

35 YEARS OF CHILD RIGHTS AND THE EMERGING RIGHT TO A HEALTHY ENVIRONMENT

COCOU MARIUS MENSAH,¹ ZORICA BRAJOVIĆ MENSAH²

¹ University of Maribor, Faculty of Law, Maribor, Slovenia
cocou.mensah@um.si,

² Administrative Court of Slovenia, Unit of Maribor, Maribor, Slovenia
zorica.brajovic-mensah@sodisce.si

As of November 20, 2024, 35 years have passed since the adoption of the United Nations Convention on the Rights of the Child (UNCRC) in 1989, a unique and binding instrument that enshrined, for the first time in international law, a comprehensive set of rights for children across the globe. While the UNCRC has driven significant progress since its adoption in 1989, emerging challenges, particularly digitalisation and the climate crisis, reveal critical gaps in its implementation. This article evaluates three decades of achievements in child rights protection, identifies persistent shortcomings, and examines the urgent need to address environmental degradation as a violation of children's rights. Through an analysis of international legal provisions and landmark cases, the authors argue for stronger enforcement mechanisms to uphold children's right to a healthy environment.

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1 Introduction

The legal governance of children's rights constitutes a particularly challenging area of law, characterised by inherent complexity and occasional incoherence in its application.¹ The title of this chapter may suggest that the discussion begins with the landmark United Nations Convention on the Rights of the Child (hereinafter: UNCRC), adopted in 1989 and reaching its 35th anniversary on 20 November 2024. While this convention indeed represents a major milestone in the legal protection of children, the deeper motivation behind this contribution lies in retracing the gradual, historical evolution of legal thinking about children, not merely as subjects of care but as rights-holders in their own right. In this sense, the chapter adopts a crescendo approach, highlighting the long and complex journey of humanity toward crafting binding legal instruments aimed at protecting those who were, for centuries, regarded as property, dependents, or passive recipients of adult authority.

It is important to acknowledge that religious traditions and sacred texts, such as the Bible,² the Qur'an,³ and other foundational scriptures,⁴ contain numerous recommendations and moral obligations regarding the treatment and upbringing of children. These include calls for compassion, education, protection, and justice. However, the present article is grounded in legal positivism, the idea that law should be understood as a system of rules and norms enacted and recognised by legitimate authorities.⁵ As such, our analysis focuses on codified legal instruments developed by the international community, particularly those that emerged from treaty-based mechanisms and intergovernmental cooperation.⁶

¹ Huntington & Scott, 2020; Moritz & Mathews, 2023.

² See Ephesians 6:4, English Standard Version: "Fathers, do not provoke your children to anger, but bring them up in the discipline and instruction of the Lord." Retrieved from: <https://www.biblegateway.com/passage/?search=Ephesians%206%3A4&version=ESV> (accessed: 29 June 2025).

³ See: Qur'an 64:15, English - Sahih International: "Your wealth and your children are but a trial, and Allah has with Him a great reward." Retrieved from: <https://surahquran.com/english-aya-15-sora-64.html> (accessed: 29 June 2025).

⁴ See Dhammapada Chapter 5, Verse 62: "I have sons, I have wealth"; with this (feeling of attachment) the fool is afflicted. Indeed, he himself is not his own, how can sons and wealth be his? Retrieved from: <https://www.tipitaka.net/tipitaka/dhp/verseload.php?verse=062> (accessed: 29 June 2025).

⁵ See Kammerhofer, 2023.

⁶ See United Nations (1989) Convention on the Rights of the Child [Online]. Retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed: 30 June 2025).

From this perspective, the protection of children is not merely a moral imperative, but a legal commitment progressively articulated through conventions, declarations, and treaties. Long before the adoption of the UNCRC, the international community had already begun to recognise the need to safeguard children through formal legal frameworks. One of the earliest examples is the 1902 Hague Convention on the Guardianship of Minors, which introduced cross-border guardianship regulations and recognised the need for international cooperation in matters affecting children's welfare.⁷ This pioneering treaty marked an important step in the attempt to regulate the legal relationship between states and children, particularly in cross-border contexts. It laid the groundwork for international cooperation in matters concerning the protection of minors, reflecting an emerging recognition of children as individuals with interests that require legal safeguarding.

