6), and the interrelationships between lifestyles, living spaces, and global interconnectedness (Section 7).¹⁷² Curriculum 21 motivates educators to design a curriculum that fosters critical inquiry and environmental stewardship in students. While not as comprehensive as the Plan d'études romand, Lehrplan 21 promotes awareness of biodiversity conservation and the critical need for environmental protection.

In the "Piano di studio" (curriculum for the Italian-speaking community), Education for Sustainable Development (ESD) is integrated through various methods, including media, health, political and economic education, which are components of the general education curriculum. The aim is to cultivate ESD-specific skills that are in line with cross-curricular competencies such as self-management and critical thinking. ESD themes are integrated into different subjects and teachers are motivated to adopt an interdisciplinary approach, adapting their teaching strategies to the specific content being covered.¹⁷³

All three curricular frameworks adhere to the HarmoS agreement, which outlines the overarching national educational goals.¹⁷⁴ However, a more cohesive and unified national curriculum would be beneficial, as there are observable discrepancies in how environmental education is incorporated in the three cantonal curricula.

Investigating whether environmental education is accessible to all children, including those from marginalised or disadvantaged backgrounds, Article 19 of the Swiss Federal Constitution

¹⁷² Deutschschweizer Erziehungsdirektoren-Konferenz (D-EDK), 'Lehrplan 21' (29 February 2016) <<https://v-fe.lehrplan.ch/index.php?code=b|6|1|12>>.

¹⁷³ Christine Affolter and Attila Varga, 'ENVIRONMENT and SCHOOL INITIATIVES Lessons from the ENSI Network - Past, Present and Future' (2018) <https://www.education21.ch/sites/default/files/uploads/pdf-d/news21/Lessons_from_the_ENSI_Network-book_web.pdf> accessed 6 August 2024 p. 117.

¹⁷⁴ N Koltcheva and V Coelho, Social and Emotional Development for Children aged 0 to 7 years old: European Countries Overviews Compendium (EU-SELF Project 2022) ISBN 978-619-233-213-6 <https://euserf.nbu.bg> p. 2.

broadly affirms the right to an adequate and free basic education.¹⁷⁵ Article 62, which deals specifically with school education, provides a more detailed explanation, stating that the cantons are responsible for the education system. It stipulates that the cantons must guarantee the availability of an adequate basic education accessible to all children. This education is compulsory and either administered or supervised by the state, which ensures that it remains free of charge in public schools.¹⁷⁶

Aspect	Plan d'études romand (French-speaking Cantons)	Lehrplan 21 (German-speaking Cantons)	Piano di studio (Italian-speaking Cantons)
Inclusion of Environmental Education	-Comprehensive inclusion within "Mathematics and Natural Sciences" and "Human and Social Sciences." -Focuses on environmental protection, sustainability, and global challenges.	Included in the "Nature, Man, Society (NMG)" section. Emphasises environmental protection, biodiversity, and sustainable development.	-Integrated through various subjects like media, health, political, and economic education. -Emphasises interdisciplinary approaches.
Alignment with GC26	-Closely aligned. - Emphasises interdisciplinary projects and active citizenship education to address environmental issues comprehensively.	Partially aligned. Encourages critical inquiry and environmental stewardship but less comprehensive.	Aligned through fostering ESD-specific skills and interdisciplinary learning.

¹⁷⁵ Swiss Confederation, 'Federal Constitution of the Swiss Confederation' (www.fedlex.admin.ch 3 March 2024) <<https://www.fedlex.admin.ch/eli/cc/1999/404/en>> para 19..

¹⁷⁶ Ibid, para 62.

Approach to Sustainable Development	-Addresses interdependencies between social, economic, political, and environmental factors. -Focuses on global challenges and citizenship.	Covers impacts of human activities on the environment, energy consumption, and technological effects. Encourages environmental awareness.	Aims to develop skills like self-management and critical thinking related to sustainable development themes.
Interdisciplinary Projects	-Strong emphasis on interdisciplinary projects, especially in natural sciences and social sciences, with a focus on citizenship education.	Encourages educators to design curricula fostering critical inquiry but less emphasis on interdisciplinary projects.	Teachers adapt strategies to promote interdisciplinary learning across different subjects.
Teacher Guidance and Resources	Provides detailed provisions and guidelines for integrating environmental education across subjects.	Offers general guidelines, motivating educators but with less detailed directives.	Encourages teachers to adapt methods but lacks specific guidelines, relying on teacher initiative.
Focus on Global Challenges	Explicitly addresses global issues like CC, energy, health, migration, and resource distribution, highlighting North-South imbalances.	Addresses global interconnectedness and effects of consumer behaviour but less emphasis on specific global challenges.	Integrates global themes through subjects like political and economic education.
Student Skills Development	Aims to develop critical thinking, problem-solving, and active citizenship skills through comprehensive environmental education.	Encourages critical inquiry and awareness but may not explicitly focus on skill development.	Focuses on cultivating ESD-specific skills aligned with cross-curricular competencies.

Curricular Structure	Detailed and specific in incorporating environmental themes within subject areas and interdisciplinary projects.	Structured to include environmental topics within a broader subject area but less detailed.	Uses a flexible approach, integrating themes across various subjects without a rigid structure.
Use of Teaching Materials	Provides materials with references to children's rights and environmental education.	Teaching materials may lack explicit references, leading to challenges in implementation.	Relies on teachers to select appropriate materials, which may affect consistency.
Awareness of Children's Rights and UNCRC	Incorporates children's rights education within the curriculum, enhancing awareness.	Less emphasis on children's rights education, contributing to lower awareness among students.	Includes components that promote understanding of rights through ESD themes.
Support for Teachers	Offers clear guidelines and resources to aid teachers in implementation.	Teachers may face challenges due to less detailed guidance and resources.	Encourages adaptation but may lack sufficient support for effective teaching.

Table 1 - Cantonal Education System in Switzerland - Analysis

Right to be Heard (Article 12)

The implementation of Article 12 of the UNCRC in Switzerland is directly integrated into the legal system as a self-executing provision, allowing children to invoke it in Swiss courts.¹⁷⁷ Swiss federal law introduces specific age thresholds for children's participation that may conflict with the broader participation rights outlined in Article 12 of the UNCRC. For example, the Swiss Civil Code requires children to be at least twelve years old to consent to a change of surname¹⁷⁸, and the Civil Procedure Code does not inform children of court decisions until they are 14¹⁷⁹. Conversely, the Swiss Personal Status Law¹⁸⁰ determines a child's legal

¹⁷⁷ CWeber Khan and S Hotz, *Summary Implementation of the Right to Participation of Children regarding Art. 12 of the UN Convention on the Rights of the Child in Switzerland: Study on the legal foundations and practices in nine cantons in the areas of family law, juvenile criminal law, education, health and youth parliaments* (Swiss Center of Expertise in Human Rights (SCHR), 16 December 2019) p. 4.

¹⁷⁸ Zivilgesetzbuch (ZGB) [Swiss Civil Code] art 270b (Switzerland).

¹⁷⁹ Zivilprozessordnung (ZPO) [Swiss Civil Procedure Code] art 201 (Switzerland).

¹⁸⁰ Ibid.

capacity based on individual development rather than fixed age limits, suggesting a more flexible approach that is more in line with the UNCRC. While federal laws across sectors such as family law, juvenile criminal law, and education recognize children's participation rights, their application varies across cantons, leading to inconsistencies in how children's views are considered in legal and administrative processes.¹⁸¹

Switzerland does not have a dedicated independent child rights institution at the national level. In 2023, Astrid Wüthrich, Deputy Director of the FSIO and Head of the Family, Generations and Society Division, stated that in Switzerland, the division of responsibilities means that the provision of services is primarily the responsibility of the cantons, but, the federal government can provide subsidiary support and take additional measures.¹⁸² Wüthrich stated that the establishment of an Independent Children's Rights Institution (ICHRI) could help fill gaps in the protection of children's rights and not only increase knowledge, but also provide analysis on the implementation of children's rights, provide guidance to authorities and promote cooperation among stakeholders in this field.¹⁸³

In addition, Switzerland lacks a national and independent ombudsman office to provide legal advice and mediation services for children, although both the FSIO and a private ombudsman office for children, the Swiss Children's Rights Ombudsman Office, emphasise the importance of establishing such an office through Motion 19.3633 "Ombudsman Office for the Rights of the Child".¹⁸⁴ The aforementioned motion¹⁸⁵, introduced by Ruedi Noser in 2019, advocates for the establishment of a national ombudsman office for children's rights in Switzerland. This office would provide independent legal advice and support to children and adolescents under the age of 18 throughout the country, ensuring accessible and impartial legal advice in situations where their rights may be at risk, such as contentious divorces, parental deaths, or custody disputes. The motion argues that existing services are inadequate to meet the legal

¹⁸¹ C Weber Khan and S Hotz, *Summary Implementation of the Right to Participation of Children regarding Art. 12 of the UN Convention on the Rights of the Child in Switzerland: Study on the legal foundations and practices in nine cantons in the areas of family law, juvenile criminal law, education, health and youth parliaments* (Swiss Center of Expertise in Human Rights (SCHR), 16 December 2019) p. 2.

¹⁸² R Ruggiero, D Lätsch, and P Krüger, *Independent Children's Rights Institution in Switzerland: The State of Play and Actions to Be Taken*, Foreword by the Federal Social Insurance Office (Federal Social Insurance Office, 1st edn, December 2023) <https://exampleurl.com> accessed 14 September 2024.

¹⁸³ Ibid.

¹⁸⁴ Ombuds Office for Children's Rights Switzerland, *Statement on the Consultation Process for the Amendment of the Ordinance on the Promotion of Extra-curricular Work with Children and Adolescents (PCAO)* (28 March 2024) <https://www.ombuds-office-childrens-rights-switzerland.ch> accessed 18 September 2024.

¹⁸⁵ Noser R, *Motion 19.3633: Ombudsstelle für Kinderrechte* (17 June 2019) <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20193633> accessed 18 September 2024.

needs of children and emphasises the need for a specialised entity that can fill the gaps in the current system. The ombudsman would be empowered to mediate between children and state institutions, facilitate access to justice, and promote a more child-friendly justice system without encroaching on cantonal authority. Despite its potential to improve legal support for children, the Federal Council recommended that the motion be rejected, arguing that existing services such as Pro Juventute and the Kescha information centre already effectively serve this purpose and that further coordination of these services would be more efficient than creating a new federal office.¹⁸⁶

In their statement in March 2024, The Ombuds Office for Children's Rights Switzerland critiques the Federal Council's proposal for amending the Ordinance on the Promotion of Extra-curricular Work with Children and Adolescents (PCAO), stating that it fails to fulfil the core mandate of Motion 19.3633.¹⁸⁷ The motion called for a national and independent Ombuds Office to provide legal support and intermediary services for children, ensuring access to justice. The Council's focus on strengthening the Swiss Human Rights Institution (SHRI) is deemed insufficient, as it does not address the immediate legal needs of children. The Ombuds Office argues that relying on cantonal or municipal solutions would create inequality, as children's access to justice should not depend on their location. Furthermore, they stress that Switzerland's constitutional and international obligations provide a legal basis for a national Ombuds Office, and a new legislative proposal is needed to align with the original intent of the motion. The office calls for a fully functional, independent body with the necessary mandate and funding to protect children's rights effectively.¹⁸⁸

However, several mechanisms exist in Switzerland to facilitate the participation of children and adolescents in environmental decision-making processes, although, as highlighted before, the scope and effectiveness of these mechanisms vary at the local, cantonal and federal levels, and their roles are primarily advisory, advocacy and monitoring in nature. The Swiss Federation of Youth Parliaments (DSJ) focuses in its strategy 2023-2026 on the promotion of political participation and education of youth in Switzerland and Liechtenstein. The strategy

¹⁸⁶ Noser R, *Motion 19.3633: Ombudsstelle für Kinderrechte* (17 June 2019) <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20193633> accessed 18 September 2024.

¹⁸⁷ Ombuds Office for Children's Rights Switzerland, *Statement on the Consultation Process for the Amendment of the Ordinance on the Promotion of Extra-curricular Work with Children and Adolescents (PCAO)* (28 March 2024) <https://www.ombuds-office-childrens-rights-switzerland.ch> accessed 18 September 2024.

¹⁸⁸ Ibid.

focuses on five key areas to strengthen youth parliaments as important local actors. It provides tailor-made support to youth parliaments to ensure that they have the necessary resources and recognition to influence political decisions at local, cantonal and federal levels. The DSJ also advocates for the inclusion of youth in decision-making at all levels of government, with the aim of making political engagement more accessible to young people. In addition, the DSJ positions itself as a practical centre of competence, offering structured, research-backed programs in civic education, with a focus on collaboration and knowledge sharing across its network.¹⁸⁹

One of its most interesting projects is the engage.ch platform, which offers young people in Switzerland an easy way to voice their concerns and ideas and help shape their future. The project focuses on four key areas: "Local Communities," "National," "Education," and "Youth Parliaments."¹⁹⁰ Since its launch in 2014, the platform has seen significant activity: nearly 3,500 issues have been submitted by young people, over 100 politicians have engaged with these submissions, and 120 projects or policy demands have been implemented.¹⁹¹ The engage.ch platform doesn't currently have any specific environmental campaigns, but offers a wide range of topics, including nature, which includes environmental protection, recycling and animal welfare. Perhaps one of the most important campaigns when discussing Article 12 of the UNCRC is "Verändere die Schweiz!" ("Change Switzerland!") - a dynamic initiative hosted on the engage.ch platform that empowers young people in Switzerland to directly influence national policy by submitting their own proposals for change.¹⁹² Launched annually, the campaign invites youth and young adults, aged 12 to 25, to voice their ideas and concerns about the future of the country. These submissions are reviewed by the participating politicians, who select and discuss their favourite proposals, with the possibility of incorporating them into the legislative process. After submission, selected ideas are discussed at a special event held in the Bundeshaus in Bern, where young participants have the opportunity to personally present their proposals and engage in dialogue with the politicians. This innovative approach not only promotes civic engagement among youth, but also ensures that their voices are heard at the highest levels of government, bridging the gap between young citizens and policymakers.¹⁹³

¹⁸⁹ Swiss Federation of Youth Parliaments (DSJ), *Strategie 2023-2026* (2023).

¹⁹⁰ Dachverband Schweizer Jugendparlamente, 'Home | Engage.ch' (*Engage.ch* 15 August 2024) <<https://www.engage.ch/>> accessed 16 September 2024.

¹⁹¹ Ibid.

¹⁹² Dachverband Schweizer Jugendparlamente, 'Verändere Die Schweiz! | Engage.ch' (*Engage.ch* 2024) <<https://www.engage.ch/schweiz>> accessed 16 September 2024.

¹⁹³ Ibid.

Another important organisation in Switzerland is the Swiss Federation of Youth Associations (SAJV) - the umbrella organisation of about 60 youth associations and organisations in Switzerland. It advocates the interests and concerns of young people in politics and society, focusing on areas such as youth engagement, shaping the future, and promoting inclusion for all. As a key player in Swiss civil society, the SAJV supports voluntary youth initiatives and works to ensure their sustainability. Through its activities, it plays a crucial role in promoting youth participation and fostering a more inclusive and just society.¹⁹⁴ Its project, the Children's Conference (KiKo), a joint initiative with the Pestalozzi Children's Foundation, Lobby Switzerland for Children, and Terre des Hommes Switzerland and Switzerland, has as its main objective to promote the participation of children in the formulation of their rights.¹⁹⁵ Over a four-day period, 60 children between the ages of 9 and 13 from the German- and French-speaking regions of Switzerland engage in discussions on children's rights, culminating in the development of concrete recommendations that are presented at a final conference. These recommendations are then pursued at the political level by Lobby Switzerland for Children, with the support of a parliamentary committee to ensure public visibility.¹⁹⁶ Most importantly, participants deepen their understanding of the UNCRC through interactive sessions and a political simulation in which they take on the roles of politicians and lobbyists to learn how to advocate for their proposals. Based on these activities, the children work together to formulate policy recommendations that are presented to political representatives and their families. Several months after the conference, the participants visit the Swiss Parliament, where they participate in parliamentary processes and present their recommendations.¹⁹⁷ The SAJV is responsible for designing and implementing the political simulation, organising the parliamentary visit, and monitoring the progress of the children's recommendations through the legislative process.¹⁹⁸

At the Western Switzerland Children's Conference in November 2023, a wide range of topics were discussed, with the latest recommendations from the ambassadors also focusing on creating a healthy environment. These included suggestions such as encouraging supermarkets

¹⁹⁴ SAJV, 'The SNYC' (*sajv.ch*2024) <<https://www.sajv.ch/en/the-snyc>> accessed 16 September 2024.

¹⁹⁵ SAJV, 'Kinderkonferenz' (*sajv.ch*2024) <<https://www.sajv.ch/en/projekte/kinderkonferenz>> accessed 16 September 2024.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

¹⁹⁸ SAJV, 'Kinderkonferenz' (*sajv.ch*2024) <<https://www.sajv.ch/en/projekte/kinderkonferenz>> accessed 16 September 2024.

to donate unsold food to school cafeterias and ensuring that leftover food is distributed to people in need to provide balanced and nutritious meals.¹⁹⁹

Another important project that combines sustainability, the environment and the right to be heard is Jugendsession, an annual event that brings together young people from across Switzerland to discuss and propose solutions to pressing political and social issues. Participants develop actionable recommendations that are then presented to Swiss parliamentarians to influence policy and increase youth participation in democracy.²⁰⁰ In recent years, the environment and sustainable development have been on the agenda of various discussions.

In the 2023 session, for example, the environmental impact of the Swiss tourism industry, in particular its contribution to the increase in air and road traffic by international visitors, was one of the topics discussed under the heading "Tourism".²⁰¹ The federal "Svisstainable" program, which aims to promote sustainability through business labels, was criticised for enabling superficial commitments to sustainability.²⁰² Stakeholders such as fairunterwegs called the initial stages of the program "greenwashing".²⁰³ In addition, the State Secretariat for Economic Affairs (SECO) emphasised the need to adapt to CC by diversifying tourism in mountain regions in the face of declining snow reliability, while still supporting snow sports.²⁰⁴ In another petition a year before, the 2022 Youth Session called for the abolition of harmful subsidies that affect Switzerland's biodiversity and presented it to the President of the National Council, Irène Kälin.²⁰⁵ In 2021, CC was a central theme of the "Jugendsession" when 246 young people in Switzerland gathered under the theme "Sustainability, an existential issue for young people" to discuss a sustainable future.²⁰⁶ Over four days, they developed actionable proposals to convince a reluctant parliament of effective climate solutions. They focused on creating a sustainability taxonomy, phasing out fossil fuel financing, advancing the circular economy, ensuring fair labour standards for Swiss corporate partners, and integrating

¹⁹⁹ SAJV, 'Westschweizer Kinderkonferenz 18. November 2023 Empfehlungen Der Botschafter*Innen' (*sajv.ch2023*) <<https://www.sajv.ch/en/projekte/kinderkonferenz>>.

²⁰⁰ Jugendsession, 'Eidgenössische Jugendsession' (*jugendsession.ch* 27 August 2024) <<https://www.jugendsession.ch/de/>> accessed 16 September 2024.

²⁰¹ Foehr M, *Jugendsession 2023: 9-12 November Dossier Tourismus* (2023) 5.

²⁰² Ibid.

²⁰³ Ibid. 7.

²⁰⁴ Ibid.

²⁰⁵ Jugendsession, '2022' (*jugendsession.ch2022*) <<https://www.jugendsession.ch/de/geschichte/2022>> accessed 16 September 2024.

²⁰⁶ Ibid., '2021' (*jugendsession.ch2021*) <<https://www.jugendsession.ch/de/geschichte/2021-1>> accessed 16 September 2024.

sustainable finance. They also addressed issues such as building culture, climate protection, supply chains, and education for sustainable development. These proposals were finalised and presented to Andreas Aebi in the last hour of the session.²⁰⁷ In 2020, sustainability was also tackled through sessions on “Phasing Out Fossil Fuels” and “Sustainable Finance”.²⁰⁸ While the Jugendsession is of unprecedented importance, the results and outcomes of these sessions and the petitions submitted are yet to be seen.

Analysis of the 2020 Switzerland’s Report to the CRC (United Nations CRC/C/CHE/CO/5-6)

Under Article 44 of the UNCRC, Switzerland is required to submit a report every five years detailing the implementation of children's rights in the country. The most recent report, submitted on December 18, 2020, was prepared using the "List of Issues Prior to Reporting" (LOIPR) process, which was offered by the CRC to streamline the reporting process.²⁰⁹ Non-governmental organisations in Switzerland may also submit reports on the implementation of the UNCRC in addition to the official state report prepared by the Swiss government, as provided for in Article 45. In addition to its regular report, the Netzwerk Kinderrechte Schweiz (Swiss Network for the Rights of the Child) submitted to the UN Committee for the first time a report on the rights of the child that included the participation of children and young people.²¹⁰ In its concluding observations on the combined fifth and sixth periodic reports of Switzerland in 2021, the Committee acknowledges the 2020 study commissioned by the State party concerning the implementation of the right of the child to be heard, while also recalling its previous recommendations and urging further measures to enhance the meaningful participation of children in decisions that impact them.

In accordance with article 12 of the UNCRC, the CRC recommends that the State party ensure that the right of the child to a fair hearing in all matters concerning him or her is respected.²¹¹ Committee stated that Switzerland should strengthen its efforts to promote the meaningful and

²⁰⁷ Ibid.

²⁰⁸ Ibid., ‘2020’ (*jugendsession.ch*2020) <<https://www.jugendsession.ch/de/geschichte/2020>> accessed 16 September 2024.

²⁰⁹ Bundesamt für Sozialversicherungen BSV, ‘Kinderrechte’ (*Admin.ch*2016) <<https://www.bsv.admin.ch/bsv/de/home/sozialpolitische-themen/kinder-und-jugendfragen/kinderrechte.html>> accessed 6 September 2024.

²¹⁰ Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021).

²¹¹ United Nations Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Switzerland* (22 October 2021) CRC/C/CHE/CO/5-6, art 20(b).

empowered participation of all children, with a particular focus on those in disadvantaged situations, which is in line with the report of Netzwerk Kinderrechte Schweiz (Swiss Network for the Rights of the Child) submitted that the right of children to participate in all proceedings should be guaranteed in accordance with article 12 of the UNCRC, embedded in legislation and explicitly stated in personal law, in line with the Council of Europe guidelines on child-friendly justice.²¹² The Committee mentioned that specific measures to achieve this could include the development of toolkits for consulting children on national policy issues, the establishment of school councils and the systematic integration of the results of children's councils, parliaments and the Federal Youth Conference into public decision-making processes.²¹³ Initiatives should be developed to further increase children's participation and ensure that their views are taken into account by local authorities. This involves the creation of relevant guidelines for cantons and municipalities and ensuring that programs funded under the Extracurricular Activities Act incorporate the participation of children.²¹⁴ In addition, The Committee emphasized that operational procedures or protocols should be established for professionals working with or on behalf of children to ensure that children's views are duly considered in all relevant procedures, in accordance with Article 12 of the UNCRC. This aligns with the recommendation of the Swiss Network for the Rights of the Child to review consultation practices in the cantons, develop binding standards for children's participation in judicial and administrative proceedings based on existing resources, and systematically train professionals in these areas.

Also, in connection with the right to basic health and welfare, both the Committee and Netzwerk Kinderrechte Schweiz (Swiss Network for the Rights of the Child)²¹⁵ expressed concern about the disproportionately high carbon footprint of the State party, particularly due to investments in fossil fuels by its financial institutions, and the negative impact of CC and air pollution on children's health.²¹⁶ In line with the Sustainable Development Goals (SDGs) targets 3.9 and 13.3, it was recommended that the State party take urgent steps to reduce GHG emissions in accordance with its international commitments, ensuring that the Federal

²¹² Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021) 32

²¹³ Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021) art 20(c).

²¹⁴ Ibid, art 20(d).

²¹⁵ Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021) 63-65.

²¹⁶ Ibid, para 37.

Council's net zero emissions strategy for 2050 was fully implemented in alignment with the principles of the CRC and in accordance with Article 24.²¹⁷ The Committee also urged an assessment of policies in the aviation and transport sectors to evaluate the impact of atmospheric pollution and emissions on children's rights, using the findings to develop a well-resourced strategy, including investments in carbon-neutral technologies²¹⁸, adding to the recommendation by Netzwerk Kinderrechte Schweiz (Swiss Network for the Rights of the Child) to set reduction targets for agriculture and define a binding deadline for banning new cars with CO2 emissions.²¹⁹ Furthermore, it was recommended that financial institutions, both public and private, consider the CC implications of their investments, with regular monitoring and evaluation mechanisms introduced, alongside binding regulations, to ensure compliance with climate goals 13 and 3.²²⁰ The Committee also called for stronger awareness-raising efforts, particularly in schools, on CC and environmental health, including air quality and relevant legislation, to promote children's right to the highest attainable standard of health.²²¹ The State party was further encouraged to ensure that children's needs and perspectives were systematically integrated into climate policies and programmes,²²² and to collect data on the impact of CC on children, with detailed reporting provided in its next submission in 2026.²²³

With regard to article 29 and the right to education, the Committee mentions it briefly in the context of human rights education, with no specific focus on environmental issues or CC. However, the Committee draws attention to target 4.7 of the SDGs and welcomes Switzerland's efforts to integrate human rights into the curricula of the language regions.²²⁴ The Committee recommends that the State party further strengthen initiatives aimed at promoting a culture of human rights within the education system, and that the teaching of human rights and the principles of the UNCRC be strengthened within the harmonised school curricula, including both the language region curricula and the subject area curricula.²²⁵ This should also extend to the training of teachers and education professionals in all cantons, in accordance with the

²¹⁷ Ibid., para 37(a).

²¹⁸ United Nations Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Switzerland* (22 October 2021) CRC/C/CHE/CO/5-6, art 37(b).

²¹⁹ Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021) 64.

²²⁰ Ibid, para 37(c).

²²¹ Ibid, para 37(d).

²²² Ibid, para 37(e).

²²³ Ibid, para 37(f).

²²⁴ Ibid, para 40.

²²⁵ Netzwerk Kinderrechte Schweiz, *Ergänzender Bericht zum 5. und 6. Staatenbericht der Schweiz zur Umsetzung der UN-Kinderrechtskonvention in der Schweiz* (May 2021), para 40(a)

framework of the World Programme for Human Rights Education.²²⁶ It also suggests that Switzerland ensure that teachers are provided with the necessary support to effectively teach children's rights in schools, thereby fostering a deeper understanding and respect for human rights from an early age.²²⁷

In conclusion, by 2021, Switzerland made progress in implementing the UNCRC, particularly with regard to the inclusion of children's views. However, challenges remain, in particular in strengthening children's participation in legal and administrative procedures, with a focus on vulnerable groups and professional training. The Committee urged Switzerland to reduce emissions, raise environmental health awareness and integrate children's perspectives into CC policies, and called for increased human rights education in schools to ensure that both teachers and students fully understand children's rights, and emphasised that these efforts are crucial to fulfilling Switzerland's obligations under the UNCRC.

4.2. Implementation of the UNFCCC in Switzerland

Switzerland, which ratified the UNFCCC on December 10, 1993²²⁸ is both Annex I and II country. According to IEA statistics, Switzerland has experienced a significant warming trend, with its average temperature increasing by 2°C from 1864 to 2016, a rate two to three times faster than the global average. This trend is expected to persist through the end of the century, with projected temperature increases ranging from 0.6°C to 5.4°C, contingent on future GHG emissions levels. As temperatures rise, Switzerland is likely to see more frequent, intense, and prolonged heat waves, especially in the southern regions. These higher temperatures will also shift energy consumption patterns, likely decreasing the need for heating while boosting the demand for cooling.²²⁹

Switzerland's updated NDC for 2021-2030 has set some ambitious targets, aiming to reduce GHG emissions by at least 50% by 2030 compared to 1990 levels, in line with the goals of the

²²⁶ Ibid.

²²⁷ Ibid., para 40(b).

²²⁸ United Nations, 'United Nations Treaty Collection' (*Un.org*) <https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=IND&mtdsg_no=XXVII-7&chapter=27&Temp=mtdsg3&clang=en>.

²²⁹ IEA, 'Switzerland Climate Resilience Policy Indicator – Analysis' (IEA18 February 2022) <<https://www.iea.org/articles/switzerland-climate-resilience-policy-indicator#>> accessed 15 July 2024.

PA.²³⁰ The country has also committed to achieving net-zero emissions by 2050. To achieve this goal, Switzerland plans to implement both domestic and international measures, including the use of Internationally Transferred Mitigation Outcomes (ITMOs) under Article 6 of the PA.²³¹ Despite significant economic and population growth since 1990, Switzerland has successfully reduced per capita emissions by 33%, demonstrating its leadership in decoupling emissions from economic progress.²³² However, the country is also experiencing the adverse effects of CC, including the retreat of glaciers and permafrost, which threatens its infrastructure and water resources.²³³

National Climate Policies

Switzerland is facing significant criticism regarding its CC mitigation strategies and broader environmental policies, with some experts claiming that Switzerland would be obligated to take stronger measures to reduce emissions.²³⁴

The Federal Act on the Protection of the Environment (USG)²³⁵ is Switzerland's primary environmental law, which aims to protect human health and the environment for present and future generations. Enacted in 1983, it seeks to prevent harmful environmental impacts by controlling emissions, promoting energy efficiency, and using renewable energy to mitigate CC.²³⁶ Although the law does not explicitly mention children, its focus on protecting the environment for "future generations" implicitly includes children, emphasizing their well-being and the need to preserve the natural foundations of life.²³⁷ Public participation is encouraged through access to environmental information, participation in permitting procedures, and the right to appeal decisions with environmental impacts.²³⁸ Environmental impact assessments ensure that environmental factors are integrated into project decision-making.²³⁹ The law also promotes education and public awareness as tools to enhance

²³⁰ Swiss Confederation, 'Switzerland's Updated Nationally Determined Contribution (NDC) for 2021-2030' (December 2021) <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Switzerland%20First/Switzerland%20Updated%20NDC%202021-2030.pdf> accessed 17 September 2024 2..

²³¹ Ibid, 12.

²³² Ibid, 18.

²³³ Ibid., 19.

²³⁴ J Hänni and T Ma, 'Swiss Climate Change Law' in P Hettich and A Kachi (eds), *Swiss Energy Governance* (Springer, Cham 2022) pp. 17-47 https://doi.org/10.1007/978-3-030-80787-0_2.

²³⁵ Federal Act on the Protection of the Environment (Environmental Protection Act, EPA) of 7 October 1983 (Status as of 1 January 2024) SR 814.01 (Switzerland).

²³⁶ Ibid, Arts. 1, 11, 35

²³⁷ Ibid, Art. 1(2)(a)

²³⁸ Ibid, Arts. 10g, 10e, 55

²³⁹ Ibid, Art. 10a

environmental protection²⁴⁰, further reinforcing its commitment to protecting the environment for future generations, including children.

The effectiveness of Switzerland's CO₂ Act²⁴¹, which has been in place since 2013, has been increasingly questioned in terms of its ability to achieve the established climate goals. The law aimed for a 20% reduction in emissions by 2020 compared to 1990 levels, but reports from the Federal Office for the Environment suggest a shortfall, with only a 14% reduction achieved by 2018, leading to assessments that describe progress as "unsatisfactory."²⁴² Moreover, the likelihood of achieving the ambitious 50% reduction target by 2030 set by the updated CO₂ law appears doubtful.²⁴³ In March 2024, the National Council and the Council of States completed their deliberations on the revised CO₂ Act during a reconciliation conference and then passed it in a final vote.²⁴⁴ Even if the new law is approved and fully implemented, projections indicate that emissions reductions could reach only 37.5% compared to 1990 levels, casting significant doubt on the adequacy of Switzerland's climate strategy.²⁴⁵

In addition, in June 2023, Switzerland ratified a "Climate and Innovation Law" by popular vote, setting a goal of net zero emissions by 2050.²⁴⁶ The Climate Change Performance Index (CCPI) country experts applauded the decision of Swiss voters to support this legislative action. However, they highlighted a notable gap in the Swiss government's strategy, pointing to the lack of concrete plans to implement the measures needed to effectively achieve this emissions target.²⁴⁷ The regulatory framework in Switzerland includes a carbon tax on heating fuels set at CHF 120 per ton, which is considered robust by environmental standards. However, criticism from environmental analysts suggests that the carbon pricing mechanisms applied to the transport sector do not match the stringency and effectiveness of those applied to heating fuels.²⁴⁸ In the area of energy policy, the Swiss government is drafting an improved energy law to promote the integration of renewable energy sources and set more stringent targets for the

²⁴⁰ Ibid, Art. 41

²⁴¹ Bundesgesetz über die Reduktion der CO₂-Emissionen (CO₂-Gesetz; SR 641.71) vom 11. Dezember 2011.

²⁴² J Hänni and T Ma, 'Swiss Climate Change Law' in P Hettich and A Kachi (eds), *Swiss Energy Governance* (Springer, Cham 2022) p. 30 https://doi.org/10.1007/978-3-030-80787-0_2.

²⁴³ Bundesgesetz über die Verminderung von Treibhausgasemissionen (CO₂-Gesetz) vom 25. September 2020.

²⁴⁴ Energy Radar, 'CO₂-Gesetz' (Energieradar2024) <<https://www.energiesradar.ch/co2gesetz>> accessed 23 July 2024

²⁴⁵ J Hänni and T Ma, 'Swiss Climate Change Law' in P Hettich and A Kachi (eds), *Swiss Energy Governance* (Springer, Cham 2022) 32 https://doi.org/10.1007/978-3-030-80787-0_2.

²⁴⁶ The Federal Council, 'Climate and Innovation Act' (www.admin.ch2023) <<https://www.admin.ch/gov/en/start/documentation/votes/20230618/climate-and-innovation-act.html>>.

²⁴⁷ CCPI, 'CCPI Countries and Rankings: Switzerland | Climate Change Performance Index' (2024) <<https://ccpi.org/country/che/>>.

²⁴⁸ Ibid.

sector. Despite these proactive steps, there has been no explicit commitment to a timeline for phasing out fossil fuels, which remains a critical component of a comprehensive climate policy. In addition, CCPI notes that the use of biomass for heating, which involves significant import and export activities, is an integral part of Switzerland's energy strategy. Although Switzerland has robust forest protection laws, the expansion of biomass use has begun to challenge these existing policies, raising concerns about the long-term sustainability of such practices.

Moreover, Switzerland's long-term climate strategy, adopted by the Federal Council on January 27, 2021, outlines the nation's roadmap to achieving net-zero GHG emissions by 2050, aligning with the goals of the PA. This strategy, a fulfilment of the PA's requirement (Art. 4.19), sets specific emission reduction pathways across multiple sectors including buildings, industry, transport, agriculture, and more, based on scenarios from the Energy Perspectives 2050+. It also emphasises the essential role of technologies for CO₂ capture, removal, and storage to handle the residual emissions, projecting an approximate reduction to 90% of 1990 levels by 2050, with the balance addressed by negative emissions technologies. This approach reflects a broader international trend, with several other countries, including EU members and nations like the UK, Japan, and Canada, adopting similar long-term strategies to phase out fossil fuels or achieve net-zero emissions, often enshrined in national laws.²⁴⁹ However, to achieve the 2050 target of net-zero emissions, Switzerland would need to fully utilise its remaining sustainable bioenergy potential. In this hypothetical yet unfeasible scenario, bioenergy would play a pivotal role across various sectors of the energy system. It would not only contribute to negative emissions, but also supply zero-carbon fuels essential for electricity, heating, and transport. This scenario, however, is considered impractical due to the extensive demands and potential limitations in bioenergy availability and sustainable production capacities.²⁵⁰

It is also extremely important to consider the human factor, with a focus on children and future generations. Different technologies are likely to affect regions and individuals in different ways, often placing a disproportionate burden on impoverished communities and those in

²⁴⁹ Federal Office for the Environment FOEN, 'Long-Term Climate Strategy to 2050' (www.bafu.admin.ch 31 March 2023) <<https://www.bafu.admin.ch/bafu/en/home/topics/climate/info-specialists/emission-reduction/reduction-targets/2050-target/climate-strategy-2050.html>>.

²⁵⁰ Evangelos Panos and others, 'Long Term Energy Transformation Pathways: Integrated Scenario Analysis with the Swiss TIMES Energy Systems Model' 44 (www.research-collection.ethz.ch 5 March 2021) <<https://www.research-collection.ethz.ch/handle/20.500.11850/509023>> accessed 17 July 2024.

vulnerable situations.²⁵¹ Decisions on NTCPs (new technologies intended for climate protection) could have a significant impact on the ability of children and future generations to realise their human rights, and may expose them to increased risks from geoengineering, thereby deepening intersectional discrimination.²⁵²

Consideration of Children's Rights in Climate Policies

Despite its proactive efforts to combat CC, Switzerland has yet to implement child-sensitive adaptation measures. While the concept of intergenerational equity has yet to find legal application in the context of Swiss environmental law, it is nominally promoted by the Swiss government through its Strategy for Sustainable Development.²⁵³ The Strategy recognizes children as drivers of sustainable development, important contributors to civil society, and emphasises their inclusion in decision-making processes and ensuring universal access to education. However, the document falls short in detailing children's participation in addressing CC issues, specifically failing to mention children in the sections on adaptation and loss and damage. Instead, the document predominantly uses general terms such as "public" and fails to specifically address the role of children.²⁵⁴ This raises questions about practical implementation, particularly with regard to children. Although the Confederation claims to support initiatives that enhance the competencies of children and youth and promote their integration into various dimensions of society, the lack of judicial precedent and the absence of explicit legal mandates to enforce these policies may limit their effectiveness, pointing to a potential disconnect between policy aspirations and tangible outcomes in promoting intergenerational equity.

In addition, the "Action Plan 2024-2027 on the Sustainable Development Strategy 2030", adopted by the Federal Council on January 24, 2024, outlines 22 actions in the priority areas of the Sustainable Development Strategy 2030.²⁵⁵ While this action plan specifically addresses children's issues in the context of health, it lacks provisions for child-sensitive or gender-responsive CC adaptation measures. In Q1 2024, the Blueprint calls for the implementation of

²⁵¹ UN Human Rights Council, *Impact of New Technologies Intended for Climate Protection on the Enjoyment of Human Rights*, Final Report of the Advisory Committee, A/HRC/54/47 (2023) para 53 <https://www.ohchr.org/en/hr-bodies/hrc/advisory-committee/impact-of-new-technologies> accessed 10 November 2024.

²⁵² Ibid.

²⁵³ Swiss Federal Council, '2030 Sustainable Development Strategy' (www.are.admin.ch June 2021) <<https://www.are.admin.ch/are/en/home/sustainable-development/strategy/sds.html>>.

²⁵⁴ Ibid. 12-31.

²⁵⁵ Aktionsplan 2024–2027 Zur Strategie Nachhaltige Entwicklung 2030 2024.

Recommendation 1 by generating evidence and identifying data gaps for child and adolescent health indicators in Switzerland. By Q4 2024, Recommendation 5 will be implemented to strengthen health care coordination, focusing on early detection and intervention for mental health in open child and youth work and youth associations.²⁵⁶ Despite its broad focus on reducing GHG emissions, increasing energy efficiency, and promoting biodiversity conservation to support sustainable development by 2030, the plan does not comprehensively address the nuanced needs of different demographic groups in its climate-related strategies.

Adaptation to CC faces significant barriers²⁵⁷, including the mismatch between the long-term impacts of CC and the short-term focus of democratic political processes, which often leads to the de-prioritization of climate issues. The process is further complicated by uncertainties about climate impacts, actor behaviour, and institutional frameworks. Institutional gaps or redundancies confuse priorities, while policy fragmentation hinders effective cross-sectoral coordination. In addition, inadequate awareness and communication contribute to a general misunderstanding of the severity of CC. Psychological barriers also affect motivation to adapt, and limited resources limit the necessary adaptive capacity.²⁵⁸

Climate Activism

Swiss Youth for Climate (SYFC) plays a pivotal role in both national and international climate advocacy, focusing on empowering youth to actively participate in climate governance. Internationally, SYFC consistently engages in key climate conferences such as the UNFCCC's Subsidiary Body (SB) sessions and the annual Conference of Parties (COP), advocating for more ambitious climate policies and fostering connections with youth and climate organizations across the globe.²⁵⁹ Nationally, SYFC campaigns for Switzerland to align with the 1.5°C global warming pathway through initiatives like the "Adopt a Decision Maker" program, while also engaging in public dialogue and media to raise awareness of critical climate issues. Additionally, SYFC's five regional branches (Geneva, Lausanne, Zürich, Basel,

²⁵⁶ Ibid. 28.