Comprising 13 articles, the 1902 Hague Convention on the Guardianship of Minors emphasised States 'duty to ensure minors' welfare when guardianship or parental oversight was absent or disrupted. Article 6 established the guardianship administration's broad responsibility over both the minor's person and property, reflecting an early recognition of the comprehensive nature of child protection. Further, Article 7 provided for urgent protective measures when no immediate guardianship arrangement existed, implicitly acknowledging that a child's welfare could not be neglected in moments of crisis, even in the absence of formal family authority.

Although limited in scope and primarily concerned with procedural aspects within European jurisdictions, the 1902 Hague Convention on the Guardianship of Minors symbolised an early shift towards viewing children not only in relation to their families but also as subjects of public concern and state responsibility.

In the same vein, the early 20th century bore witness to a series of legal developments reflecting the international community's growing recognition of the need to protect children, not only as dependents within the family unit but as individuals deserving of specific legal safeguards. A significant step in this direction emerged from the Treaty of Versailles (1919), which established the International

⁷ Hague Conference on Private International Law (1902) Convention of 12 June 1902 relating to the settlement of the conflict of laws concerning the guardianship of minors. Retrieved from: <https://www.hcch.net/en/instruments/conventions/the-old-conventions/1902-guardianship-convention#status> (accessed: 30 June 2025).

Labour Organisation (ILO) with a mandate to improve working conditions globally. As van Daalen and Hanson demonstrate through their analysis of ILO policy shifts, the organisation has consistently maintained child labour elimination as a core priority while adapting its approaches from regulation to abolition over time.⁸ This enduring commitment reflects the ILO's foundational recognition that protecting children from exploitative labour is essential to social progress. Among the earliest initiatives was ILO Convention No. 5 on the Minimum Age for Industrial Work (1919), which set a minimum employment age for children in industrial settings.⁹ While narrowly focused, the ILO Convention No. 5 reflected an evolving consensus that childhood should be preserved from premature economic exploitation. Implicit in its provisions is the recognition that children's rightful place is within nurturing environments, primarily their families, and that their physical, mental, and emotional development should not be compromised by early labour.

Nowadays, the two ILO Conventions on Child Labour are Convention No. 138 on Minimum Age¹⁰ and Convention No. 182 on the Worst Forms of Child Labour.¹¹ Under these conventions, all ILO member states are obliged, even those that have not ratified them, to pursue the elimination of child labour through national policies. However, despite the protection mechanisms and their continuous improvement, child labour remains, a pressing global issue. According to the ILO (2024) reports, child labour persists on a staggering scale. The 2024 Global Estimates of Child Labour in figures reported that 138 million children (59 million girls and 78 million boys) remain trapped in child labour globally, 8% of the world's child population, with 54 million subjected to hazardous work threatening their health, safety, or moral well-being.¹² These figures show us that child protection is an ongoing process and needs constant improvement.

⁸ van Daalen & Hanson, 2019, pp. 133-150.

⁹ International Labour Organization (ILO) (1919) C005 - Minimum Age (Industry) Convention, 1919 (No. 5).

Retrieved from:

https://normlex.ilo.org/dyn/nrmlx_en/?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUM ENT,P55_NODE:CON,en,C005,/Document (accessed: 30 June 2025).

¹⁰ International Labour Organization (ILO) (1973) C138 - Minimum Age Convention, 1973 (No. 138). Retrieved from:

https://normlex.ilo.org/dyn/nrmlx_en/?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312283:NO (accessed: 30 June 2025).

¹¹ International Labour Organization (ILO) (1999) C182 - Worst Forms of Child Labour Convention, 1999 (No. 182). Retrieved from:

https://normlex.ilo.org/dyn/nrmlx_en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (accessed: 30 June 2025).

¹² International Labour Organization (ILO) (2024) 2024 Global Estimates of Child Labour in Figures. Retrieved from: <https://www.ilo.org/resource/other/2024-global-estimates-child-labour-figures> (accessed: 30 June 2025).

Building on this chapter's crescendo approach to the historical evolution of child rights and protection mechanisms, one can mention the next pivotal development emphasising both moral and humanitarian statements: the Geneva Declaration of the Rights of the Child (1924).¹³ Although not legally binding, the declaration was the first international document to explicitly call for special protection for children, particularly in the aftermath of the devastation of World War I (1914–1918). Composed of five concise articles, it declared that children must be given the means for normal development, both materially and spiritually protected in times of distress, and prepared to assume their place in society. It emphasised the responsibility of adults, not only parents but society at large, to ensure the child's well-being. Though brief and aspirational in tone, the Geneva Declaration marked a critical shift: it acknowledged that children are not merely extensions of their families but members of the human community whose dignity and rights must be recognised and safeguarded.