²⁵⁷ D Braunschweiler, 'Adaptation to Climate Change in Practice Overcoming the Adaptation Implementation Gap in Switzerland' (Inaugural Dissertation in Fulfilment of the Requirements for the Degree of Doctor Rerum Socialium at the Faculty of Business, Economics and Social Sciences of the University of Bern 2022) <file:///C:/Users/User/Downloads/ijerph-09-03298.pdf>.

²⁵⁸ Ibid. p. 17

²⁵⁹ Swiss Youth For Climate (SYFC), 'Our Activities' (Swiss Youth For Climate 2023) <<https://www.syfc.ch/our-activities>> accessed 16 September 2024.

Bern) lead local initiatives tailored to their communities, organizing youth-focused events and collaborating with NGOs to amplify climate action at the grassroots level.²⁶⁰

The Sabin Center has begun to add cases of criminal charges against climate activists to its database amid the growing social movement focused on CC awareness and criticism of inadequate government action.²⁶¹ These cases occurred in Switzerland, but also in Australia, Canada, France, New Zealand, and the UK. In cases where there have been convictions, the climate crisis has generally been a factor in the courts' sentencing decisions.

4.3 Judicial Interpretations and Children's Environmental Rights: Case Law Analysis

Environmental cases themselves can be pursued through civil, criminal, and administrative legal avenues. Civil remedies address both "classical environmental harm," affecting individual rights such as property, and "pure environmental harm," relating to damage inflicted on nature itself.²⁶² Criminal provisions, found in the Swiss Criminal Code and other environmental laws, address offences like water contamination. Administrative procedures allow challenges to environmental decisions by authorities, and appeals may reach the Swiss Federal Tribunal. Legal aid is available for those without financial means, and limitation periods vary by case type, with civil claims generally subject to a three-year limit.²⁶³

To date, no case involving a child and their representative has been brought forward in Switzerland. However, various domestic and international cases indicate that Switzerland must assume greater responsibility in light of its obligations under the aforementioned treaties to which it is a party.

It is nevertheless relevant to mention the complaint lodged by *Verein KlimaSeniorinnen Schweiz*, a Swiss association formed under national law, alongside four individual members of the association: Ms. Ruth Schaub, Ms. Marie-Eve Volkoff Peschon, Ms. Bruna Giovanna Olimpia Molinari, and Ms. Marie Gabrielle Thérèse Budry. The applicants contended that the association's elderly female members were especially vulnerable to the health risks posed by

²⁶⁰ Ibid.

²⁶¹ United Nations Environment Programme, *Global Climate Litigation Report: 2023 Status Review* (2023) ISBN 978-92-807-4052-3 <https://doi.org/10.59117/20.500.11822/43008> 72.

²⁶² Child Rights International Network (CRIN), *Children's Access to Justice for Environmental Rights Switzerland* (March 2022) p. 14.

²⁶³ Ibid, p.19.

heatwaves, exacerbated by insufficient climate action on Switzerland's part.²⁶⁴ The applicants alleged that the Swiss government had failed to take adequate steps to combat CC, which they argued disproportionately affected older women, such as the members of the association. They claimed that this failure exposed them to increased health risks and violated their rights under both national law and international human rights standards, including the right to life and the right to respect for private and family life, as enshrined in Articles 2 and 8 of the ECHR. They emphasised that Swiss authorities had failed to meet their obligations under various international climate agreements and Swiss constitutional provisions. In addition to invoking Articles 2 (right to life) and 8 (right to respect for private and family life) of the ECHR, the applicants also invoked specific provisions of the Swiss Federal Constitution and national legislation to argue for stronger government action to combat CC. Central to their argument was Article 73 of the Constitution, which requires the State to ensure sustainable development by harmonising human needs with the capacity of nature.²⁶⁵ They also relied on Article 74, which states that the government has the responsibility to legislate for the protection of the environment and places the onus on those responsible for environmental damage to prevent or remedy the damage.²⁶⁶ In addition, Articles 29 and 29a were invoked to emphasise the plaintiffs' right to a fair trial and access to judicial review.²⁶⁷ In addition to the constitutional provisions, the plaintiffs relied on the Federal Law on Environmental Protection, highlighting sections that impose emission limits and set thresholds for pollutants, thus underscoring the legal requirement for preventive measures to mitigate environmental damage.²⁶⁸ The CO2 Act was also central to their argument, particularly its provisions on emission reduction targets and the requirement to implement domestic measures to achieve these targets.²⁶⁹ Taken together, these legal arguments demonstrate how Switzerland's constitutional and legal framework can be used to hold the government accountable for meeting its CC commitments, thereby strengthening the legal basis for proactive environmental protection.

The ECtHR, sitting as a Grand Chamber, ruled in April 2024 that Switzerland had failed to fulfil its positive obligations under Article 8 to take sufficient measures to mitigate CC, making

²⁶⁴ Verein KlimaSeniorinnen Schweiz and Others v Switzerland (2024) 53600/20, Judgment (Merits and Just Satisfaction), Grand Chamber, ECHR, 9 April 2024, [para 1].

²⁶⁵ Verein KlimaSeniorinnen Schweiz and Others v Switzerland (2024) 53600/20, Judgment (Merits and Just Satisfaction), Grand Chamber, ECHR, 9 April 2024, [para 121].

²⁶⁶ Ibid.

²⁶⁷ Ibid.

²⁶⁸ Ibid, para 122.

²⁶⁹ Ibid, para 123.

this a landmark case for several reasons, including its judicial recognition of climate-related harm, state accountability for global climate risks, emphasis on intergenerational justice, extension of victim status to collective groups, and integration of climate science into the assessment of state obligations under human rights law. The ECtHR began its assessment by recognizing CC as a pressing global issue with significant human rights implications, particularly for vulnerable groups such as the elderly and those with pre-existing health conditions.²⁷⁰ While recognizing the urgency of climate action, the Court emphasised that legislative measures to combat CC are primarily the responsibility of national governments, with the Court's role limited to ensuring that states comply with their obligations under the ECHR.²⁷¹ This sets the stage for examining how human rights law interacts with state obligations in the context of environmental protection. The Court then discussed the complexity of establishing causation in climate litigation, noting that the diffuse nature of GHG emissions makes it difficult to directly link specific state actions to individual rights violations.²⁷² However, the Court emphasised that the cumulative impact of emissions on human rights is undeniable. Importantly, it affirmed that states cannot shirk their responsibilities simply because CC is a global problem. States have a duty to act and mitigate risks to human rights, even if the harm is not immediate or directly attributable to a single actor.²⁷³ This reflects the Court's progressive stance on state responsibility for environmental harm.

Another important aspect of the case in general and the Court's assessment is collective action and intergenerational burden-sharing. In this context, the Court highlighted the particular importance of intergenerational burden-sharing in the area of CC, taking into account both present and future generations.²⁷⁴ While the legal obligations of States under the ECHR apply to persons currently alive and subject to the jurisdiction of the relevant Party, it is clear that future generations are likely to face increasingly severe consequences as a result of the current failure to adequately address CC and do not have the opportunity to participate in current decision-making processes.²⁷⁵ The Court reaffirmed the commitment of Parties to the ECHR

²⁷⁰ Ibid. para 410.

²⁷¹ Verein KlimaSeniorinnen Schweiz and Others v Switzerland (2024) 53600/20, Judgment (Merits and Just Satisfaction), Grand Chamber, ECHR, 9 April 2024, paras 411, 412.

²⁷² Ibid. paras 420-422.

²⁷³ Ibid. para 425.

²⁷⁴ Ibid. para 420.

²⁷⁵ Ibid.

to protect the climate system for the benefit of present and future generations and emphasised that this responsibility must be understood in the light of the existing adverse impacts of CC, the urgency of the situation and the potential for irreversible damage.²⁷⁶ Finally, the Court stated that, given the likely worsening impacts on future generations, the intergenerational perspective underscores the risk of political decision-making where short-term interests may override long-term sustainability needs, thereby increasing the need for judicial oversight.

One of the key aspects of the Court's decision concerns the status of victims in relation to Articles 8 and 2, and the role of Article 6 § 1 in determining victim status. The Court concluded that the individual applicants did not meet the criteria for victim status under the ECHR because they had not demonstrated that they had been directly affected by CC in a manner sufficient to meet the legal threshold for harm.²⁷⁷ Although the Court does not accept *actio popularis*, it did grant the association standing to represent the collective interests of its members under certain conditions. To have *locus standi* under Article 34 of the ECHR for claims regarding a State's failure to protect individuals from the adverse effects of CC, the association must meet several criteria: (a) it must be legally established or have standing in the relevant jurisdiction; (b) its statutory objectives must include the defence of human rights, particularly in addressing CC-related threats; and (c) it must demonstrate that it is genuinely qualified and representative, acting on behalf of members or others affected by the specific risks posed by CC to their lives, health, or well-being.²⁷⁸ This broadens the scope of who can be considered a victim in environmental human rights cases and allows for collective claims to be brought on behalf of vulnerable groups, and is definitely a game changer.

In nearly fifty pages, the Court examined the positive obligations of States under Articles 2 (right to life)²⁷⁹ and 8 (right to respect for private and family life)²⁸⁰ of the ECHR, which require them to take effective measures to protect citizens from environmental harm, including CC.²⁸¹ While recognizing that States have discretion in determining policy responses, the Court stressed that this discretion must be exercised proportionately and in accordance with scientific

²⁷⁶ Ibid.

²⁷⁷ Verein KlimaSeniorinnen Schweiz and Others v Switzerland (2024) 53600/20, Judgment (Merits and Just Satisfaction), Grand Chamber, ECHR, 9 April 2024, paras 478-488.

²⁷⁸ Ibid. para 502.

²⁷⁹ Ibid. paras 507-520.

²⁸⁰ Ibid. paras 521-535.

²⁸¹ Ibid. para 450.

advice on CC mitigation. The Court emphasised that environmental issues such as CC can have a direct impact on life and well-being, and therefore States are required to ensure that their legal systems provide effective means for individuals to seek protection. In this context, the Court underlined that Switzerland's inaction on CC could amount to a failure to fulfil its positive obligations under Articles 2 and 8. The ECtHR seized the opportunity to engage in the climate justice discourse by incorporating, at least superficially, an Article 2 perspective, although it ultimately concluded that an Article 2 approach was not applicable in this case.²⁸² Nevertheless, the Court made a notable contribution by adopting a more expansive "foreseeable risk" standard in assessing potential violations of the right to life in the context of CC. This approach marks a notable shift from the more conservative "imminent and foreseeable risk" standard generally applied by the UN Human Rights Committee. It is consistent with the partial dissenting opinion of HRCttee members Arif Bulkan, Marcia V. J. Kran and Vasilka Sancin in the case of *Billy v. Australia*, where they found a violation of the right to life.²⁸³ They argued that the application of the "real and foreseeable risk" standard resulted in an overly restrictive interpretation of Article 6.²⁸⁴ By emphasising the procedural dimension of Articles 2 and 8, the Court links substantive human rights protections with the procedural safeguards of Articles 6 and 13, creating a holistic framework for addressing climate-related human rights claims.

The Court also assessed whether the applicants had been accorded an effective and fair trial at the domestic level, as required by Article 6 of the ECHR, and examined whether the applicants' claims fell within the scope of Article 6 § 1 of the ECHR, which deals specifically with the right to a fair trial and access to a court.²⁸⁵ It distinguished between aspects of the applicants' claims that sought legislative changes, which do not fall within the scope of Article 6 § 1, and those that concerned the implementation of existing laws, which could fall within that provision. First, the Court affirmed that the civil nature of the rights invoked, such as the right to life and physical integrity under the Swiss Constitution, made the matters suitable for consideration under Article 6 § 1.²⁸⁶ Therefore, it found that the individual applicants had presented arguable claims that had not been adequately addressed by the Federal Supreme

²⁸² Ibid. para 785.

²⁸³ Psymhe Wadud, 'Verein KlimaSeniorinnen Schweiz and Others v Switzerland: The Intersection of Climate Change and the Human Right to Life – Cambridge International Law Journal' (*Cilj.co.uk* 21 May 2024) <<https://cilj.co.uk/2024/05/20/verein-klimasenioren-schweiz-and-others-v-switzerland-the-intersection-of-climate-change-and-the-human-right-to-life/>> accessed 15 September 2024.

²⁸⁴ Ibid.

²⁸⁵ Verein KlimaSeniorinnen Schweiz and Others v Switzerland (2024) 53600/20, Judgment (Merits and Just Satisfaction), Grand Chamber, ECHR, 9 April 2024, [paras 590-640].

²⁸⁶ Ibid. para 617.

Court, emphasising in particular the role of associations in defending collective interests in the context of CC.²⁸⁷ In addition, the Court emphasised that access to the courts must be practical and effective, and criticised the domestic courts for dismissing the association's case without any substantive assessment, thereby undermining the essence of the right of access to the courts. The restrictions imposed by the domestic courts, in particular because they failed to properly assess the urgency of CC and failed to distinguish the standing of the association from that of the individual applicants, were not proportionate to the legitimate objective of preserving the separation of powers.²⁸⁸ Ultimately, the Court concluded that these restrictions were disproportionate and affected the very essence of the right, thus constituting a violation of Article 6 § 1 in relation to the applicant association's ability to defend rights affected by CC.²⁸⁹ This decision underscores the crucial role of domestic courts in CC litigation and highlights the importance of access to justice in this emerging and vital area of law.

In conjunction with Article 6, the Court also examined Article 13 of the ECHR, which provides the right to an effective remedy.²⁹⁰ The Court clarified that Article 6 serves as a specific legal framework (*lex specialis*) for Article 13, with its stricter criteria subsuming the requirements of Article 13. In view of the Court's previous decision under Article 6 concerning the applicant association, it did not consider it necessary to assess the Article 13 complaint separately for them, and found that these applicants had failed to state an arguable claim under Article 13.²⁹¹

Finally, the ECtHR has reaffirmed that Article 46 of the ECHR requires High Contracting Parties to comply with its judgments by taking appropriate measures to remedy violations.²⁹² The Court did not specify the specific adjustments that Switzerland must make to its domestic legal system in order to comply with the judgement, and it chose not to prescribe general measures under Article 46 of the ECHR, stating that it was "not in a position to provide detailed or prescriptive guidance on the measures to be implemented in order to comply effectively with this judgement".²⁹³ Consequently, the responsibility for implementing the judgement rests with

²⁸⁷ Ibid. paras 618-619.

²⁸⁸ Ibid. paras 629-637.

²⁸⁹ Verein KlimaSeniorinnen Schweiz and Others v Switzerland (2024) 53600/20, Judgment (Merits and Just Satisfaction), Grand Chamber, ECHR, 9 April 2024, paras 638-640.

²⁹⁰ Ibid. paras 641-645.

²⁹¹ Ibid, paras 641-645.

²⁹² Ibid. para 655.

²⁹³ Ibid. para 656.

Switzerland, under the supervision of the Committee of Ministers of the Council of Europe. This approach is in line with the standard practice of the Court in its jurisprudence.²⁹⁴

The ECtHR's ruling sets an important precedent for judicial recognition of climate-related harms, a key obstacle in climate litigation. By linking state obligations under human rights law to environmental protection, the Court provides future litigants with a roadmap for applying climate science in legal contexts. The Court's emphasis on the duty of states to mitigate CC, even in the absence of immediate or direct harm, reinforces their responsibility to protect human rights from the cumulative impacts of CC. A notable aspect of the Court's decision is its focus on intergenerational equity, particularly with respect to children and future generations. The Court emphasised that while current laws protect those alive today, children are particularly vulnerable to climate-related risks and will face the most severe consequences of inaction. By recognizing the need for long-term sustainability and intergenerational burden-sharing, the Court underscored the importance of judicial oversight to ensure that states meet their climate obligations. Also, this decision opens the door for strategic climate litigation not only to protect individual human rights, but also to drive broader policy reform at the national and international levels. By expanding the concept of victim status to include associations representing vulnerable groups such as children, the Court improves access to justice for those most affected by CC. The ruling creates a holistic framework that combines substantive and procedural human rights protections to address climate-related claims. In sum, the Court's decision reinforces the responsibility of states to adopt climate policies that protect present and future generations, especially children. Strategic climate litigation has the potential to secure children's rights to life, health and a safe environment, while driving systemic change in climate policy. The Court's decision is a critical step toward greater judicial commitment to climate justice and provides a framework for holding states accountable for their environmental obligations.

On May 22, 2024, the Legal Affairs Committee of the Council of States, Switzerland's upper chamber, introduced a motion to reject the *KlimaSeniorinnen* decision. The motion was approved by the Council of States on June 5, 2024, and on June 11, 2024, the Legal Affairs Committee of the National Council passed a similar motion criticizing the "judicial activism"

²⁹⁴ Ibid. para 657.

of the ECHR and stating that Switzerland has adequately addressed CC.²⁹⁵ Both motions are non-binding, and the Swiss government is expected to outline its next steps (the content of these next steps is not yet public at the time of this text). Shortly after the ruling, the Swiss People's Party (SVP) called for Switzerland to withdraw from the ECHR. Although the SVP's call was echoed by some parliamentarians, it did not gain momentum. Instead, both chambers of the Swiss parliament issued statements in June 2024 arguing that the Court had overstepped its authority and urging the Federal Council to inform the Committee of Ministers that no further action was needed to comply with the ruling.²⁹⁶ The Parliament rejected the decision, and the response of the Federal Council is pending, with SVP member Albert Rösti stating that no additional steps are needed, there is no official position yet, and Switzerland shows no signs of non-compliance with the ruling, and it remains to be seen in the period that follows.²⁹⁷

Also, this landmark ruling sparked discussion among experts, and on June 24, 2024, a group of legal experts convened online to discuss the ECtHR judgement and its potential impact on future climate litigation.²⁹⁸ Led by prominent scholars such as Pascal Pichonnaz and Véronique Boillet, the discussion centred on the significant legal and political implications of the ruling, particularly regarding the role of the ECtHR in shaping climate policy through human rights frameworks.²⁹⁹ Pichonnaz emphasised the polarised reactions to the judgement, noting the Swiss Parliament's rejection and concerns over judicial overreach, while Boillet highlighted the challenges of implementing the ruling across federal, cantonal, and communal levels in Switzerland.³⁰⁰ Additionally, Luca De Carli from the European Commission underscored the importance of aligning national climate measures with broader international obligations, referencing the EU's compliance with the ECtHR's standards.³⁰¹ "There is no 'à la carte' when it comes to the binding judgments of the ECtHR. CC is one of the most pressing issues of our

²⁹⁵ Amnesty International, *Climate Inaction, Ruled Out! European Court Clarifies State Obligations to Tackle the Climate Crisis: Legal Briefing* (EUR 01/8441/2024, August 2024).

²⁹⁶ C Heri, 'Guest Blog: Implementing KlimaSeniorinnen: Evaluating the Initial Swiss Response - Climate Law Blog' (*Climate Law Blog* 18 July 2024) <<https://blogs.law.columbia.edu/climatechange/2024/07/18/guest-blog-implementing-klimaseniorinnen-evaluating-the-initial-swiss-response/>> accessed 15 September 2024.

²⁹⁷ C Heri, 'Guest Blog: Implementing KlimaSeniorinnen: Evaluating the Initial Swiss Response - Climate Law Blog' (*Climate Law Blog* 18 July 2024) <<https://blogs.law.columbia.edu/climatechange/2024/07/18/guest-blog-implementing-klimaseniorinnen-evaluating-the-initial-swiss-response/>> accessed 15 September 2024.

²⁹⁸ European Law Institute (ELI), 'Assessing the Impact of KlimaSeniorinnen and Associated Rulings' (*Europeanlawinstitute.eu* June 2024) <https://www.europeanlawinstitute.eu/news-events/news-contd/news/assessing-the-impact-of-klimaseniorinnen-and-associated-rulings-1/?no_cache=1&cHash=e882f804044079e26a9ed27283e06c26> accessed 15 September 2024.

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ Ibid.

time. The Swiss Council of States must reject this dangerous motion and implement the ruling by stepping up its efforts to combat CC," said Mandi Mudarikwa, Amnesty International's Director of Strategic Litigation.³⁰²

Sacchi and Others v Argentina: A Precursor to Duarte Agostinho

The *Sacchi and others v. Argentina*³⁰³ brought before the CRC in 2021, raised new challenges regarding the admissibility of the decision, and in addition to the exhaustion of domestic remedies, the Committee had to address the issue of victim status in the context of CC, as well as the extraterritorial climate obligations imposed on States under the UNCRC.³⁰⁴ The case involved a group of sixteen children from various countries, including Argentina, Brazil and Sweden, who submitted a communication to the CRC. Their central claim was that Argentina, among other States parties, had failed to take necessary and appropriate measures to prevent and mitigate CC. This alleged failure, they argued, constituted a violation of their rights under the UNCRC, in particular with regard to Articles 6, 24 and 30 in conjunction with Article 3. These provisions concern, inter alia, the right to life, health and cultural identity, particularly in the context of decisions in which the best interests of the child are a primary consideration.³⁰⁵ The children, as authors of the complaint, emphasised the adverse effects that CC is already having on their fundamental rights. They asserted that the climate crisis disproportionately affects children, who are among the most vulnerable populations to such environmental degradation. The applicants argued that the failure of states to effectively reduce GHG emissions has led to what they termed a "children's rights crisis". The harms cited included serious health problems such as asthma, exacerbated by increased exposure to wildfires, extreme weather events, and the spread of infectious diseases due to changing environmental conditions.³⁰⁶ Argentina challenged the admissibility of the communication on several grounds. It argued that the complaint was beyond the Committee's mandate and could be addressed through other mechanisms, such as State reviews..³⁰⁷ In addition, Argentina raised jurisdictional objections, arguing that many of the children were not its nationals and that the

³⁰² Amnesty International, 'Switzerland: Parliament Must Respect Landmark Climate Case' (*Amnesty International* 4 June 2024) <<https://www.amnesty.org/en/latest/news/2024/06/switzerland-parliament-must-respect-landmark-climate-case/>> accessed 17 September 2024.

³⁰³ *Sacchi and Others v Argentina* (2021) CRC/C/88/D/104/2019, UN Committee on the Rights of the Child

³⁰⁴ Suedi Y, 'Litigating Climate Change before the Committee on the Rights of the Child in *Sacchi v Argentina et al*: Breaking New Ground?' (2023) 40 *Nordic Journal of Human Rights* 549, 550 <<https://doi.org/10.1080/18918131.2022.2160093>>

³⁰⁵ *Sacchi and Others v Argentina* (2021) CRC/C/88/D/104/2019, UN Committee on the Rights of the Child para. 1.1.

³⁰⁶ Ibid. paras. 3.2, 3.4-3.5.

³⁰⁷ Ibid. paras. 4.1.

harm occurred outside its territory, thereby absolving it of responsibility.³⁰⁸ Argentina also claimed that the authors had failed to exhaust domestic remedies, pointing to its robust legal framework for environmental litigation, which the authors had not pursued.³⁰⁹

In its decision, the CRC recognized that States have extraterritorial obligations in cases of transboundary environmental damage. The Committee cited the jurisprudence of the Inter-American Court of Human Rights to support the proposition that States may bear responsibility for environmental damage that goes beyond their borders.³¹⁰ In a later case before the ECtHR, the case of *Duarte Agostinho and Others v. Portugal and 32 others*, the applicants referred to this decision, which recognized that States have extraterritorial obligations in cases involving transboundary environmental damage. However, the ECtHR, while recognizing the applicants' references to the CRC's position, ultimately did not adopt this approach in its decision, recognizing that the CRC and other international bodies have adopted broader notions of extraterritorial obligations, particularly in the context of environmental harm and human rights.³¹¹ However, despite recognizing the principle of extraterritorial obligations, the Committee ultimately found that the applicants had not exhausted available domestic remedies in Argentina. Although the children argued that pursuing these remedies would be either ineffective or unduly protracted, the Committee found that they had not provided sufficient evidence to substantiate this claim.³¹² In addition, the Committee considered children's allegations of specific harms they have already suffered and are likely to suffer as a result of CC, such as aggravated asthma due to wildfire smoke, exposure to extreme heat, water insecurity due to drought, and mental health impacts, including climate anxiety. In particular, the Committee noted that children are uniquely affected by CC because they experience its effects more acutely and over a longer period of time, given the potential for future harm throughout their lives. Consequently, the Committee found that the authors had sufficiently established victim status and concluded that the harm they suffered was reasonably foreseeable as a result of States' carbon emissions. Thus, the Committee ruled that the competence to consider the communication in terms of the victim status was established.³¹³

³⁰⁸ Ibid. para. 4.3.

³⁰⁹ Ibid. paras. 4.5, 10.15.

³¹⁰ Ibid. paras. 10.3-10.5.

³¹¹ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no.39371/20), para. 212.

³¹² *Sacchi and Others v Argentina* (2021) CRC/C/88/D/104/2019, UN Committee on the Rights of the Child paras. 10.18-10.20

³¹³ Ibid. paras. 10.13-10.14.

Following the rejection of their petition, the children submitted a new petition to the United Nations Secretary-General, urging him to declare a climate emergency.³¹⁴ This declaration would trigger a coordinated UN response and the activation of a crisis management team to oversee global climate action. As of December 31, 2022, the petition remains pending.³¹⁵

The decision illustrates the complex legal and procedural challenges associated with addressing CC through the international human rights framework. In particular, it underscores the importance of exhausting domestic legal processes and remedies before seeking recourse in international tribunals, especially in cases involving complex issues such as CC and environmental justice. This case serves as a reminder of the difficulties of navigating the jurisdictional complexities and procedural hurdles of international human rights law, particularly when addressing global challenges such as CC. While the recognition of the extraterritorial responsibility of States is significant, the need for claimants to first pursue effective domestic remedies remains a critical precondition for international action.

Duarte Agostinho and Others v. Portugal and 32 Others

In another important case, whose landmark decision was delivered on the same day as the aforementioned case on April 9, 2024, the ECtHR unanimously declared inadmissible the application of six young Portuguese nationals in the case of Duarte Agostinho and others v. Portugal and 32 others.³¹⁶ The applicants, who were born between 1999 and 2012 and live in Pombal and Almada, Portugal, had complained about the current and future impact of CC on their lives and well-being, stating that they had already experienced reduced energy levels, difficulty sleeping and a reduction in their ability to spend time or exercise outdoors during recent heat waves, and alleged violations of their rights under the ECHR.³¹⁷

Drawing on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 8 (right to respect for private and family life) and 14 (prohibition of discrimination) of the ECHR, they

³¹⁴ Sabin Center for Climate Change Law, 'Children's Petition to the United Nations Secretary-General to Declare a Climate Emergency - Climate Change Litigation' (*Climate Change Litigation* 30 November 2021) <<https://climatecasechart.com/non-us-case/childrens-petition-to-the-united-nations-secretary-general-to-declare-a-climate-emergency/>> accessed 25 September 2024.

³¹⁵ Ibid.

³¹⁶ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no. 39371/20).

³¹⁷ Ibid. paras 11-14.

claimed that their generation was particularly vulnerable to the effects of CC. They emphasised that the risks would escalate during their lifetime, resulting in a more pronounced violation of their rights compared to previous generations.³¹⁸ In their submission to the Grand Chamber, the applicants also referred to international instruments such as the PA and the UNCRC (including GC26), as well as scientific reports from the Intergovernmental Panel on Climate Change (IPCC), to support their claims regarding the need for rapid and significant reductions in GHG emissions by 2030 in order to limit global temperature rise to 1.5°C.³¹⁹ In its application, the Swiss government argued that the applicants were essentially asking the Court to become a supreme court for the environment, which it could not be, given that the Court's role is to interpret the rights and freedoms enshrined in the ECHR.³²⁰ They also argued that the judicialization of the CC process was inappropriate and raised issues of separation of powers and the principle of subsidiarity.³²¹ The Swiss government also argued that the Court's role is to interpret the rights and freedoms enshrined in the ECHR. The third parties also emphasised the close link between environmental protection and human rights, particularly in the context of CC. Among others, the Council of Europe Commissioner for Human Rights noted that environmental degradation, in particular CC, affects rights to life, private and family life, and freedom from inhuman treatment, highlighting that children are disproportionately affected and often face lifelong hardship.³²² Emphasising the need for young people to have access to justice, the Commissioner also highlighted the challenges of addressing transnational climate issues, as national courts often overlook the broader consequences of national actions.³²³ The Commissioner added that while some courts have recognized the link between CC and human rights violations, barriers to justice remain, largely due to the difficulty of attributing responsibility across borders.³²⁴ The European Commission reaffirmed the EU's commitment to exceeding its obligations under the Paris Agreement³²⁵, and UN Special Rapporteurs pointed out the extraterritorial human rights responsibilities of states in cases of transboundary environmental harm.³²⁶ The European Network of National Human Rights Institutions (NHRI)

³¹⁸ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no.39371/20), [paras 66-70].

³¹⁹ Ibid. para. 25.

³²⁰ Ibid. para 117.

³²¹ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no.39371/20), para 117.

³²² Ibid. para. 137.

³²³ Ibid. paras 138-139.

³²⁴ Ibid. para. 140.

³²⁵ Ibid. para. 142.

³²⁶ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no.39371/20), para. 143.

argued that states could be held accountable for climate-related harm under international law, even when emissions come from other countries.³²⁷ They called for an interpretation of jurisdiction that includes extraterritorial harm caused by GHG emissions to ensure that states cannot escape accountability for climate-related human rights violations,³²⁸ and added that children and youth can be recognized as victims under Article 34 not only because of the physical impacts of CC, such as heatwaves and wildfires, but also because psychological harm, such as climate anxiety, is sufficient to show a direct effect, and given their limited capacity to advocate for their interests before the final carbon budget is exhausted and the certainty of latent future climate harms, a non-formalist interpretation of victim status is favoured to ensure the effectiveness of their rights. This allows them to be potential victims based on convincing evidence of future environmental harms.³²⁹

This case raises pivotal questions about how existing human rights frameworks can be applied to global environmental challenges. The applicants alleged that their rights under the ECHR were violated due to inadequate climate action by the respondent States, contributing to environmental degradation and resulting harm. The Court's decision on jurisdiction, particularly its interpretation of Article 1 of the ECHR, and its findings on the requirement for exhaustion of domestic remedies under Article 35 § 1, provide key insights into the legal limitations faced by CC litigants within the European human rights system. It is also important to recognize that the Duarte Agostinho case advanced ambitious arguments regarding states' fair share of responsibility and the harmonisation of human rights law with international climate obligations.³³⁰ While this case was unsuccessful, it provides valuable insights into the legal boundaries and procedural requirements that future claimants must navigate, and they may help shape the development of jurisprudence in this emerging area of law. By pushing the boundaries of what is legally conceivable, *Duarte Agostinho* may have helped pave the way for the Court's important finding in *KlimaSeniorinnen*, and in this sense the case can be seen as a kind of success, demonstrating that success in legal proceedings is to some extent subjective and multifaceted.³³¹ Moreover, the case sets an important precedent by highlighting the role of children and youth in seeking justice through the courts, emphasizing their agency

³²⁷ Ibid. para. 144.

³²⁸ Ibid. para. 145.

³²⁹ Ibid. para. 146.

³³⁰ C Heri, 'On the Duarte Agostinho Decision' <<https://verfassungsblog.de/on-the-duarte-agostinho-decision/>> accessed 15 September 2024.

³³¹ Ibid.

in holding states accountable for climate-related human rights violations, and asserting their rights within the legal system.

Jurisdiction under Article 1 of the ECHR

The Court reaffirmed the predominantly territorial nature of jurisdiction under Article 1 of the ECHR, with extraterritorial jurisdiction being permitted only in exceptional cases, such as when a State exercises effective control over foreign territory or authority over individuals beyond its borders.³³² Referring to prior rulings such as *M.N. and Others v. Belgium* and *Georgia v. Russia (II)*, the Court emphasised its cautious approach to extending jurisdiction beyond the territorial limits of Contracting States.³³³ Applying these principles, the Court found that Portugal had territorial jurisdiction over the applicants, as they resided in Portugal, but the other 31 respondent States did not, as the applicants had no direct connection with them.³³⁴

On extraterritorial jurisdiction, the Court considered whether the unique circumstances of CC justified an exception to the territorial rule. The applicants argued that CC, due to its global impact, created extraterritorial harm attributable to the respondent States for their GHG emissions. However, the Court held that none of the States exercised effective control outside their territories relevant to the applicants, nor did their State agents exert control over the applicants.³³⁵ Additionally, the applicants failed to establish a jurisdictional link through procedural obligations under Article 2, as they had not pursued domestic proceedings in the respondent States.³³⁶

The applicants further argued that CC's global and existential threat warranted an extension of jurisdiction based on States' control over GHG emissions and their impact on CC.³³⁷ Despite recognizing the severity of CC, the Court rejected this claim, stating that positive obligations to protect the environment did not justify extending extraterritorial jurisdiction under the ECHR.³³⁸ There was no specific jurisdictional link between the applicants and the respondent States other than Portugal, and EU citizenship was not a basis for jurisdiction over other EU

³³² ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no. 39371/20), paras 170-171.

³³³ Ibid. para. 169.

³³⁴ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no. 39371/20), paras 178-180.

³³⁵ Ibid, paras 181-182.

³³⁶ Ibid, para 183.

³³⁷ Ibid, paras 186-194.

³³⁸ Ibid, paras 196-198.

States.³³⁹ The Court warned that the acceptance of the applicants' argument would lead to an unsustainable expansion of jurisdiction, which would effectively transform the ECHR into a global CC treaty.³⁴⁰

The Court concluded that jurisdiction under Article 1 required a direct and specific link, which was not present in this case.³⁴¹ The international instruments cited by the applicants, such as the UNFCCC, did not alter the jurisdictional principles of the ECHR.³⁴² As a result, the Court held that only Portugal had jurisdiction over the applicants, and that the applications against the other 31 States were inadmissible for lack of jurisdiction.³⁴³

Exhaustion of Domestic Remedies and Victim Status

The Court reaffirmed the principle that applicants must exhaust all effective domestic remedies before bringing a case to the ECHR, in line with the subsidiary nature of the Convention system, which gives national authorities the first opportunity to address alleged violations.³⁴⁴ In this case, the applicants argued that pursuing domestic remedies in Portugal would be futile, claiming that the available legal options, including broad constitutional provisions, were ineffective.³⁴⁵ The Court rejected this, pointing to Portugal's robust legal framework, including Article 66 of the Constitution, which guarantees the right to a healthy environment, and the *actio popularis*, which allows for collective environmental claims without the need to prove direct personal harm.³⁴⁶ Other civil and administrative remedies, such as actions for non-contractual civil liability and judicial review, also provided avenues for redress, with legal aid available for those in need.³⁴⁷ Furthermore, the Court held that environmental litigation was well established in Portugal and that mere doubts as to the success of the proceedings did not exempt the applicants from exhausting domestic remedies.³⁴⁸ Therefore, their failure to exhaust the available remedies rendered their application inadmissible for failure to exhaust remedies³⁴⁹

³³⁹ Ibid, para. 200.

³⁴⁰ Ibid, paras 201-208.

³⁴¹ Ibid, para. 205.

³⁴² Ibid, paras 209-212.

³⁴³ Ibid. para 214.

³⁴⁴ ECtHR. (2023). *Decision in the case of Duarte Agostinho and Others v. Portugal and 32 Others* (application no.39371/20), para. 215.

³⁴⁵ Ibid, paras 217-218.

³⁴⁶ Ibid, paras 219-220.

³⁴⁷ Ibid, paras 221-225.

³⁴⁸ Ibid, paras 224-225.

³⁴⁹ Ibid, paras 226-227.

and the Court criticised the applicants for bypassing the domestic system and seeking direct recourse to the ECHR.³⁵⁰ Finally, the Court found that there was considerable ambiguity in the applicants' individual situations, making it difficult to assess whether they met the criteria for victim status established in *Verein KlimaSeniorinnen Schweiz and Others*.³⁵¹ This lack of clarity stemmed in part from the applicants' failure to exhaust domestic remedies, a requirement that is closely linked to victim status, particularly in cases involving general policies such as those related to CC. As the application had already been declared inadmissible³⁵², the Court did not consider it necessary to further examine the question of victim status under Article 34 of the ECHR.³⁵³

This case underscores the need for claimants to engage fully with national legal systems and highlights the limitations of the ECHR in addressing global environmental issues without specific jurisdictional links, but this decision also highlights the increasing focus on the intersection of CC and human rights.

The Court emphasised that while CC poses significant global threats, the jurisdictional limits of the ECHR cannot be extended to cover such cases without specific legal grounds. However, the central issue regarding extraterritoriality in this case is that the applicants' argument would effectively place almost everyone in the world within the jurisdiction of ECHR member states.³⁵⁴ The Court rejected this reasoning, as it found no viable or legally sound way to limit such a broad interpretation. Moreover, the Court was reluctant to adopt this expansive view, recognizing that doing so in the context of CC would inevitably necessitate a similar extension of extraterritorial jurisdiction in other types of cases, creating an unsustainable precedent.

³⁵⁰ Ibid, para. 228.

³⁵¹ Ibid, paras 487-488.

³⁵² Ibid, paras 214-227.

³⁵³ Ibid, para. 230.

³⁵⁴ Marko Milanovic, 'A Quick Take on the European Court's Climate Change Judgments' (*EJIL: Talk!* 9 April 2024) <<https://www.ejiltalk.org/a-quick-take-on-the-european-courts-climate-change-judgments/>>.

Chapter 5: Bridging the Gap: Translating International Frameworks into National Legislation - Mexico

5.1 Introduction

Mexico has made significant strides in aligning its national legislation with international commitments to children's rights and environmental protection, particularly those outlined in the UNCRC and the UNFCCC. Recent constitutional reforms aim to enhance environmental stewardship, demonstrating the government's commitment to environmental and social welfare.

The Mexican Constitution provides a solid foundation for environmental rights, implicitly extending protections to children. While not explicitly stated, these constitutional safeguards ensure that environmental rights apply universally, including to children. The ratification of the UNCRC marked a significant shift in Mexico's approach to children's rights, leading to legal reforms that recognize children as active rights holders in environmental matters.

In education, Mexico has integrated Education for Sustainable Development (ESD) into its national curriculum through programs like the Nueva Escuela Mexicana (NEM)³⁵⁵, which fosters environmental awareness, critical thinking, and civic engagement. Legislative frameworks, such as the General Law on Education, further emphasise the importance of incorporating environmental education and sustainability principles into basic education.

To amplify children's voices in environmental policymaking, mechanisms such as the the Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes (SIPINNA) [National System for the Comprehensive Protection of Girls, Boys, and Adolescents]³⁵⁶ have been established.

5.2 Mexico's Efforts in National Framework Application

³⁵⁵ Secretaría de Educación Pública, '*La Nueva Escuela Mexicana*' (2019)

³⁵⁶ Gobierno de México, 'Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes (SIPINNA)' <https://www.gob.mx/sipinna> accessed 25 September 2024.

Mexico is undergoing significant constitutional amendments, with recent reforms under President Andrés Manuel López Obrador aiming to enhance environmental stewardship.³⁵⁷ These reforms include banning open-pit mining and fracking for hydrocarbons, safeguarding water resources by limiting concessions to domestic use, and promoting sustainable development projects such as repurposing railroad tracks for passenger trains and restoring the Federal Electricity Commission (CFE) as a strategic public company.³⁵⁸

However, these proposals have drawn widespread criticism. Human Rights Watch urged Mexican lawmakers to reject reforms that threaten judicial independence, government accountability, and privacy rights, arguing that they could undermine human rights protections.³⁵⁹ The reforms debated would expand automatic pretrial detention, introduce popular elections for judicial appointments, allow the military to carry out civilian law enforcement, and eliminate the independent Privacy and Transparency Oversight Commission. Despite the criticism, the judicial reform officially took effect after being published in the government gazette.³⁶⁰

At this stage, these constitutional changes have not directly affected provisions related to children's rights or environmental protection.

The UNCRC, along with its Optional Protocols and Committee, was frequently referenced in bills during the 2011 constitutional reform on human rights and other laws, such as the Ley General de los Derechos de Niñas, Niños y Adolescentes (General Law on the Rights of Girls, Boys and Adolescents).³⁶¹ It has also been a priority in the National Human Rights Programs for 2008-2012 and 2014-2018. In addition, the UNCRC is the most cited UN human rights treaty by the federal judiciary, with its General Comments used in rulings on children's rights, such as the right to be heard, equality, and the best interests of the child. In a 2019 case, the

³⁵⁷ Baker & McKenzie, 'Mexico: Constitutional Amendment Introduces Popular Elections for Judicial Positions' (*Bakermckenzie.com* 2024) <<https://insightplus.bakermckenzie.com/bm/dispute-resolution/mexico-constitutional-amendment-introduces-popular-elections-for-judicial-positions>> accessed 18 September 2024.

³⁵⁸ A I López, 'Las 20 Reformas Constitucionales Que Propone López Obrador' (*El País México* 6 February 2024) <https://elpais.com/mexico/2024-02-06/las-20-reformas-constitucionales-que-propone-lopez-obrador.html?event=go&event_log=go&prod=REGCRART&o=cerrado> accessed 18 September 2024.