This evolving legal consciousness took a more structured form with the adoption of the Declaration of the Rights of the Child by the United Nations General Assembly (1959).¹⁴ While still a non-binding instrument, this Declaration significantly expanded the normative framework laid out by the 1924 Geneva Declaration. Composed of ten principles, it offered a more detailed and progressive articulation of children's rights, marking a notable evolution in how the international community perceived the child not only as vulnerable and in need of protection, but also as a bearer of legal entitlements that ought to be supported by national and international legal systems.

Unlike its predecessor, the 1959 Declaration introduced more robust language around state responsibility, calling for both legal and institutional mechanisms to ensure the fulfilment of children's rights. For instance, Principle 2 affirms that the child shall enjoy special protection and be given the opportunities and facilities necessary to develop “physically, mentally, morally, spiritually, and socially in a healthy and normal manner and in conditions of freedom and dignity.” Crucially, it introduces the foundational legal concept that would later become central in child rights law: the best interests of the child shall be “the paramount consideration” in

¹³ League of Nations (1924) Geneva Declaration of the Rights of the Child, 1924. Retrieved from: <https://www.humanium.org/en/geneva-declaration/> (accessed: 30 June 2025).

¹⁴ United Nations (UN) (1959) Declaration of the Rights of the Child. Retrieved from: <https://www.humanium.org/en/declaration-rights-child-2/> (accessed: 30 June 2025).

the enactment of laws and in all measures affecting children. This principle reflects a growing shift from generalised moral obligations to more clearly defined legal standards.

Furthermore, the 1959 Declaration emphasized the need for equal treatment regardless of race, colour, sex, language, religion, or social origin (Principle 1), the child's right to a name and nationality (Principle 3), and protections against neglect, cruelty, exploitation, and trafficking (Principles 8 and 9). By expanding on the vague protections of the 1924 Declaration and moving closer toward enforceable norms, it laid the groundwork for the development of comprehensive legal instruments such as the UNCRC from 1989.

The 1959 Declaration thus marked a pivotal turning point in the international recognition of children as rights-holders under the law, prefiguring many of the key principles that would be enshrined in later binding treaties. It signalled a more systemic understanding that child protection must not only rely on moral and religious codes, or emergency responses in times of conflict and industrial abuse, but must be grounded in clear, consistent legal norms upheld by both states and societies.

This normative evolution, from early guardianship frameworks and labour protections to comprehensive rights-based declarations, demonstrates the international community's growing commitment to codifying children's rights in positive law. It also sets the stage for the next chapter in this legal journey: the adoption of the UNCRC in 1989, and the need to continue advancing children's rights in the face of 21st-century challenges, including the climate crisis, digital technologies, and widening global inequalities.¹⁵

With this legal historical trajectory in mind, this chapter now turns to exploring the contemporary challenges facing children and the evolving legal responses to address them. The discussion is structured around four key parts.

¹⁵ United Nations (1989) Convention on the Rights of the Child, adopted 20 November 1989 by General Assembly resolution 44/25. Retrieved from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>(accessed: 30 June 2025).

Part I provides an overview of the existing legal frameworks designed to protect children's rights, with a focus on their key provisions and the progress achieved to date.

Part II, Shortcomings and the Challenge of Environmental Issues, examines how modern threats, particularly those linked to environmental degradation and climate change, impact children and assesses how current legal instruments respond to these emerging realities.¹⁶

Part III analyses the role of national and international courts, highlighting influential jurisprudence and landmark cases shaping the future of children's rights, especially concerning environmental justice.

Finally, Part IV offers a conclusion, drawing together the key findings and reflections and identifying paths forward to ensure a rights-based, sustainable, and inclusive future for all children.