³⁵⁹ Human Rights Watch, 'Mexico: Proposed Constitutional Changes Threaten Rights' (*Human Rights Watch* 30 August 2024) <<https://www.hrw.org/news/2024/08/30/mexico-proposed-constitutional-changes-threaten-rights>>.

³⁶⁰ Reuters, 'Mexico's Sweeping Judicial Overhaul Formally Takes Effect' (*Reuters* 16 September 2024) <<https://www.reuters.com/world/americas/mexicos-sweeping-judicial-overhaul-formally-takes-effect-2024-09-16/>> accessed 18 September 2024.

³⁶¹ A Anaya-Muñoz, L G Chávez-Vargas, R Franco-Franco, and J A Guevara-Bermúdez, 'Chapter 12: The Impact of the United Nations Human Rights Treaties on the Domestic Level in Mexico' in H Keller and G Ulfstein (eds), *The Impact of the United Nations Human Rights Treaties on the Domestic Level: Twenty Years On* (2nd rev edn, Brill | Nijhoff 2024) 699-748 734..

Suprema Corte de Justicia de la Nación (SCJN) [Mexico's Supreme Court of Justice] used the UNCRC to develop the concept of the best interests of the child.³⁶² The constitutional framework for environmental rights in Mexico is rooted in several key articles of the Political Constitution of the United Mexican States³⁶³, namely Articles 1, 4, 25, 27, and 73, each contributing to a cohesive legal structure for environmental protection.

Article 1 sets the stage by mandating that all human rights, including environmental rights, be interpreted in alignment with both the Constitution and international treaties ratified by Mexico.³⁶⁴ Building on this, Article 4 explicitly guarantees everyone the right to an environment suitable for personal development and well-being, making the protection of environmental integrity a core constitutional right.³⁶⁵ It also recognizes the right to clean water for personal and domestic use, linking environmental quality to basic human needs. The article also establishes accountability for environmental degradation, emphasizing the responsibility of the State to address ecological harm. In addition, it states that the State will provide assistance to individuals to help them comply with the rights of children.³⁶⁶ Article 25 reinforces this by giving the state a central role in ensuring that national development is carried out in an environmentally sustainable manner.³⁶⁷ The state is required to consider both the conservation and productive use of natural resources, thereby embedding sustainability in the nation's development agenda. Expanding on the theme of resource management, Article 27 empowers the State to regulate the use of natural resources for the public good, with the aim of achieving an equitable distribution of wealth.³⁶⁸ It establishes specific obligations for urban planning, the preservation and restoration of environmental balance, and the sustainable management of agricultural and communal lands, ensuring that the environment remains a priority in both rural and urban development. Finally, Article 73 grants the Federal Congress the power to legislate on environmental matters, including the imposition of taxes related to the exploitation of natural resources and the creation of laws to combat pollution and protect the environment.³⁶⁹ This article also includes specific provisions for the protection of children's rights in the context of environmental law, requiring that all actions be taken in accordance

³⁶² Ibid., 734-735.

³⁶³ Political Constitution of the United Mexican States (1917, as amended on September 15 2024)

³⁶⁴ Ibid., art 1.

³⁶⁵ Ibid., art 4.

³⁶⁶ Ibid.

³⁶⁷ Political Constitution of the United Mexican States (1917, as amended on September 15 2024) art 25.

³⁶⁸ Ibid., art 27.

³⁶⁹ Ibid., art 73.

with the best interests of children and in compliance with international environmental treaties to which Mexico is a party. It also gives the federal government exclusive jurisdiction over critical sectors such as hydrocarbons, mining, forestry and energy, ensuring centralized regulation of industries that have a significant impact on the environment.

Education for Sustainable Development in Mexico

The Ley General de Educación (General Law on Education), as amended on June 7, 2024, guarantees the right to education, as recognized in Article 3 of the Political Constitution of the United Mexican States and in international treaties to which Mexico is a party, and regulates the public and private provision of education as a public service under the authority of the State, with emphasis on the distribution of responsibilities among the federal, state and local governments, prioritising the best interests of children, adolescents and young people through the development of programs and public policies to implement this constitutional right.³⁷⁰

The Ley General de Educación in Mexico mandates the promotion of integral human and environmental development through its educational services and through several articles. According to Article 12, educational services aim to promote integral human development with multiple objectives. These include strengthening the social fabric to combat corruption by promoting honesty and integrity; protecting nature; promoting social, environmental, and economic development; stimulating the creation of productive capacities; and advocating equitable income distribution.³⁷¹ Article 15 outlines the objectives of education provided by the State, its decentralised agencies, and authorised private institutions. A key focus is to inculcate respect for nature through the development of capacities and skills essential for the integrated management, conservation and use of natural resources, thereby promoting sustainable development and resilience to the impacts of CC.³⁷² In addition, Article 16 mandates that the basic concepts and principles of environmental science be included in education. These include sustainable development, CC prevention and mitigation, disaster risk reduction, biodiversity and sustainable consumption. It also emphasises the importance of raising awareness and equipping individuals with the necessary knowledge, skills, attitudes and values to contribute to a sustainable future as an integral part of the holistic development of

³⁷⁰ Diario Oficial de la Federación, Ley General de Educación (*General Law on Education*), preamble (30 September 2019, with reforms 7 June 2024).

³⁷¹ Diario Oficial de la Federación, Ley General de Educación (*General Law on Education*), preamble (30 September 2019, with reforms 7 June 2024) art 12(III).

³⁷² Ibid., art 15(VIII).

individuals and societies.³⁷³ Finally, Article 30 specifies the content requirements for curricula and programs of education provided by the State and its decentralised agencies and authorised private entities. This includes the integration of environmental education for sustainability, which includes the knowledge of environmental sciences and the principles of sustainable development, the prevention of CC, and the cultivation of awareness critical to the appreciation of the management, conservation, and use of natural resources, thereby ensuring community participation in environmental protection.³⁷⁴ It also emphasises the promotion and learning of a culture of civil protection, which includes essential elements of prevention, self-protection, resilience and adaptation to CC and other natural hazards.³⁷⁵

In addition, in the 2022 amendment to the *Ley General de los Derechos de Niñas, Niños y Adolescentes* (LGDNNA) [General Law on the Rights of Girls, Boys, and Adolescents], a paragraph has been added that states that children and adolescents should be educated to respect the environment, inculcate the adoption of sustainable lifestyles and raise their awareness of the causes and effects of CC.³⁷⁶ It also states that mechanisms for the expression and participation of children and adolescents shall be established in accordance with their age, evolutionary, cognitive and maturity development, in order to attend to and take into account their interests and concerns in educational matters.³⁷⁷

The current model of education in Mexico, known as the New Mexican School (NEM), is the institution of the Mexican State responsible for the realisation of the right to education throughout the educational career of Mexicans from 0 to 23 years of age, and is a critical, humanistic, and community-based educational project that aims to cultivate students with a comprehensive vision by not only developing their knowledge and cognitive skills, but also teaching them to know, care for, and value themselves; to think critically rather than passively accepting knowledge; to engage in meaningful dialogue; to embrace ethical and democratic values; and to participate in community collaboration for social change, ultimately moulding them into autonomous citizens with the ability to critically navigate and contribute to society.³⁷⁸

³⁷³ Ibid., art 16(V).

³⁷⁴ Ibid., art 30(XVI).

³⁷⁵ Ibid., art 30(XVII).

³⁷⁶ *Ley General de los Derechos de Niñas, Niños y Adolescentes* (México, reformada el 27 de mayo de 2024, Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios), 30, para XIX.

³⁷⁷ Ibid., 30, para XV.

³⁷⁸ Ibid., 9.

The NEM sets as one of the principles respect for nature and care for the environment by advocating for the protection and conservation of the environment, CC prevention, and sustainable development.³⁷⁹ It aligns with the SDGs and the 2030 Agenda, particularly emphasising the importance of actions related to SDG 13 (Climate Action), alongside SDGs 14 (Life Below Water), 15 (Life on Land), and 11 (Sustainable Cities and Communities). This initiative cultivates a sense of national and intercultural belonging, encouraging students to engage actively in global sustainability efforts, recognizing their role in a larger ecosystem that provides essential resources like food, shelter, and clothing. At this crucial juncture for planetary and future generational legacy, the NEM integrates environmental education from an early age, promoting critical thinking to spur new sustainable ideas and critically assess lifestyle and consumption patterns. The curriculum emphasises empathy and interconnectedness among all forms of life, inspiring students to champion environmental causes throughout their lives.³⁸⁰ In addition, it promotes the fight against ecological deterioration by implementing appropriate measures such as water and energy conservation, and waste management and recycling, which contribute to environmental care in everyday activities across the entire educational community.³⁸¹

While education in Mexico is centrally regulated, states have the autonomy to improve and adapt curricula to meet local needs through the "curricular autonomy" component. Several states, like Jalisco and Quintana Roo, have taken notable initiatives to integrate environmental and CC issues more deeply into their educational programmes.

In Jalisco, environmental degradation emerges as a top concern in 10 of the 12 regions surveyed, underscored by issues such as insufficient recycling, water treatment, waste management, and inadequate water storage infrastructure in nine regions.³⁸² Surprisingly, other critical areas such as urban development, sustainable energy, and CC are barely recognized, appearing in only one region each. Moreover, the predominance of issues framed in terms of deficiencies suggests that the survey was intended to highlight gaps in services for government

³⁷⁹ Subsecretaría de Educación Media Superior and Universidad Pedagógica Nacional, *Orientaciones Pedagógicas de la Nueva Escuela Mexicana* (jointly developed by various educational levels, 8 August 2019).

³⁸⁰ *Ibid.*, 10.

³⁸¹ Subsecretaría de Educación Media Superior and Universidad Pedagógica Nacional, *Orientaciones Pedagógicas de la Nueva Escuela Mexicana* (jointly developed by various educational levels, 8 August 2019) 11.

³⁸² Secretaría de Medio Ambiente y Desarrollo Territorial, *Plan de Educación y Cultural Ambiental del Estado de Jalisco* (Gobierno del Estado de Jalisco 2018) 79.

intervention. Meanwhile, a significant majority of Jalisco citizens (88.5%) perceive a change in their local climate, but there is a notable gap in understanding its causes and necessary adaptation strategies, with concerns about future water shortages reaching as high as 95% among non-metropolitan residents in the Central Zone.³⁸³ The Secretariat of the Environment and Territorial Development of the State of Jalisco (SEMADET), through its Strategic Project Coordination and General Technical Coordination, proposed the creation of a Guide to Education and Environmental Care, the result of a comprehensive diagnosis that included consultations with experts, participatory workshops, analysis of documents and work sessions to identify pedagogical, technical, legal, methodological and operational needs, culminating in the Environmental Education and Culture Plan for the State of Jalisco, hereinafter referred to as the PLAN.³⁸⁴ The PLAN aims to implement the Environmental Education and Culture Plan for the State of Jalisco through intersectoral and inter-institutional collaboration to support the development of sustainable communities. Specifically, it aims to consolidate environmental education as a key public policy, promote community participation to protect environmental heritage, strengthen societal capacities to address environmental degradation, and integrate these principles in all government institutions.³⁸⁵ The PLAN has three phases, with the final phase (2020-2024) focused on strengthening, monitoring, and evaluating the PLAN, where CEEA and its partner institutions in environmental education will deepen stakeholder engagement on strategic themes and enhance the sharing of experiences and monitoring of results across regions and themes.³⁸⁶ The most prevalent environmental education activities included workshops for children and youth (64%), public campaigns (52%), social media outreach (45%), and lectures and training sessions (42%). Activities such as creating educational materials (38%), hosting nature festivals (29%), developing interpretive trails (23%), professional training (23%), and conducting research in environmental education (11%) were less frequently reported.³⁸⁷ Also, educators expressed that they work mostly with youth and children in environmental education³⁸⁸ and requested training in practical knowledge, followed by knowledge of the functioning of ecosystems and urban planning issues, and finally conceptual aspects, which include aspects of education, pedagogy, process evaluation, among

³⁸³ Secretaría de Medio Ambiente y Desarrollo Territorial, *Plan de Educación y Cultural Ambiental del Estado de Jalisco* (Gobierno del Estado de Jalisco 2018) 79.

³⁸⁴ *Ibid.*, 5.

³⁸⁵ Secretaría de Medio Ambiente y Desarrollo Territorial, *Plan de Educación y Cultural Ambiental del Estado de Jalisco* (Gobierno del Estado de Jalisco 2018), 97.

³⁸⁶ *Ibid.*, 111.

³⁸⁷ *Ibid.*, 83.

³⁸⁸ *Ibid.*, 84.

others.³⁸⁹ The SWOT analysis, based on 142 participants in six regional workshops, illuminates the landscape of environmental education (EA) in Jalisco. Strengths include established, nationally recognized environmental educators, widespread EA projects in various sectors, professionalisation opportunities at the master's level, robust alliances, and a supportive legal framework. Also noteworthy are technological advances that improve information accessibility and successful EA initiatives that are pioneering both regionally and nationally. Opportunities also arise from increasing corporate social responsibility and public interest in environmental issues, bolstered by international support and the potential of rich local ecosystems.³⁹⁰ However, weaknesses such as institutional reluctance to embrace participatory EA, lack of trained educators, inadequate infrastructure, and poor positioning of EA in public agendas hinder progress. Discontinuity of projects, lack of resources, and minimal integration with relevant policies further challenge the sector. Threats such as unfavourable federal policies, insufficient funding, social instability, corruption, and the pressures of CC exacerbate the challenges to effective EA implementation in Jalisco.³⁹¹

Quintana Roo has the highest forest coverage rate in Mexico at 91% and ranks among the top three states for preserving natural vegetation.³⁹² Like Jalisco, Quintana Roo's Secretariat of Ecology and Environmental Development (SEMA) is implementing the State Plan for Environmental Education (PEEA), which is anchored in both national and state laws on ecological balance and environmental protection, and is aligned with Quintana Roo's 2016-2022 State Development Plan.³⁹³ The 2020-2022 PEEA establishes a framework for initiatives to cultivate an environmental culture, based on extensive consultations and workshops in different regions, and drawing on a participatory process refined by SEMA's 2018 assessment. Using change theory, it details actions for specific outcomes in seven strategic areas, including formal and non-formal education, training, and research, with the goal of deeply integrating environmental education into the country's development policies. The initial framework for Environmental Education (EE) was established by the document "A State Vision of Environmental Education, Training for Sustainable Development, and Educational

³⁸⁹ Ibid, 86.

³⁹⁰ Ibid, 90.

³⁹¹ Secretaría de Medio Ambiente y Desarrollo Territorial, *Plan de Educación y Cultural Ambiental del Estado de Jalisco* (Gobierno del Estado de Jalisco 2018) 91.

³⁹² E Ellis and others, 'Community-based Forest Management in Quintana Roo, Mexico' (2014) https://www.researchgate.net/publication/270759358_Community-based_forest_management_in_Quintana_Roo_Mexico#pf2 accessed 21 September 2024 177.

³⁹³ Secretaría de Ecología y Medio Ambiente del Estado de Quintana Roo, *Plan Estatal de Educación Ambiental del Estado de Quintana Roo* (Graciela Saldaña Fraire gen ed, 2020) <https://www.qroo.gob.mx/sema> accessed 21 September 2024.

Communication in Quintana Roo (2002-2006)," created by CECADESU-SEMARNAT and the University of the Caribbean. This was succeeded by the State Programs for 2010-2012 and 2011-2016, along with the GETECCA Management Program for 2016-2018.³⁹⁴ Finally, the Quintana Roo State Development Plan for 2016-2022 integrates EE as an essential component of its sustainability initiatives, targeting both community and educational settings. Furthermore, regional legislation related to education, climate action, cultural enhancement, waste management, and urban planning further bolsters EE activities in the area. The PEEA relies on five pedagogical methodologies to achieve its goals, encompassing a diverse range of professionals and actors with varied experiences. This diversity not only facilitates broad-based actions but also poses significant challenges in meeting objectives and implementing actions at national, regional, and local levels.³⁹⁵

Right to be Heard

The CRC has recommended that Mexico raise awareness among the general public to shift social perceptions of children and adolescents, recognizing them as individuals with full rights.³⁹⁶ These recommendations also emphasise establishing permanent participation mechanisms to involve children and adolescents in the development, implementation, and evaluation of public policies.³⁹⁷ However, there has been limited progress in implementing systematic participatory processes that respect their opinions within the country's public policy bodies.³⁹⁸ although it is explicitly outlined in Chapter Fifteen of the LGDNNA. Children and adolescents are granted the right to participate and have their opinions heard in matters that concern their interests, with appropriate consideration of their age, cognitive development, and maturity. Authorities at the federal, state, municipal, and territorial levels in Mexico City are required to implement mechanisms that ensure the ongoing and meaningful involvement of children and adolescents in decision-making processes within the family, school, community, and other spheres of their lives.³⁹⁹ In addition, the LGDNNA ensures that children and adolescents are involved in all judicial and legal processes that affect them, as specified in

³⁹⁴ Comisión de Derechos Humanos de la Ciudad de México, *Informe temático para el Comité de los Derechos de las Niñas y los Niños de las Naciones Unidas: Acoso escolar y violencias* (1st edn, 2023) para. 18.

³⁹⁵ Ibid., 23.

³⁹⁶ Comisión de Derechos Humanos de la Ciudad de México, *Informe temático para el Comité de los Derechos de las Niñas y los Niños de las Naciones Unidas: Acoso escolar y violencias* (1st edn, 2023) para. 28.

³⁹⁷ Ibid., para. 28.

³⁹⁸ Ibid., para. 29.

³⁹⁹ *Ley General de los Derechos de Niñas, Niños y Adolescentes* (México, reformada el 27 de mayo de 2024, Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios), 35.

Chapter Eighteen.⁴⁰⁰ Government institutions at all levels must also inform children and adolescents how their input has been considered and how their requests have influenced decision-making outcomes.⁴⁰¹ This LGDNNA establishes multiple systems for protecting children's rights in Mexico, including the National Integral Protection System, which coordinates federal, state, and municipal efforts to uphold these rights, as well as Local and Municipal Protection Systems that adapt and implement these policies at regional and local levels. Additionally, the National DIF System provides direct support for vulnerable children, while specialised bodies such as Protection Ombudsman's Offices and the National Registry of Food Obligations ensure legal protection and compliance with child support obligations.⁴⁰² Unlike the right to participation, the right to protection is specified in more detail, also tackling human rights. The LGDNNA requires federal and local authorities to establish and implement mechanisms to ensure the continuous and active participation of children (and adolescents) in decision-making processes within the family, school, community, and any other setting in which they are involved.⁴⁰³ Also, federal authorities are obligated to promote the involvement of private organisations focused on the promotion and protection of children's and adolescents' human rights in the implementation of federal programs.⁴⁰⁴

Another level of protection is provided by the Ombudsman Offices for the Protection of Children and Adolescents within the National DIF System, which are responsible for ensuring the protection and restoration of the rights of children and adolescents at the federal and local levels. These offices can request assistance from authorities at all levels of government, which are obliged to comply. They work closely with social, health, education and other relevant administrative authorities to coordinate the implementation of comprehensive protection measures. Their tasks include providing medical and psychological care, legal advice and representation, and reporting suspected crimes against children. They are also empowered to take urgent protective measures when the life, integrity or freedom of the child is in imminent danger, and to coordinate with the police when necessary. These offices also cooperate with

⁴⁰⁰ Ibid., 38.

⁴⁰¹ Ibid., 36.

⁴⁰² Ibid., 50-68.

⁴⁰³ Ibid., 51, Article 116(XVIII)

⁴⁰⁴ *Ley General de los Derechos de Niñas, Niños y Adolescentes* (México, reformada el 27 de mayo de 2024, Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios), 52 V.

the public and private sectors to plan measures for the care and protection of children and monitor social welfare centres to ensure compliance with legal standards.⁴⁰⁵

The National Integral Protection System has several key responsibilities to ensure the comprehensive protection of the rights of children and adolescents. This includes integrating the participation of the public, social and private sectors, as well as civil society, in the design and implementation of policies to protect these rights.⁴⁰⁶ It also establishes mechanisms to ensure the direct and effective participation of children and adolescents in the development of programmes and policies.⁴⁰⁷ In addition, the system promotes the inclusion of a child rights perspective in national development planning⁴⁰⁸ and ensures that this perspective is mainstreamed in all programmes, policies and actions of the federal public administration.⁴⁰⁹ Moreover, the law mandates cooperation among federal, state and local authorities in the design and implementation of policies to protect children's rights, with the participation of the public, social and private sectors and children themselves.⁴¹⁰ It also guarantees the participation of children in the exercise of their rights, with special measures when necessary.⁴¹¹ As amended in 2022, the National Integral Protection System is mandated to be composed of the federal executive branch, federal entities (governors of the states and the head of the Mexico City government), public organisations (the head of the Attorney General of the Republic; the person holding the presidency of the National Human Rights Commission; and the president of the Federal Institute of Telecommunications), as well as persons representing civil society.⁴¹² In addition, each federal entity shall establish a local system for the protection of the rights of children and adolescents, composed of local administrative authorities and bodies responsible for the protection of these rights, in accordance with the respective legal framework. Organised similarly to the National Integral Protection System, the local systems will include an Executive Secretariat and will ensure the participation of the social and private sectors, as well as children and adolescents, with functions and attributes equivalent to those of the National System.⁴¹³

⁴⁰⁵ Ibid., 55-57.