2 Legal Framework – The UNCRC and Related Instruments

Before the adoption of the UNCRC in 1989, the rights of children were largely fragmented, inconsistent, and often overlooked in both domestic and international legal frameworks. Children were rarely acknowledged as individual rights-holders; their needs and vulnerabilities were subordinated to the authority of parents or the interests of the state. Access to education, healthcare, protection from abuse, and legal recognition varied significantly across regions, and fundamental rights such as freedom of expression, protection from economic exploitation, and participation in public life were not systematically recognised or enforced. In many parts of the world, child labour, conflict recruitment, neglect, and discrimination based on gender, disability, ethnicity, or social status went unchecked, with no universal treaty compelling state accountability. The UNCRC changed this landscape dramatically. With its 54 articles, the UNCRC became the most comprehensive and widely ratified human rights treaty in history. It unified civil, political, economic, social, and cultural rights under a single legally binding framework, establishing children not only as recipients of protection but as active subjects of rights. Core guiding principles such

¹⁶ See Mensah, 2024a, pp. 279-312.

as non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival, and development (Article 6), and the right to be heard (Article 12) ensure that children must be involved in decision-making and all actions and decisions concerning them are grounded in respect for their dignity and agency.¹⁷

The UNCRC guarantees access to education (Articles 28 and 29), including the development of the child's personality, talents, and abilities to their fullest potential. It protects the child's identity (Article 8) and ensures the right to healthcare (Article 24), social security (Article 26), and an adequate standard of living (Article 27). It also affirms the child's right to protection from violence, abuse, and neglect (Article 19), protection from economic exploitation and hazardous work (Article 32), and protection from all forms of sexual exploitation and abuse (Article 34).

Importantly, the UNCRC embraces participatory rights, such as freedom of expression (Article 13), freedom of thought, conscience, and religion (Article 14), freedom of association (Article 15), and the right to access information from diverse sources (Article 17) empowering children to engage with the world around them as informed and active members of society.

To ensure these rights are upheld, the UNCRC includes implementation provisions (Articles 43–54) that establish a system of international monitoring through the Committee on the Rights of the Child, which reviews state reports, provides recommendations, and encourages states to harmonise national legislation and policy with the Convention. These articles emphasise the collaborative responsibility of governments, institutions, and civil society in realising children's rights and fostering environments in which all children can thrive.

Through its holistic and integrated approach, the UNCRC not only remedied many of the legal and structural gaps that existed prior to its adoption but also set in motion a global movement to place children's rights at the heart of legislation, public policy, and international development.

¹⁷ Tobin & Cashmore, 2020.

Except for the UNCRC, several complementary instruments are available to address specific and emerging threats to children's rights, further strengthening the global legal framework.

One of the most critical extensions of the UNCRC is the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), adopted in 2000.¹⁸ This Protocol was designed in response to the persistent and devastating impact of armed conflict on children, particularly their recruitment and use as soldiers. OPAC raises the minimum age for compulsory recruitment into national armed forces to 18 and explicitly prohibits the use of children under 18 in direct hostilities. It obliges states to take all feasible measures to prevent the recruitment and use of children in armed groups, recognising that such practices constitute serious violations of international law and children's rights.

Adopted in the same year, the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (OPSC)¹⁹ addresses one of the gravest violations of children's rights: sexual exploitation. It provides a robust legal framework to criminalise and prevent child trafficking, prostitution, and the production and dissemination of child pornography, obligating states to adopt legislative, administrative, and judicial measures to protect victims and prosecute perpetrators. The OPSC affirms the right of children to be protected from all forms of sexual abuse, economic exploitation, and commodification, reinforcing obligations already present in Articles 34–36 of the UNCRC.

Further reinforcing the enforcement of children's rights, the Optional Protocol on a Communications Procedure (OPIC),²⁰ adopted in 2011, introduces an accountability mechanism by allowing individual children, groups of children, or their representatives to file complaints directly to the Committee on the Rights of the Child when they believe their rights under the UNCRC or its two previous

¹⁸ United Nations (2000) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx> (accessed: 2 July 2025).

¹⁹ United Nations (2000) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography. Retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/opscrc.aspx> (accessed: 2 July 2025).

²⁰ United Nations (UN) (2011) Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Retrieved from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-communications> (accessed: 2 July 2025).

protocols have been violated and no effective remedies are available at the national level. This mechanism represents a significant advancement in ensuring that children are not only rights-holders in theory but also in practice, with access to justice and an international forum to seek redress.

Outside the UNCRC framework, complementary instruments have further expanded the protections afforded to children. As already mentioned in the introduction, we can highlight the ILO child-related conventions as a vital legal milestone in the global effort to eliminate egregious forms of child labour. The child labour prohibition conventions are in alignment with UNCRC Articles 28 and 32, which together create a dual framework to safeguard children's development through education and protect them from exploitative labour.

Article 28 for example, enshrines the right to education, requiring states to ensure free and compulsory primary education (Article 28(1a)), expand accessible secondary and vocational training (Article 28(1b–d)), and reduce school dropouts (Article 28(1e)). Equitable access to quality education can definitely help fight the root causes of child labour, offering children pathways to escape poverty and harmful work.

On the other hand, Article 32 complements this by explicitly prohibiting economic exploitation and work that jeopardises children's health, education, or development (Article 32(1)). It mandates legislative measures to set minimum employment ages and regulate working conditions (Article 32(2a–b)), reinforcing the link between education and labour protections. Together, these provisions recognise that education is both a shield against exploitation and a means of empowerment, ensuring childhood is spent in classrooms rather than hazardous workplaces.

The synergy between these UNCRC provisions and ILO standards underscores a shared objective: breaking the cycle of child labour through education while addressing its economic drivers, thus also aligning with the Sustainable Development Goals²¹ (SDGs) 1-5;10.

²¹ United Nations (UN) (2015) The Sustainable Development Goals. Retrieved from: <https://www.un.org/sustainabledevelopment/sustainable-development-goals/> (accessed: 2 July 2025).

Regarding children and warfare, the Geneva Conventions and their Additional Protocols afford children specific protections in times of armed conflict.²² To that protection framework can be added the Hague Conventions on intercountry adoption (1993)²³ to fight against illegal adoption and the International Child Abduction Convention (1980)²⁴ to protect children from exploitation and unlawful removal across borders.

At the international regional level, when it comes to child protection mechanisms, the existing conventions and other legal frameworks are usually based on the UNCRC. Indeed, the various regional systems have developed their own legal instruments tailored to their specific social, cultural, and political contexts, thereby reinforcing and expanding the protection of children's rights. In Africa, for instance, the African Charter on the Rights and Welfare of the Child (1990),²⁵ adopted under the auspices of the Organization of African Unity (hereinafter: OAU), stands out as a landmark treaty.

It entered into force on 29 November 1999 and affirms many UNCRC principles while introducing uniquely African perspectives, such as the role of extended families in child upbringing (Article 18) and offers stronger language on issues like child marriage (Article 21) and armed conflict (Article 22).²⁶

In Latin America, the Inter-American system, through instruments like the American Convention on Human Rights²⁷ and the Inter-American Program for the Promotion and Protection of the Human Rights of Children and Adolescents, has

²² See Mensah, 2024b, pp. 3-42.

²³ Hague Conference on Private International Law (1993) Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. Permanent Bureau. Retrieved from: https://iss-ssi.org/storage/2023/04/Brochure_25-ans_-HCCH_ANG.pdf (accessed: 2 July 2025).

²⁴ Hague Conference on Private International Law (1980) Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Retrieved from: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=24> (accessed: 2 July 2025).

²⁵ Organization of African Unity (OAU) (1990) African Charter on the Rights and Welfare of the Child. Adopted by the 26th Ordinary Session of the Assembly of Heads of State and Government, Addis Ababa, 11 July 1990. Retrieved from: https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf (accessed: 2 July 2025).

²⁶ Since this chapter is about the UNCRC, a detailed analysis of other regional frameworks will not be made. However, for more information about the African regional children protection instruments, see: Mensah, 2024c, pp. 235-266.

²⁷ Organization of American States (OAS) (1969) American Convention on Human Rights 'Pact of San José, Costa Rica'. Signed 22 November 1969, entered into force 18 July 1978. Retrieved from: https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf (accessed: 2 July 2025).

pushed for children's rights in the context of migration, violence, and poverty, emphasizing non-discrimination, family unity, and the best interests of the child.²⁸

In Europe, the European Convention on the Exercise of Children's Rights (1996),²⁹ developed by the Council of Europe, focuses on promoting children's participation in judicial and administrative proceedings, particularly in family law matters (Articles 3–6). These regional frameworks not only mirror the UNCRC's core principles, including the best interests of the child, the right to be heard, and protection from exploitation, but also ensure that localised challenges are addressed through context-specific legal mechanisms and enforcement bodies.