⁴⁰⁶ Ibid, 59 (II).

⁴⁰⁷ Ibid., III.

⁴⁰⁸ Ibid., V.

⁴⁰⁹ Ibid., VI.

⁴¹⁰ Ibid., IX.

⁴¹¹ *Ley General de los Derechos de Niñas, Niños y Adolescentes* (México, reformada el 27 de mayo de 2024, Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios), XI.

⁴¹² Ibid, 60-61.

⁴¹³ Ibid, 66.

The establishment of SIPINNA, in accordance with the mandate of the aforementioned LGDNNA, formalises a mechanism aimed at creating a new approach to public policy.⁴¹⁴ This mechanism operates at the highest levels of government decision-making, allowing all girls, boys, and adolescents to assert and exercise their human rights, not merely as objects of protection but as individuals with the responsibility to decide and express their opinions on what they believe is best for themselves.⁴¹⁵

Mexico has also established the Dirección de Derechos de Niñas, Niños y Adolescentes (Directorate for the Rights of Children and Adolescents) under the Comisión Nacional de los Derechos Humanos (CNDH) [National Human Rights Commission], which provides services that include human rights advice, assistance, and monitoring of human rights compliance.⁴¹⁶ They offer advice on how to exercise rights, help protect individuals whose rights may have been violated, and accompany children, adolescents, and their families when the authorities fail to respond to their needs. In addition, CNDH studies issues affecting the rights of children and adolescents and makes recommendations to ensure that authorities uphold and guarantee these rights.⁴¹⁷ Although the report does not directly address children's environmental rights, it includes a statement from the SCJN emphasising that the best interests of the child must be a primary consideration in decisions made by administrative authorities in areas such as education, care, health, environment, living conditions, protection, asylum, immigration and access to nationality.⁴¹⁸ These decisions, as well as all implementing measures, should be guided by this principle, as considering the best interests of the child means recognizing the importance of the child's needs and ensuring that these interests are given priority in all circumstances, especially when the measures have a direct impact on the children involved.⁴¹⁹

⁴¹⁴ Secretaría de Gobernación, 'Sistema Nacional de Protección Integral de Niñas, Niños Y Adolescentes #SIPINNA' (gob.mx2024) <<https://www.gob.mx/segob/es/documentos/sistema-nacional-de-proteccion-integral-de-ninas-ninos-y-adolescentes-sipinna>> accessed 6 October 2024.

⁴¹⁵ Ibid.

⁴¹⁶ Comisión Nacional de los Derechos Humanos (CNDH), 'Dirección de Derechos de Niñas, Niños Y Adolescentes | Comisión Nacional de Los Derechos Humanos - México' (www.cndh.org.mx2024) <<https://www.cndh.org.mx/programas/direccion-de-derechos-de-ninas-ninos-y-adolescentes>> accessed 27 September 2024.

⁴¹⁷ Comisión Nacional de los Derechos Humanos (CNDH), 'Dirección de Derechos de Niñas, Niños Y Adolescentes | Comisión Nacional de Los Derechos Humanos - México' (www.cndh.org.mx2024) <<https://www.cndh.org.mx/programas/direccion-de-derechos-de-ninas-ninos-y-adolescentes>> accessed 27 September 2024.

⁴¹⁸ Comisión Nacional de los Derechos Humanos, Recomendación No. 72/2022 sobre el caso de violaciones a los derechos humanos de la niñez a vivir en condiciones de bienestar y a un sano desarrollo integral, atendiendo a su interés superior, a la seguridad jurídica, al acceso a la justicia en su modalidad de procuración y a vivir una vida libre de violencia, en agravio de V1, V2, V3, V4 y V5 (31 March 2022, Ciudad de México), para. 62.

⁴¹⁹ Ibid.

Another mechanism for incorporating children's views, including on the environment, is the Parlamento de las Niñas y Niños de México (hereafter *Mexican Children's Parliament*), which aims to promote a democratic culture by encouraging children's active participation in civic life and promoting values such as respect, tolerance and responsibility.⁴²⁰ This initiative was born in the 1990s, following the principles of the UNCRC, and has been held annually in Mexico since 2003, with interruptions during certain presidencies. It allows children to simulate parliamentary activities, propose laws and vote on them. The Mexican Children's Parliament is organised in collaboration with various institutions, including the National Electoral Institute (INE), the Ministry of Education and other educational institutions. The recent 12th Parliament of the Girls and Boys of Mexico placed a strong emphasis on environmental issues, with a particular focus on conservation, pollution and animal cruelty. The child parliamentarians emphasised the need for sustainable practices, raising awareness about environmental protection and combating pollution in their communities. Discussions also focused on preventing environmental degradation and promoting conservation efforts to ensure that environmental protection becomes a priority in decision-making processes. Beyond the environment, the Mexican Children's Parliament addressed several other issues, including crimes committed through social networks, discrimination against children, family abuse, bullying in schools, gender discrimination and inequality. Mental health and children's well-being were also key issues, as well as promoting education without discrimination and advocating for equal opportunities. The Mexican Children's Parliament called for the creation of spaces where children's views and solutions could be heard and acted upon by decision-makers.⁴²¹ The parliamentarians made several proposals in writing, pointing out that one of the key issues facing Mexican children is environmental degradation, especially with regard to flora and fauna. They proposed a law that would impose heavy fines on anyone who kills, mistreats or domesticating exotic animals without a legal permit, in order to combat animal abuse and extinction. In addition, they advocated a law requiring the replanting of 5 to 10 trees for every tree cut down, with penalties for non-compliance. The parliamentarians also pledged to promote reforestation campaigns in schools and communities to improve the environment. As young legislators, they also proposed the creation of short animated videos to illustrate key

⁴²⁰ Government of Mexico, 'Programa de Estímulos a Estudiantes Destacados' Historia Del Parlamento de Las Niñas Y Niños de México' (Sev.gob.mx2024) <<https://www.sev.gob.mx/educacion-basica/peed/parlamento-infantil/historia-del-parlamento-de-las-ninas-y-ninos-de-mexico/>> accessed 28 September 2024.

⁴²¹ Ibid.

environmental issues such as pollution, waste and endangered species.⁴²² Acknowledging that humanity has not fully taken responsibility for the damage done to the planet, they called for media campaigns to raise awareness and encourage both children and adults to take action to protect the environment, adding, "The planet does not belong to us; it is a trust that we must preserve for future generations."⁴²³ The parliamentarians also proposed measures to combat pollution by placing litter bins in cities and towns and installing cameras to fine those who litter, recommended campaigns to encourage people to carry reusable bags to dispose of waste responsibly. To address deforestation and its impact on wildlife, they suggested raising awareness, posting signs in forests to prevent illegal logging, and increasing security to prevent poaching. They also pledged to promote responsible water use, adopt renewable energy, and replace plastic bags with reusable cloth bags to support environmental conservation.⁴²⁴ Finally, the children's legislators stressed the need for early education, both at home and in schools, to instil a sense of responsibility for protecting the environment.⁴²⁵ They urged Congress to enact stricter laws prohibiting pollution and to promote awareness campaigns with relevant information to address pollution-related issues. While acknowledging that laws already exist, they noted their ineffectiveness and called for more robust legislation that ensures tangible results in protecting the right to a healthy environment, expressing hope that new laws will help reverse the damage caused by pollution.⁴²⁶

Evaluation of Mexico's Progress in Implementing the UNCRC

In August 2024, the CRC reviewed Mexico's combined sixth and seventh periodic reports as part of its ongoing assessment of the nation's compliance with the UNCRC, and adopted concluding observations on 13 September 2024.⁴²⁷ A prominent focus of the Committee's concluding observations was the intersection of environmental challenges and children's rights, as articulated in GC26. CC and environmental degradation disproportionately affect children, and the Committee urged Mexico to take proactive measures to protect children's rights in this context. This includes not only including children's views in the development of environmental, CC and disaster risk reduction policies, but also ensuring their meaningful participation in these

⁴²² Ibid. 39 and 41.

⁴²³ Ibid.

⁴²⁴ Ibid, 42.

⁴²⁵ Ibid. 47.

⁴²⁶ Instituto Nacional Electoral, *Informe Final: 12° Parlamento de las Niñas y los Niños de México* (November 2023) <https://repositoriodocumental.ine.mx/xmlui/handle/123456789/156894> accessed 28 September 2023 32-33..

⁴²⁷ CRC, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Mexico' (13 September 2024) CRC/C/MEX/CO/6-7.

crucial discussions.⁴²⁸ Several civil society organisations submitted their reports to the CRC. In their joint report, the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), the Interamerican Association for Environmental Defense (AIDA) and the Economic, Social and Cultural Rights Project (Proyecto de Derechos Económicos, Sociales y Culturales, A.C./ProDESC) focused specifically on the environment. They suggested that an intersectional approach is necessary to address the specific needs of vulnerable groups, such as Indigenous children and those affected by poverty, ensuring their meaningful participation in decision-making.⁴²⁹

The Committee emphasised the importance of integrating CC education into national curricula, thereby raising children's awareness and equipping them to better understand and respond to environmental challenges. Teacher training programs should also be updated to include CC and disaster preparedness as core components.⁴³⁰ In addition, the Committee called for increased investment in climate-resilient water, sanitation and hygiene (WASH) infrastructure in schools to ensure that these vital services are protected from environmental risks.⁴³¹ The Committee also encouraged Mexico to actively involve children in the implementation of the National Strategy for Sustainable Development and increase its climate ambition by updating its NDC and establishing a robust system for monitoring and reporting, with a particular focus on the best interests of children. This should include coordinated responses at all levels of government to address the impact of the climate emergency on vulnerable children.⁴³² This recommendation is consistent with the recommendation in GC26 that States should transparently and explicitly focus on children's rights when preparing, communicating and updating NDCs.⁴³³ The Committee encouraged Mexico to actively involve children in the implementation of the updated NDC 2022, a key component of its climate commitments. This participation should extend to the preparation of future NDCs, ensuring that children's voices

⁴²⁸ Ibid., art. 42(a).

⁴²⁹ Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR), Interamerican Association for Environmental Defense (AIDA), and Economic, Social, and Cultural Rights Project (ProDESC), 'Alternative Report to the United Nations Committee on the Rights of the Child, Mexico, 97th Session' (August 2024) 8.

⁴³⁰ Ibid, art. 42(b).

⁴³¹ Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR), Interamerican Association for Environmental Defense (AIDA), and Economic, Social, and Cultural Rights Project (ProDESC), 'Alternative Report to the United Nations Committee on the Rights of the Child, Mexico, 97th Session' (August 2024), art 42(c).

⁴³² Ibid, 8.

⁴³³ CRC, GC26 (2023) UN Doc CRC/C/GC/26 para. 98(a).

are taken into account and that child rights impact assessments are conducted for these initiatives, as was done in the case of Switzerland.⁴³⁴

Second, the above-mentioned civil society organisations wrote that the State should adopt effective CC mitigation measures by phasing out fossil fuels to limit GHG emissions and prevent further human rights impacts, and exploit its renewable energy potential by promoting solar and wind energy projects that ensure the inclusion and participation of children in policy-making, particularly taking into account factors such as age, identity and socio-economic status.⁴³⁵ Although none of this was mentioned in the Committee's concluding observations, GC26 points out that short-term mitigation measures should take into account the fact that delaying a rapid phase-out of fossil fuels will result in higher cumulative emissions and greater foreseeable harm to children's rights.⁴³⁶

Moreover, CSOs suggested that corporate accountability in the energy sector needs to be strengthened, with regulations aligned with the UN Guiding Principles on Business and Human Rights to ensure responsible practices across the clean energy value chain.⁴³⁷ The Committee concluded in its observation that companies must comply with international and national standards on human rights, labour, environmental protection, and children's rights.⁴³⁸ A clear regulatory framework needs to ensure that companies assess, disclose, and address the impacts of their activities on the environment, public health, and children's rights, while conducting due diligence throughout their supply chains.⁴³⁹

Mexico's commitment to respect the views of the child, as required by article 12 of the UNCRC, was another key area addressed by the Committee.⁴⁴⁰ While Mexico had made progress, in particular through the establishment of the National Consultative Council for Children, the

⁴³⁴ CRC, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Mexico' (13 September 2024) CRC/C/MEX/CO/6-7 art 42(d).

⁴³⁵ Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR), Interamerican Association for Environmental Defense (AIDA), and Economic, Social, and Cultural Rights Project (ProDESC), 'Alternative Report to the United Nations Committee on the Rights of the Child, Mexico, 97th Session' (August 2024) 8.

⁴³⁶ CRC, GC26 (2023) UN Doc CRC/C/GC/26 para. 98(d).

⁴³⁷ Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR), Interamerican Association for Environmental Defense (AIDA), and Economic, Social, and Cultural Rights Project (ProDESC), 'Alternative Report to the United Nations Committee on the Rights of the Child, Mexico, 97th Session' (August 2024) 8.

⁴³⁸ CRC, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Mexico' (13 September 2024) CRC/C/MEX/CO/6-7 para. 15(a).

⁴³⁹ Ibid., para 15(b-d).

⁴⁴⁰ Ibid., para 21.

Committee urged the State to further institutionalise mechanisms to enable children's participation in decision-making processes at all levels⁴⁴¹ and to systematically take into account children's views in family settings, schools, courts and administrative or health-related processes. In addition, the Committee recommended the introduction of legislation requiring consultation with children on all matters affecting them. Such legislation would ensure that children's voices are not only heard, but also meaningfully incorporated into policies and practices.⁴⁴² Special attention was called for the inclusion of marginalised groups of children, in particular girls and children in vulnerable situations. The Committee recommended that Mexico implement awareness-raising programmes to promote the participation of all children and to provide them with the knowledge and confidence to participate in matters that directly affect their lives.⁴⁴³ To strengthen accountability, the Committee called for the strengthening of Mexico's independent monitoring bodies. The CNDH plays a critical role in the promotion and protection of children's rights, and the Committee recommended strengthening its capacity to receive, investigate, and address complaints from children.⁴⁴⁴

Finally, the Committee also made recommendations regarding the implementation and reporting of its observations. It urged Mexico to take appropriate measures to fully implement the recommendations and to make the periodic reports and concluding observations widely available in all national languages. In addition, the Committee encouraged the development of a child-friendly version of these recommendations to ensure that children themselves are aware of their rights and the measures taken to protect them.⁴⁴⁵

Mexico has made significant progress in advancing children's rights, particularly in areas such as education, access to justice and institutional reform. However, challenges remain, particularly in addressing the environment in all of these areas.

⁴⁴¹ Ibid., para 21(a).

⁴⁴² Ibid., para 21(b).

⁴⁴³ CRC, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Mexico' (13 September 2024) CRC/C/MEX/CO/6-7 para. 21(c).

⁴⁴⁴ CRC, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Mexico' (13 September 2024) CRC/C/MEX/CO/6-7 para. 12(a)..

⁴⁴⁵ Ibid, para. 59.

5.2. Implementation of the UNFCCC in Mexico

Mexico, although ratifying the UNFCCC in March 1993⁴⁴⁶, is not the Annex country.⁴⁴⁷ In addition, Mexico ratified the Kyoto Protocol in 2000, although as a developing country it did not have binding emission reduction targets under the Protocol. However, Mexico has actively participated in mechanisms such as the Clean Development Mechanism (CDM) to contribute to global CC mitigation efforts. Mexico's 40 UNESCO Biosphere Reserves are expected to face reduced ability to serve as long-term biodiversity refuges as CC intensifies. By mid-century, 31 protected areas, home to over 22,866 species, are predicted to experience a complete shift from their current climate conditions to new, unfamiliar ones. It remains uncertain whether species and ecosystems will be able to adapt to these changes.⁴⁴⁸

In the 2020 case *Amparo en Revisión 610/2019*, the Mexican Supreme Court struck down a regulation permitting higher ethanol content in gasoline, citing the need to uphold the right to a healthy environment and adhere to the precautionary principle.⁴⁴⁹ The Court emphasised the importance of evaluating potential increases in GHG emissions and aligning with Mexico's obligations under the PA. Similarly, in *Greenpeace Mexico v. Ministry of Energy and Others* (2020), Mexico's First Circuit Collegiate Tribunal ruled that policies reducing the share of renewable energy were regressive and violated the constitutional right to a healthy environment.⁴⁵⁰

5.2.2 National Climate Policies

Ley General de Cambio Climático (LGCC) [General Climate Change Law] establishes a comprehensive framework for addressing CC by guaranteeing the right to a healthy environment and coordinating the powers of the federal, state and municipal governments in the formulation and implementation of public policies.⁴⁵¹ It mentions children only once and

⁴⁴⁶ United Nations, 'United Nations Treaty Collection' (*Un.org*) <https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=IND&mtdsg_no=XXVII-7&chapter=27&Temp=mtdsg3&clang=en>.

⁴⁴⁷ United Nations Climate Change, 'Parties to the United Nations Framework Convention on Climate Change' (*Unfccc.int*) <https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states?field_national_communications_target_id%5B515%5D=515>.

⁴⁴⁸ M Esperon-Rodriguez and others, 'Climate Change Threatens the Most Biodiverse Regions of Mexico' (2019) 240 Biological Conservation 108215 8.

⁴⁴⁹ United Nations Environment Programme, *Global Climate Litigation Report: 2023 Status Review* (2023) ISBN 978-92-807-4052-3 <https://doi.org/10.59117/20.500.11822/43008> 39.

⁴⁵⁰ Ibid.

⁴⁵¹ Ley General de Cambio Climático (Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios, Diario Oficial de la Federación, 6 June 2012, last reformed 11 May 2022).

ensures that the rights of children, along with those of other vulnerable groups, are fully respected in the implementation of CC policies. This includes safeguarding their human rights, right to health and right to development, while promoting intergenerational equity to protect their future.⁴⁵² LGCC aims to regulate GHG emissions and support Mexico's contribution to stabilising atmospheric concentrations, in line with the UNFCCC.⁴⁵³ LGCC addresses both mitigation and adaptation to CC, seeking to reduce the vulnerability of the population and ecosystems to adverse effects. It emphasises strengthening national capacities to respond effectively to climate challenges, while promoting education, research, technological development and innovation. Public participation is also key, as the law ensures societal consultation in policy-making. The focus on transitioning to a competitive, sustainable, low-carbon economy that is resilient to extreme weather events is central, and the law supports Mexico's commitment to the goals of the Paris Agreement, particularly limiting global temperature rise to below 2°C, with efforts to further reduce this to 1.5°C.⁴⁵⁴ The LGCC also emphasises the role of social participation in addressing CC, although it does not specifically mention children or youth.⁴⁵⁵ All levels of government must promote the active and responsible participation of society in the planning, implementation and monitoring of the national CC policy.⁴⁵⁶ The Commission is tasked with engaging organisations from the social and private sectors to provide input and proposals on climate adaptation and mitigation. In addition, the Commission is responsible for establishing consultation agreements with these organisations to promote adaptation and mitigation initiatives, manage protected natural areas, and support sustainable resource use and research. It also seeks to recognize outstanding societal efforts to combat CC and coordinate actions and investments with the social and private sectors to ensure effective implementation of CC adaptation and mitigation measures.⁴⁵⁷

The National Climate Change Policy is guided by several key principles to ensure sustainability and resilience.⁴⁵⁸ These principles emphasise the shared responsibility of the state and society in actively addressing CC through both mitigation and adaptation efforts, and advocates for

⁴⁵² Ibid., art. 26.

⁴⁵³ Ley General de Cambio Climático (Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios, Diario Oficial de la Federación, 6 June 2012, last reformed 11 May 2022), art. 2.

⁴⁵⁴ Ibid.

⁴⁵⁵ Ibid., art. 109.