3 Shortcomings and the Challenge of Environmental Issues

While the digitalisation of society is one of the most influential and rapidly evolving phenomena of the 21st century, with deep implications for children's rights and well-being, the authors of this paper have chosen to focus specifically on environmental shortcomings. This decision stems from the conviction that the environmental crisis poses one of the greatest contemporary threats to children's rights, particularly their right to development, survival, and dignity. As the title of this chapter suggests, the emphasis lies on the violation of the environmental rights of children and the extent to which these rights are recognised and protected under existing legal frameworks.

This section begins by asking a fundamental question: Do children have an enforceable right to a healthy environment? While the UNCRC adopted in 1989 does not contain a standalone article articulating such a right, its provisions nonetheless intersect significantly with environmental concerns. For example:

- a) Article 6 guarantees the child's inherent right to life, survival, and development;
- b) Article 24 affirms the child's right to the highest attainable standard of health, including access to clean drinking water and environmental sanitation;

²⁸ Inter-American Commission on Human Rights (IACHR) (year not stated) The rights of the child in the Inter-American human rights system. Retrieved from: <https://www.cidh.org/countryrep/Infancia2eng/Infancia2Cap1.eng.htm> (accessed: 2 July 2025).

²⁹ Council of Europe (1996) European Convention on the Exercise of Children's Rights. Strasbourg, 25 January. Retrieved from: <https://rm.coe.int/european-convention-on-the-exercise-of-children-s-rights/1680a40f72> (accessed: 2 July 2025).

- c) Article 27 provides for the right to an adequate standard of living, implicitly requiring environmental conditions conducive to well-being;
- d) Article 29 promotes education to develop respect for the natural environment.

At the international level, the United Nations General Assembly's 2022 recognition of the right to a clean, healthy, and sustainable environment as a universal human right represents a major normative milestone, affirming that environmental protection is not just a policy goal, but a legal and moral imperative, especially in relation to children. This is further echoed in General Comment No. 26 (2023) by the Committee on the Rights of the Child, which explicitly affirms that children's rights are impacted by climate change, biodiversity loss, pollution, and the unsustainable use of natural resources.

The SDGs, as part of the 2030 Agenda, also provide an integrated framework linking environmental sustainability with children's development. Key goals include:

- a) SDG 3: Ensure healthy lives and promote well-being for all ages;
- b) SDG 6: Ensure availability and sustainable management of water and sanitation;
- c) SDG 13: Take urgent action to combat climate change and its impacts;
- e) SDG 15: Protect, restore and promote sustainable use of terrestrial ecosystems.

However, the 2024 Sustainable Development Report paints a stark picture of global inaction and regression. It highlights how persistent and worsening environmental challenges severely compromise children's right to development. Reversals in life expectancy (SDG 3) and the rising prevalence of childhood obesity (SDG 2) have disproportionately affected children, particularly in vulnerable and low-income regions.³⁰ Unsustainable agricultural practices and widespread deforestation (SDG 15) are undermining food security and accelerating biodiversity loss, with 600 million people projected to suffer from hunger by 2030, a staggering number that includes millions of children.³¹ Moreover, nitrogen and phosphorus pollution linked to industrial agriculture is contaminating water systems (SDGs 6 and 14), further endangering children's health and access to clean water resources.³²

³⁰ Sachs et al., 2024, p. 17.

³¹ Sachs et al., 2024, p. 51.

³² Sachs et al., 2024, p. 56.

These trends reveal that current international commitments are failing to deliver on the environmental dimensions of children's rights. They also underscore a broader systemic failure: the lack of political will and global cooperation necessary to ensure that environmental policy and sustainable development goals are aligned with the best interests of the child, a core principle of the UNCRC (Article 3). Without urgent and coordinated action, the existing gaps in achieving the SDG targets will continue to violate the fundamental rights of children, especially the right to health, development, and a viable future.

Beyond the CRC and its General Comments, a broader framework of international human rights law also provides support, implicitly and explicitly, for children's right to a healthy environment. The additional legal provisions supporting children's environmental rights are:

1. Universal Declaration of Human Rights (hereinafter: UDHR, 1948)³³

Although not legally binding, the UDHR lays foundational principles that are crucial to understanding environmental rights as human rights. For instance:

Article 25: Affirms the right to a standard of living adequate for health and well-being, including food, clothing, housing, and medical care, conditions directly influenced by environmental quality.

Article 26: Ensures access to education, which includes environmental education as promoted by the UNCRC (Article 29).