⁴⁵⁶ Ley General de Cambio Climático (Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios, Diario Oficial de la Federación, 6 June 2012, last reformed 11 May 2022), art. 110.

⁴⁵⁷ Ibid, art. 110.

⁴⁵⁸ Ibid, art. 26.

immediate action to prevent irreversible environmental damage, even in the absence of full scientific certainty.⁴⁵⁹ Additionally, the public, private, and social sectors must adopt sustainable production and consumption patterns to promote a low-carbon economy.⁴⁶⁰ A comprehensive and cross-sectoral approach encourages coordination and cooperation between various levels of government and sectors.⁴⁶¹ The National Climate Change Policy also emphasises the importance of active citizen participation in the formulation, implementation, monitoring and evaluation of CC strategies, ensuring that the process remains inclusive and transparent.⁴⁶² Also, economic instruments that support climate mitigation and adaptation are encouraged, as they not only protect the environment but also provide economic benefits.⁴⁶³ Moreover, transparency, access to information, and justice play central roles in raising public awareness and facilitating access to legal and administrative processes.⁴⁶⁴ The policy also prioritises the conservation of vital ecosystems, and ensures that climate goals are pursued gradually and in alignment with the country's capacities, respecting the principle of common but differentiated responsibilities.⁴⁶⁵ Finally, since its amendment in 2018., the policy integrates the protection of human rights, including those of indigenous peoples, vulnerable communities, and future generations, while promoting gender equality, women's empowerment, and intergenerational equity in the context of sustainable development.

The National Climate Change System is a coordinated mechanism involving the federal government, federal entities, and municipalities to implement and manage national CC policy. Its main objective is to promote cooperation and ensure alignment of climate adaptation, mitigation and vulnerability reduction actions across all levels of government, while promoting consistency with the National Strategy and Program.⁴⁶⁶

The Estrategia Nacional de Cambio Climático visión 10-20-40 (Strategy 10-20-40) [National Climate Change Strategy: Vision 10-20-40] outlines its main objective as guiding national policy in the medium and long term to address the effects of CC and transition toward a

⁴⁵⁹ Ibid, I, II.

⁴⁶⁰ Ibid, V.

⁴⁶¹ Ibid, art. 26(VI).

⁴⁶² Ibid, VII.

⁴⁶³ Ibid, IX.

⁴⁶⁴ Ibid, X.

⁴⁶⁵ Ibid, XI.

⁴⁶⁶ Ley General de Cambio Climático (Cámara de Diputados del H. Congreso de la Unión, Secretaría General, Secretaría de Servicios Parlamentarios, Diario Oficial de la Federación, 6 June 2012, last reformed 11 May 2022), art. 38.

sustainable, competitive, and low-carbon economy.⁴⁶⁷ Strategy 10-20-40 emphasises that it is a governance instrument that establishes strategic pillars and lines of action, aiming to integrate CC into national priorities and ensure that all sectors of government and society are involved in co-responsible action to meet these goals.⁴⁶⁸

Additionally, Strategy 10-20-40 does not define specific short-term actions or identify responsible entities for immediate compliance but relies on other planning instruments like the "Programa Especial de Cambio Climático 2021-2024" (PECC) [Special Climate Change Program] to set six-year objectives.⁴⁶⁹ Regarding children and youth, Strategy 10-20-40 explicitly mentions the goal of improving society's adaptive capacity to CC, focusing on involving society actively and paying special attention to vulnerable groups.⁴⁷⁰ Furthermore, education and creating a climate-conscious culture are also highlighted as crucial for raising awareness from a young age, leveraging Mexico's universal basic education coverage to inform about CC and sustainability.⁴⁷¹ The strategy establishes six key pillars as follows:⁴⁷²

⁴⁶⁷ Secretaría de Medio Ambiente y Recursos Naturales, *Programa Especial de Cambio Climático 2021-2024*, derivado del Plan Nacional de Desarrollo 2019-2024, Comisión Intersecretarial de Cambio Climático (Diario Oficial de la Federación, 8 November 2021).

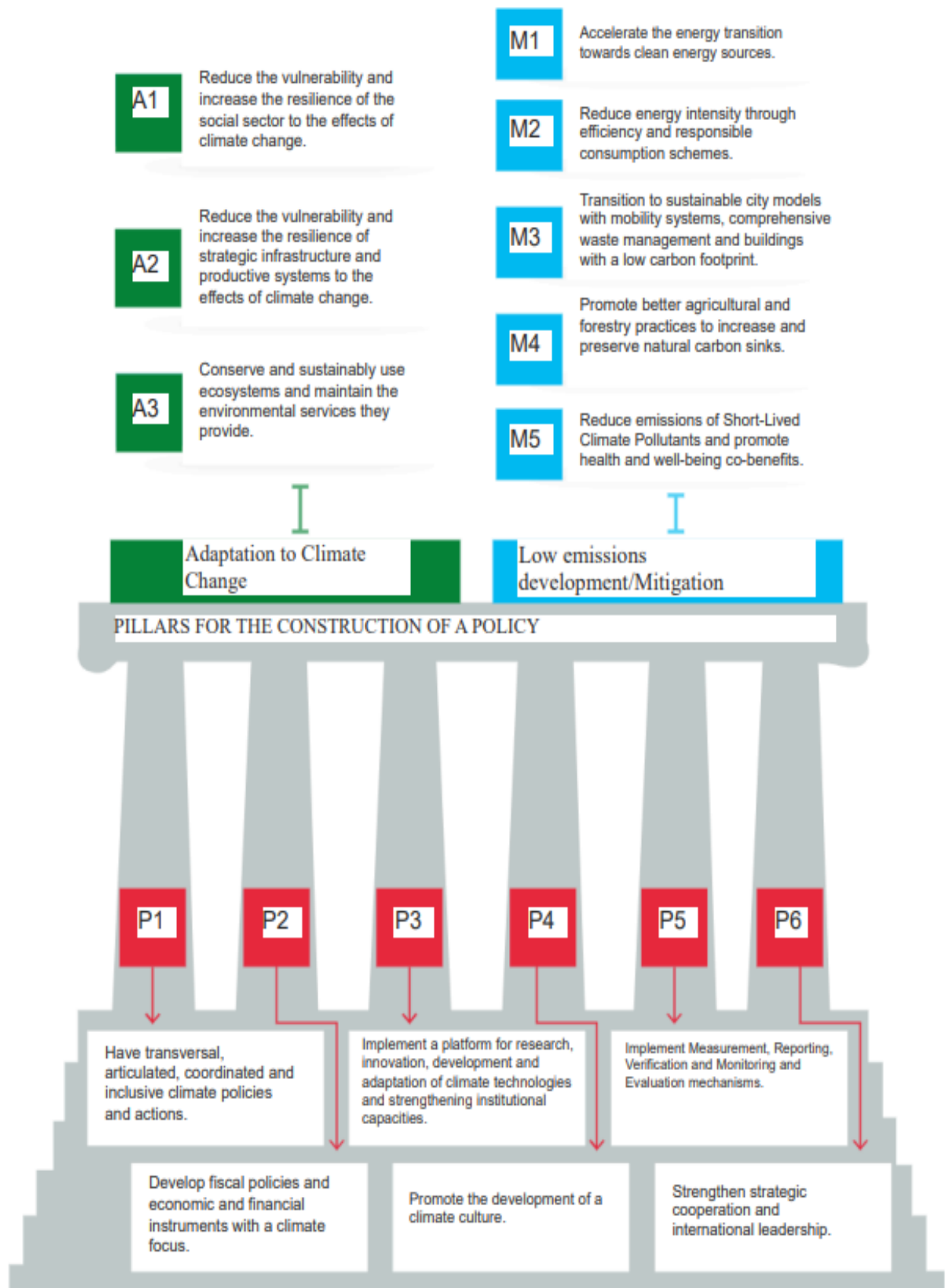
⁴⁶⁸ Ibid. 18.

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid. 23.

⁴⁷¹ Ibid. 25.

⁴⁷² Secretaría de Medio Ambiente y Recursos Naturales, *Programa Especial de Cambio Climático 2021-2024*, derivado del Plan Nacional de Desarrollo 2019-2024, Comisión Intersecretarial de Cambio Climático (Diario Oficial de la Federación, 8 November 2021), 19-21.



Source: The Estrategia Nacional de Cambio Climático visión 10-20-40

Figure 3 - Structural Map of the National Climate Change Strategy

5.2.3 Climate Litigation

In Mexico, 22 climate-related cases involve a variety of issues, including whether Kia Motors could be sanctioned for non-compliance with environmental standards, the constitutionality of Oaxaca's ban on non-recycled plastic bags, the legality of fossil fuel power plants being classified as "clean energy," challenges to amendments in the Electric Industry Law for favouring fossil fuels over renewables, the elimination of the CC Fund, and the constitutionality of green taxes in Baja California and Zacatecas. Additional cases focus on budget reductions for CC, methane emissions regulations in the hydrocarbon sector, youth climate action demands, and whether policies promoting fossil fuels violate human rights or the right to a healthy environment.⁴⁷³

Youth v. Government of Mexico

On September 2, 2020, a group of fifteen young people from Baja California filed a federal lawsuit against the Mexican government⁴⁷⁴ under the provisions of Section I of Article 103 and Sections I and VII of Article 107 of the Political Constitution of the United Mexican States, in conjunction with Section I of Article 1 and Sections I of Articles 5, 6, 19, 35, 107, 108, 115, 117, and other related articles of the Amparo Law.⁴⁷⁵ The plaintiffs, Naomi Itzel Gómez Lucero, Mariana Aguas Hernández, Fadya Hussein Mroue Ruiz, Alexis Javier Rafael Pérez, Carolina Mora Sandoval, Daniel Contreras Álvarez, Nelson Abraham Garduño García, Joseph Jack Pineda Fuentes, Carolina Teresa de la Torre Martínez, Samantha Soleno Montes, Betzaida Quiroz Benavidez, Francisco Rafael Monge Herrera, Luis Leonardo Torreros Bustillos, Gema Jaqueline Osorio Rojas, on their own behalf, and Julio Daniel Gómez Urbina, on his own behalf and on behalf of the minor Daniela Idalí Gómez Lucero⁴⁷⁶ claimed that the government had failed to implement the necessary regulations and public policies established by the LGCC and the Mexican Constitution.⁴⁷⁷ Although the law was enacted in 2012, the plaintiffs argued that the lack of regulatory measures to enforce it had contributed to the worsening of the climate crisis. On September 21, 2023, the Collegiate Court reversed the earlier dismissal of a CC

⁴⁷³ Sabin Center for Climate Change Law, 'Mexico Archives - Climate Change Litigation' (*Climate Change Litigation*2023) <<https://climatecasechart.com/non-us-jurisdiction/mexico/>> accessed 25 September 2024.

⁴⁷⁴ Global Judicial Institute of the Environment, 'Youth v. Government of Mexico | Judicial Portal' (*Informea.org*September 2020) <<https://judicialportal.informea.org/node/9798>> accessed 25 September 2024.

⁴⁷⁵ Juzgado de Distrito de la Ciudad de México, 'Resolución del recurso de queja 3/2020, Séptimo Tribunal Colegiado en Materia Administrativa del Primer Circuito y juicio de amparo 1854/2019' (March 2020).

⁴⁷⁶ Ibid.

⁴⁷⁷ Global Judicial Institute of the Environment, 'Youth v. Government of Mexico | Judicial Portal' (*Informea.org*September 2020) <<https://judicialportal.informea.org/node/9798>> accessed 25 September 2024.

lawsuit for lack of standing and ruled that the plaintiffs had standing, basing its decision on legal criteria for environmental cases in Mexico.⁴⁷⁸ These criteria require a nexus between the plaintiffs and the environmental services of the ecosystem in question. In the context of CC, the court found that the plaintiffs' right to a healthy environment and health was sufficient because the failure to adopt climate regulations could affect ecosystems nationwide.⁴⁷⁹ The court also considered the principles of public participation and precaution in environmental matters. The case was subsequently referred to the Supreme Court, which declined to hear the case on August 28, 2024, leaving the Collegiate Court to address the merits of the case.^{480 481}

In Mexico, the Environmental Justice Atlas currently lists 214 cases of environmental conflicts involving issues such as water management, mineral extraction, construction materials, gas pipelines, and fossil fuels, among others.⁴⁸² In 2023, CEMDA recorded 1,317 individuals affected by acts of aggression, including 344 children⁴⁸³, and recorded 282 specific acts of violence (in 123 different incidents) against individuals and communities defending environmental human rights.⁴⁸⁴ The most common forms of aggression recorded in 2023 were threats (33), followed by intimidation (28), physical assault (26), criminalization (21), homicide (19), and harassment (19), most of which occurred in the mining, communication routes, and forestry sectors.⁴⁸⁵ Although the total number of aggressions in 2023 (282) decreased compared to 2022 (582), the numbers remain high and alarming, especially in Jalisco, Oaxaca, Mexico City, and Chiapas.⁴⁸⁶ CEMDA claims that the situation has not improved in the last decade⁴⁸⁷ and released recommendations calling on the Mexican government, Congress, and relevant agencies to strengthen the protection of environmental human rights defenders by implementing comprehensive policies in line with the Escazú

⁴⁷⁸ Sabin Center for Climate Change Law, 'Youth v. Government of Mexico - Climate Change Litigation' (*Climate Change Litigation* 23 September 2024) <<https://climatecasechart.com/non-us-case/youth-v-government-of-mexico/>> accessed 25 September 2024.

⁴⁷⁹ Ibid.

⁴⁸⁰ Sabin Center for Climate Change Law, 'Youth v. Government of Mexico - Climate Change Litigation' (*Climate Change Litigation* 23 September 2024) <<https://climatecasechart.com/non-us-case/youth-v-government-of-mexico/>> accessed 25 September 2024.

⁴⁸¹ As of the publication of this thesis (November 2024), no decision has been made.

⁴⁸² Environmental Justice Atlas (*ejatlas.org* 7 October 2024) <<https://ejatlas.org/country/mexico>> accessed 7 October 2024.

⁴⁸³ Centro Mexicano de Derecho Ambiental, A.C. (CEMDA), *Informe sobre la situación de las personas y comunidades defensoras de los derechos humanos ambientales en México, 2023* (March 2024) 34.

⁴⁸⁴ Ibid. 14.

⁴⁸⁵ Ibid. 15.

⁴⁸⁶ Ibid. 16.

⁴⁸⁷ Centro Mexicano de Derecho Ambiental, A.C. (CEMDA), *Informe sobre la situación de las personas y comunidades defensoras de los derechos humanos ambientales en México, 2023* (March 2024) 45-48.

Accords.⁴⁸⁸ They call for greater recognition of the contributions of defenders, the suspension of harmful development projects, and stronger enforcement of environmental laws. The recommendations also stress the need for accessible legal aid, effective judicial protection, and inter-agency coordination to prevent, investigate, and punish crimes against defenders. Finally, they call for public awareness campaigns and reforms to ensure that laws do not inhibit environmental activism.⁴⁸⁹

It is important to highlight that Mexico is home to 68 indigenous peoples, with a total indigenous population of 16,933,283, representing 15.1% of the country's population⁴⁹⁰, and that 57.7% of the cases of aggression in 2023 were against indigenous peoples, indicating that the most vulnerable to attacks for defending natural resources, lands and territories are those who live in and care for these areas.⁴⁹¹ For example, children and youth in Colonia Maya have actively joined the resistance movement, working with mothers and indigenous Tzotzil and Tseltal community members to raise awareness about environmental rights.⁴⁹² They use educational tools to highlight the effects of environmental degradation. One important action was the "Marcha de las bancas" (March of the Benches), in which children, teachers, and supporters carried school benches to protest flooding that made classes impossible.⁴⁹³

Mexico hosted COP16 in 2010.⁴⁹⁴ The Cancun COP focused on several critical areas, such as adaptation, mitigation and deforestation (REDD+), technology transfer and financing.⁴⁹⁵ The agreements solidified the emissions targets previously outlined in the Copenhagen Accord, aimed to restore diplomatic confidence in the UNFCCC negotiating process, and set the stage for future climate agreements.⁴⁹⁶ One of the most significant achievements of the Cancun agreements was the establishment of the Green Climate Fund, which is designed to finance mitigation and adaptation activities in developing countries, thus operationalizing the financial

⁴⁸⁸ Ibid.

⁴⁸⁹ Ibid.

⁴⁹⁰ IWGIA, 'Mexico - IWGIA - International Work Group for Indigenous Affairs' (www.iwgia.org2024) <<https://www.iwgia.org/en/mexico.html>> accessed 7 October 2024.

⁴⁹¹ Centro Mexicano de Derecho Ambiental, A.C. (CEMDA), *Informe sobre la situación de las personas y comunidades defensoras de los derechos humanos ambientales en México, 2023* (March 2024) 44.

⁴⁹² Amnesty International, *Mexico: Land and Freedom? Criminalization of Defenders of the Land, Territory and Environment* (Amnesty International 2023) ÍNDEX: AMR 41/7076/2023, September 2023 13.

⁴⁹³ Ibid. 14.

⁴⁹⁴ UNFCCC, 'COP 16' (*Unfccc.int*2022) <<https://unfccc.int/event/cop-16>> accessed 7 October 2024.

⁴⁹⁵ Charlotte Streck and others, 'The Results and Relevance of the Cancun Climate Conference' (2011) 8.2 JEEPL 165, 165.

⁴⁹⁶ Ibid. 166.

pledges made by developed countries.⁴⁹⁷ The conference marked important progress on technology transfer mechanisms, which are essential to providing developing countries with the technologies they need to mitigate and adapt to CC.⁴⁹⁸ The agreements also increased transparency in climate action through the development of more robust measurement, reporting and verification (MRV) systems to ensure that countries' climate actions are transparent and accountable.⁴⁹⁹

Also, The Ministry of Foreign Affairs and The Climate Reality Project Latin America, alongside IMJUVE, INPI, IMR, the Embassy of the Netherlands, and UNICEF, have launched the fourth Operation COP: Youth Ambassadors for Climate in Mexico. Mexican youths are invited to raise awareness about the climate crisis and participate in COP29 negotiations. The selected participants will join the Mexican delegation in Baku, Azerbaijan, from November 11 - 22.⁵⁰⁰

⁴⁹⁷ Ibid. 172.

⁴⁹⁸ Ibid. 173.

⁴⁹⁹ Ibid. 174.

⁵⁰⁰ Secretaría de Relaciones Exteriores, 'Mexican Government and Climate Reality Project Latin America to Train Mexican Youths to Attend COP29 in Azerbaijan' (*gob.mx* February 2024) <<https://www.gob.mx/sre/prensa/mexican-government-and-climate-reality-project-latin-america-to-train-mexican-youths-to-attend-cop29-in-azerbaijan>> accessed 7 October 2024.

Chapter 6: Gaps and Challenges in the Implementation of Children's Environmental Rights: A Comparative Analysis of Mexico and Switzerland

Both Mexico and Switzerland have ratified the UNCRC, thereby committing to uphold children's rights and environmental protection. However, gaps and challenges remain in the implementation of these commitments within their national legal systems. This chapter examines these gaps in both countries, analysing the extent to which children are included in environmental policies, the challenges faced in integrating environmental education, the mechanisms available for children's participation in environmental decision-making, and the role of GC26 in shaping these efforts. Recommendations are made to address these gaps, drawing on best practices and international guidelines.

Comparatively, both Mexico and Switzerland face similar gaps in involving children in environmental policy and implementing environmental education. Switzerland's federal structure leads to inconsistencies between cantons, while Mexico's differences at the state level are due to differences in capacity and resources. Both countries lack sufficient mechanisms for children's participation in environmental decision-making, and national strategies often overlook children's specific needs and rights in the context of CC.

However, Mexico demonstrates a more explicit legal framework for children's rights through the General Law on the Rights of Girls, Boys and Adolescents, which establishes several systems to protect children's rights, including the right to participation. In contrast, Switzerland lacks a centralised national body dedicated to children's rights, resulting in fragmented monitoring and enforcement. Mexico's proactive approaches in states such as Jalisco and Quintana Roo demonstrate efforts to integrate environmental education, despite uneven implementation. In Switzerland, environmental education remains inconsistent due to cantonal autonomy and the lack of specific national guidelines.

In Switzerland, while national legislation upholds the principles of environmental protection and sustainable development, it largely overlooks the specific rights of children to participate

in environmental decision-making processes. The Swiss Constitution recognizes responsibilities to future generations, but does not explicitly refer to children in environmental matters, thereby limiting children's engagement in CC policy. This omission positions children as passive beneficiaries rather than active participants in environmental governance, contrary to the participatory rights highlighted in the UNCRC and elaborated in GC26.

Swiss climate policy focuses on intergenerational equity, but fails to directly address children's rights or implement child-sensitive adaptation measures to protect them from the impacts of CC. The lack of child-friendly language in key strategies, such as the 2030 Sustainable Development Strategy, suggests a gap between policy aspirations and the practical inclusion of children in climate-related decisions. This lack hinders the development of adaptation strategies specifically tailored to the unique needs of children and neglects their rights as enshrined in the UNCRC and highlighted in GC26, which calls for child-sensitive adaptation and mitigation strategies.

Switzerland's federal structure contributes to inconsistent implementation of children's participation rights across cantons. While some cantons provide platforms for children's participation, others lack sufficient mechanisms to involve young people in environmental and administrative processes. Cantonal autonomy leads to disparities in the application of UNCRC principles, resulting in inconsistencies in the protection and enforcement of children's rights, particularly in environmental contexts. This fragmentation is exacerbated by the absence of a centralised national body specifically mandated to oversee children's rights, a gap that GC26 suggests should be addressed through robust institutional frameworks. To address these gaps, the study recommends that both federal and cantonal governments adopt a comprehensive child rights-based approach. This shift would ensure that children are more actively involved in decision-making processes across all sectors. Key recommendations include establishing independent child rights bodies, improving training for professionals working with children, and ensuring more consistent and transparent strategies for involving children in decisions that affect them. These steps would help bring Swiss law more in line with the UNCRC's principles on child participation.⁵⁰¹

⁵⁰¹ C Weber Khan and S Hotz, *Summary Implementation of the Right to Participation of Children regarding Art. 12 of the UN Convention on the Rights of the Child in Switzerland: Study on the legal foundations and practices in nine cantons in the areas of family law, juvenile criminal law, education, health and youth parliaments* (Swiss Center of Expertise in Human Rights (SCHR), 16 December 2019) 4.

Although organisations such as the FSIO provide partial oversight, Switzerland lacks a national ombudsman dedicated to children's rights. This lack of a centralised institution leads to fragmented and inconsistent enforcement, making it difficult to ensure that children's rights are uniformly protected across all regions. GC26 emphasises the importance of independent monitoring mechanisms to oversee the implementation of children's environmental rights, suggesting that the current structure in Switzerland may be inadequate.

Environmental education in Switzerland varies in scope and depth between cantonal education systems. The HarmoS agreement, which aims to harmonise education across cantons, lacks specific guidelines on environmental education. As a result, environmental topics are often integrated in a non-compulsory, cross-curricular manner, leading to disparities in how children are taught about CC and sustainable development. Without a national mandate to standardise environmental education, children may not receive sufficient knowledge or training on these critical issues. GC26 emphasises the need to integrate environmental education into school curricula in order to empower children to effectively address environmental challenges.

Practical mechanisms for children to exercise their legal rights in environmental matters are inadequate in Switzerland. While the law allows for child participation, age thresholds and a lack of child-friendly procedures limit children's ability to voice their concerns or challenge decisions affecting their environment. The underdevelopment of child-friendly complaints procedures and platforms for expression in legal contexts is a significant barrier to access to justice. GC26 advocates for accessible remedies and emphasises that States should ensure that children can effectively use judicial and administrative mechanisms to seek redress for environmental harms.

Mexico faces challenges in fully integrating the provisions of the UNCRC into domestic law. The Supreme Court recognizes international treaties as part of supreme law, but the transformative potential of the 2011 constitutional reform on human rights has not been fully realised, particularly with regard to children's environmental rights. A significant gap is the limited explicit mention of children's rights in environmental legislation. The constitutional framework addresses environmental rights broadly, but does not specifically focus on the unique vulnerabilities and needs of children in relation to environmental degradation, an omission that GC26 urges States to address.

Mechanisms for incorporating children's views into environmental policy are underdeveloped in Mexico. Although the General Law on the Rights of Girls, Boys and Adolescents establishes the right of children to be heard, systematic participatory processes remain limited. The National Integral Protection System and bodies such as the National System for the Comprehensive Protection of Girls, Boys and Adolescents aim to involve children in decision-making. However, these efforts have not fully permeated environmental policy-making, and children's voices are often absent from critical discussions on CC and environmental protection. This exclusion runs counter to GC26, which emphasises the need to include children in environmental decision-making at all levels.

While federal legislation mandates the inclusion of environmental education, implementation varies widely among Mexican states. States such as Jalisco and Quintana Roo have developed comprehensive environmental education plans that serve as models for integrating environmental education. However, other states are lagging behind due to resource constraints, lack of political will, or insufficient institutional capacity. This disparity leads to unequal access to quality environmental education across the country and hinders the development of a unified environmental consciousness among children. GC26 calls for equitable access to environmental education for all children.

The New Mexican School aims to educate critical, environmentally conscious citizens. However, educators report challenges due to insufficient guidance and support. The shift towards integrated "formative areas" and increased pedagogical autonomy has led to uncertainty among teachers, who express a need for clearer guidelines and professional development opportunities to effectively deliver environmental education. Aligning teacher training with the guidelines of GC26, which emphasises the need for environmental values in education and training, is essential.

Mexico faces challenges in implementing CC legislation. Despite progressive legislation such as the LGCC and the National CC Strategy, enforcement remains weak. Climate litigation cases, such as *Youth v. Government of Mexico*, highlight the government's inaction in implementing necessary regulations and policies. The lack of regulatory action exacerbates the climate crisis and undermines Mexico's commitments under international agreements such as

the PA. GC26 emphasises that States must effectively enforce environmental laws to protect the rights of children.

Children and youth, who are disproportionately affected by CC, remain underrepresented in Mexico's climate policy and action. While the National CC Strategy recognizes the importance of including vulnerable groups, concrete actions to include children's perspectives in climate-related decision-making are minimal. This exclusion violates the participatory rights outlined in the UNCRC and highlighted in GC26, which calls for the active participation of children in environmental matters.

In both Mexico and Switzerland, the gaps identified reflect a lack of full compliance with the principles and recommendations set out in GC26.

6.1 Recommendations

Switzerland

First, Switzerland must integrate children's rights explicitly into its environmental legislation. By doing so, national laws would acknowledge the specific vulnerabilities of children in relation to environmental degradation and CC. This would ensure that children's health, well-being, and future are protected within the framework of environmental policies. Additionally, Switzerland should develop child-sensitive climate policies, embedding objectives focused on children's needs in strategies such as the Sustainable Development Strategy 2030. These policies would prioritise the protection of children from the adverse effects of CC, particularly through adaptation and mitigation efforts that consider their unique vulnerabilities.

Moreover, Switzerland should establish a National Children's Rights Institution dedicated to monitoring and enforcing children's rights, including their environmental rights. This independent body would play a crucial role in advocating for children's interests, overseeing compliance, and addressing grievances related to children's environmental rights. To ensure children's voices are consistently heard across the country, Switzerland should also harmonise the implementation of child participation rights across all cantons by standardising the processes through which children can engage in environmental and administrative matters. Lastly, by standardising environmental education through the HarmoS Agreement, Switzerland

would ensure that all children receive education on CC and sustainability. Furthermore, enhancing child-friendly legal mechanisms, including lowering age thresholds, would empower children to participate meaningfully in environmental legal processes.

Mexico

First, Mexico should fully incorporate the provisions of the UNCRC into domestic law and ensure that children's environmental rights are explicitly protected in all relevant legislation, including the General Law on CC. This would strengthen the legal framework and provide a clearer mandate to protect children's well-being in the context of environmental protection. In addition, strengthening mechanisms such as the National Integral Protection System is critical to ensuring that children have a meaningful voice in environmental policy-making. Establishing structured participatory processes at all levels of government would ensure that children's views are taken into account in shaping policies that affect their future. Prioritizing the regulatory measures outlined in the LGCC and the National CC Strategy, while strengthening institutional capacity, would increase the effectiveness of environmental regulations. Consistent implementation of environmental education throughout the country is also needed. By providing clear guidelines and professional development for educators and incorporating environmental education into teacher training curricula, Mexico can ensure that all children receive the knowledge and skills needed to engage with climate issues, as highlighted in GC26. In addition, promoting best practices from states such as Jalisco and Quintana Roo throughout the country would help reduce disparities and foster cooperation between regions. Finally, actively involving children in the development and implementation of climate action plans would ensure that their voices are heard and integrated into decision-making processes, thereby strengthening their role in the country's climate future.

Effective protection of children's environmental rights requires not only the existence of legal frameworks, but also their careful implementation and enforcement. Both Mexico and Switzerland need to strengthen mechanisms for children's participation in environmental decision-making, ensure consistent and comprehensive environmental education, and provide accessible remedies.

Mexico, with its explicit legal framework for children's rights, has a foundation on which to build more robust participation and enforcement mechanisms. Switzerland, despite strong

environmental policies, needs to integrate children's rights more explicitly and establish centralised oversight to ensure consistent protection across all cantons. By adopting comprehensive child rights-based approaches that fully incorporate the principles and recommendations outlined in GC26, both countries can make progress towards fulfilling their obligations under the UNCRC.

Country	Gaps and Challenges	Recommendations
Mexico	- Incomplete Implementation of UNCRC Provisions: Children's rights not fully integrated into domestic law, especially regarding environmental rights. - Limited Children's Participation: Insufficient mechanisms for involving children in environmental policymaking. - Challenges in Environmental Education: Uneven implementation across states; lack of clear guidance for educators. - Weak Enforcement of Climate Laws: Climate legislation exists but is poorly enforced. - Insufficient Inclusion of Youth: Children and youth underrepresented in climate action and policies.	- Integrate UNCRC Fully: Incorporate all UNCRC provisions into national law, explicitly protecting children's environmental rights. - Strengthen Participation Mechanisms: Enhance structures like the National Integral Protection System to involve children in environmental decisions. - Improve Enforcement: Prioritise the implementation of existing climate laws and strengthen institutional capacities. - Standardise Environmental Education: Provide clear guidelines and training for educators; promote successful state models nationwide. - Engage Youth in Climate Action: Actively include children in developing and implementing climate strategies.

Switzerland	- Limited Inclusion of Children in Environmental Policies: National laws lack explicit references to children's rights in environmental matters. - Inconsistent Child Participation: Variability across cantons; lack of unified approach to children's involvement. - Inadequate Environmental Education: Disparities in curriculum due to cantonal autonomy; absence of national standards. - Insufficient National Oversight: No centralised body dedicated to children's rights; fragmented enforcement. - Lack of Child-Friendly Legal Mechanisms: Legal processes are not easily accessible to children; high age thresholds limit participation.	- Explicitly Integrate Children's Rights: Amend environmental laws to include specific protections for children. - Develop Child-Sensitive Policies: Create climate policies that address children's specific needs. - Establish National Oversight Body: Create a National Children's Rights Institution for monitoring and enforcement. - Harmonise Participation Across Cantons: Standardise mechanisms for children's involvement in all regions. - Standardise Environmental Education: Use the HarmoS Agreement to implement consistent environmental education nationwide. - Enhance Legal Accessibility: Lower age thresholds and develop child-friendly legal procedures.
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Table 2 - Gaps, Challenges and Recommendations

Chapter 7: Conclusions and Broader Implications

This Master thesis explores how children's rights in the sphere of addressing the adverse effects of climate change are being implemented at the domestic level, particularly looking at how they are integrated into national climate policies through the lenses of education for sustainable development, the right to be heard, and active youth engagement in climate action. Examining Switzerland and Mexico as case studies, the analysis focuses on the evaluation of alignment with the GC26, which provides a comprehensive framework for applying the UNCRC in the context of addressing the adverse climate challenges. The study found that Switzerland and Mexico, despite their different regional contexts, face similar challenges in bringing children's rights and climate resilience to the forefront of policy, and neither fully harnesses the GC26's potential to prioritise children and future generations in their climate agendas. Switzerland's structured, yet broad, environmental policies, and Mexico's ambitious, but complex, climate strategies demonstrate both the possibilities and limitations of current approaches. Achieving effective child-centred climate policies requires not only policy reforms but also greater attention to children's specific vulnerabilities and capacities as change agents.

7.1 Broader International Developments in Climate Change and Human Rights Law

Recent advancements in international climate law underscore CC as a pressing human rights issue, particularly for vulnerable groups like children. The advisory proceedings at the International Court of Justice (ICJ) on state obligations related to CC mark a critical step forward for global climate justice. Prompted by grassroots activism in Vanuatu and formalised by UN General Assembly Resolution 77/276⁵⁰², in March 2023, this initiative highlighted the urgent need for legal clarity on state responsibility for climate damage. With record participation, including 91 initial statements and 62 subsequent submissions from States, international organisations and NGOs, these proceedings underscore the broad global consensus to address climate impacts within a legal framework.⁵⁰³ The ICJ is considering two key issues: the obligations of states under international law to protect the climate from greenhouse gas emissions, and the legal consequences for states responsible for environmental

⁵⁰² UNGA Res 77/276 (29 March 2023).

⁵⁰³ Wewerinke-Singh M, 'ICJ Advisory Opinion and the Future of Climate Responsibility' (SDG Knowledge Hub, 11 September 2023) <https://sdg.iisd.org/commentary/guest-articles/icj-advisory-opinion-and-the-future-of-climate-responsibility/> accessed 10 November 2024.

damage.⁵⁰⁴ The Court's guidance could set a precedent by framing climate obligations in light of environmental treaties, human rights law, and customary international law, and could open avenues for reparations and greater accountability. As public hearings begin on December 2, 2024, this process could lay the groundwork for rights-based climate action and amplify the voices of vulnerable communities. While complex, these proceedings offer the ICJ an opportunity to integrate climate science into legal frameworks, potentially redefining international climate governance and setting standards that protect current and future generations.⁵⁰⁵ A favourable advisory opinion could significantly enhance the interpretative weight of GC26, encouraging more robust child-centred policies that directly address environmental rights. Although General Comments are generally considered soft law, the International Court of Justice (ICJ) underscored their importance in *Ahmadou Sadio Diallo* (2010), recognizing the interpretative authority of the Human Rights Committee. The Court noted that while it is not bound by the Committee's interpretations, it should ascribe substantial weight to them to promote clarity, consistency, and legal security in international law.⁵⁰⁶

Furthermore, and at a global political level, during the Summit of the Future on 22 September 2024, global leaders endorsed the Pact for the Future along with its annexes, the Global Digital Compact and the Declaration on Future Generations.⁵⁰⁷ The "Pact for the Future" presents a comprehensive approach to CC through fifty-six actions, focusing on the rights of future generations, especially children, through twelve targeted actions.⁵⁰⁸ It integrates climate resilience into sustainable development by reaffirming the 2030 Agenda and prioritising sectors such as food security, health and social infrastructure.⁵⁰⁹ The compact emphasises social dimensions, including the importance of inclusive societies, strong institutions and gender equality as a foundation for climate resilience.⁵¹⁰ Environmental actions are aligned with the Paris Agreement, focusing on reducing greenhouse gases, expanding renewable energy, and conserving biodiversity by tackling deforestation and pollution, with focus on international

⁵⁰⁴ Ibid.

⁵⁰⁵ Wewerinke-Singh M, 'ICJ Advisory Opinion and the Future of Climate Responsibility' (SDG Knowledge Hub, 11 September 2023) <https://sdg.iisd.org/commentary/guest-articles/icj-advisory-opinion-and-the-future-of-climate-responsibility/> accessed 10 November 2024

⁵⁰⁶ Sancin V, 'General Comments and Recommendations' in Christina Binder, Manfred Nowak, Jane A Hofbauer, and Philipp Janig (eds), *Elgar Encyclopedia of Human Rights* (Edward Elgar Publishing 2022) p. 319 <https://doi.org/10.4337/9781789903621.general.comments.recommendations>

⁵⁰⁷ United Nations, 'Pact for the Future' (Summit of the Future, 2024) <https://www.un.org/en/summit-of-the-future/pact-for-the-future> accessed 10 November 2024

⁵⁰⁸ United Nations General Assembly, 'Pact for the Future' (15 September 2024) UN Doc A/RES/79/1

⁵⁰⁹ Ibid, Action 1.

⁵¹⁰ Ibid, Actions 7 and 8.

financial architecture to meet the urgent challenge of CC.⁵¹¹ Furthermore, one of the guiding principles in the Declaration on Future Generations emphasises the need to establish and sustain a clean, healthy, and sustainable environment, requiring humanity to live in harmony with nature by urgently tackling the causes and harmful effects of CC, as well as intensifying collective efforts to enhance environmental protection.⁵¹²

Looking at the developments on a global environmental front, the COP sessions, as central forums for global climate policy, increasingly recognize the role of children and youth, but the reliance on the GC26 remains scarce in these discussions despite its importance in guiding states on incorporating children's environmental rights. With the creation of roles like the Youth Climate Champion at COP28 and initiatives from COP27's Sharm el-Sheikh Implementation Plan, youth involvement is gaining recognition, yet more integration of the GC26 principles is needed. Actively promoting the GC26 at COP sessions can raise awareness and accountability, helping states develop inclusive, rights-based climate policies aligned with protecting children and future generations.

Aforementioned developments underscore the importance of integrating the GC26 principles into national frameworks, including in Switzerland and Mexico. As the GC26 emphasises child-centred climate action, these principles should shape their education, participation, and protection strategies more. With its strong environmental governance framework, Switzerland could lead by enacting specific laws that address the rights and needs of children and future generations. Growing case law in the field of climate litigation, highlights a growing need to hold states accountable. By adopting legislation that amplifies children's voices within policymaking, Switzerland can more closely align with GC26 and its international obligations. Mexico's climate policies, including LGCC and the Strategy 10-20-40, represent solid long-term planning. For these to be fully effective, Mexico should focus on equitable implementation, especially in underserved areas, and foster children's engagement in climate action. This approach aligns with GC26 and international commitments, advancing a more inclusive climate policy.

⁵¹¹ Ibid, Actions 9, 10 and 52.

⁵¹² United Nations General Assembly, 'Declaration on Future Generations' (15 September 2024) UN Doc A/RES/76/307

7.2 Recommendations for Strengthening Child-Centred Climate Policies

The international and national developments explored in this thesis lead to several recommendations for Switzerland and Mexico to strengthen the integration of children's rights within their climate policies. For Switzerland, it is recommended to introduce specific legislation addressing children's environmental rights, enabling youth to move from advisory roles to active, influential participants in policy making. Furthermore, Switzerland should establish pathways for child-centred climate litigation, ensuring access to justice in cases of environmental harm. Enhanced support for youth councils and participatory programs would enable deeper integration of young voices in decision-making processes. For Mexico, building on its robust climate policies, the priority should be on equitable implementation, especially in rural and indigenous areas where climate impacts are most pronounced. Reducing barriers to children participation in climate matters is essential to create an environment where youth can freely advocate for sustainable policies. Additionally, investing in climate education and expanding youth advisory roles at both local and national levels would ensure that children's perspectives are meaningfully incorporated into climate policy.

The global momentum reflects a paradigm shift that views CC as both a human rights and intergenerational justice issue, and highlights that addressing climate challenges requires policies that prioritise the needs and rights of the children. Through a comparative analysis of Switzerland and Mexico, this study illustrates that while both have foundational frameworks, a more integrated approach aligned with GC26 is needed to protect children's environmental rights meaningfully. Bridging the gap between international commitments and national implementation allows Switzerland, Mexico, and other nations to develop climate policies that genuinely support future generations.

Also, this study contributes to the global discourse on youth-led climate justice by stressing the role of children as both vulnerable to climate impacts and as vital agents of change. Increasingly, international fora, like the UNFCCC COP dialogues, recognize youth contributions as critical to sustainable solutions. With initiatives like COP27's Sharm el-Sheikh Implementation Plan and COP28's Youth Climate Champion, there is growing momentum for engaging young people in climate governance. These roles resonate with the GC26 principles, emphasising the need for policies that value children's perspectives and empower them to shape climate outcomes.

As climate litigation advances globally, cases related to environmental harm underscore the courts' role in enforcing children's environmental rights. The early stages of climate litigation in Switzerland and Mexico indicate that legal systems can provide vital accountability, though they must evolve to address the specific vulnerabilities of children. By establishing legal frameworks that support youth participation and recognize intergenerational justice, states can make meaningful strides in addressing the global climate crisis.

This thesis demonstrates that bridging the gap between international frameworks and national implementation is essential to achieving a just, sustainable future for all. Switzerland and Mexico, each with distinct regional strengths, can lead in advancing this movement, ensuring that the rights of children and future generations are not only recognized but actively protected amid an uncertain climate future.

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