These principles have guided the development of binding treaties and national constitutions, indirectly reinforcing the link between environmental conditions and human dignity, especially for vulnerable groups like children.

2. International Covenant on Economic, Social and Cultural Rights (hereinafter: ICESCR, 1966)³⁴

³³ United Nations. (1948) Universal Declaration of Human Rights. Retrieved from: <https://www.ohchr.org/en/universal-declaration-of-human-rights> (accessed: 2 July 2025).

³⁴ United Nations (UN) (1966) International Covenant on Economic, Social and Cultural Rights. Retrieved from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (accessed: 2 July 2025).

The ICESCR explicitly protects many environmental rights that affect children's well-being:

Article 11: Recognises the right to an adequate standard of living, including adequate food, clothing, and housing, which are increasingly threatened by climate change, deforestation, and water scarcity.

Article 12: Protects the right to the highest attainable standard of physical and mental health, which includes the obligation to prevent and reduce the harm caused by environmental pollution, contaminated water, and unsafe living conditions.

The UN Committee on Economic, Social and Cultural Rights has also issued General Comment No. 14, affirming that the right to health includes access to safe drinking water, adequate sanitation, and a healthy environment.

3. Stockholm Declaration (1972)³⁵ & Rio Declaration (1992)³⁶

These foundational environmental law documents paved the way for recognising that human beings have a fundamental right to “an environment of a quality that permits a life of dignity and well-being.”

The Stockholm Declaration (Principle 1) already emphasised the right to a healthy environment.

The Rio Declaration (Principle 10) affirms the right of all people, implicitly including children, to access information, public participation in environmental matters, and access to justice, all of which are echoed in the UNCRC (Articles 12–17).

³⁵ United Nations (UN) (1972) Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration). Retrieved from: <https://docenti.unimc.it/elisa.scotti/teaching/2023/28955/files/2.a-stockholm-declaration> (accessed: 2 July 2025).

³⁶ United Nations (UN) (1992) Rio Declaration on Environment and Development. Retrieved from: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CO_NF.151_26_Vol.I_Declaration.pdf (accessed: 2 July 2025).

4. UN Human Rights Council Resolutions

In 2021, the UN Human Rights Council adopted Resolution 48/13, officially recognising for the first time that access to a clean, healthy, and sustainable environment is a universal human right. Though not legally binding, this resolution has immense normative value and has already informed regional and national legal reforms.

In 2022, the UN General Assembly echoed this recognition in a landmark resolution, emphasising that environmental degradation negatively affects the effective enjoyment of human rights, especially for children and future generations.

5. Escazú Agreement (Latin America & the Caribbean)³⁷

While regional, the Escazú Agreement (2018) is the first treaty to include binding provisions on environmental human rights defenders and access to environmental information, public participation, and justice. These participatory rights are essential for empowering young people in environmental matters and protecting those advocating for environmental justice.

4 Landmark Cases

These cases demonstrate a growing recognition by courts and quasi-judicial bodies that environmental degradation and climate inaction are not abstract policy issues but fundamental human and child rights matters. Despite procedural setbacks and jurisdictional hurdles, children climate activists are emerging as powerful legal actors, demanding that governments fulfil their obligations under both international human rights law and environmental law.

They also reflect an evolving legal landscape in which the best interests of the child (UNCRC, Article 3) and the right to development (UNCRC, Article 6) are increasingly interpreted considering environmental protection and sustainability. As

³⁷ United Nations (UN) (2018) Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement). Adopted 4 March 2018, entered into force 22 April 2021. Retrieved from: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvii-18&chapter=27&clang=_en (accessed: 2 July 2025).

environmental issues continue to impact this field, it continues to develop, and these cases serve as both legal and symbolic landmarks in the global effort to ensure that children inherit not just a livable planet but a just and sustainable future. In recent years, courts around the world have increasingly been called upon to interpret and enforce environmental rights, especially in the context of climate change and its disproportionate impact on children. These legal actions have highlighted a critical question: Can the failure to protect the environment constitute a violation of children's rights under national constitutions and international human rights law, including the UNCRC?

Several landmark cases have helped to shape this emerging field of climate litigation with a child-rights perspective, underscoring both the potential and the limits of judicial intervention in addressing environmental harms affecting young people.

4.1 Case 1: Juliana v. United States (2015) – United States

One of the most well-known climate lawsuits involving children is *Juliana v. United States*, in which 21 plaintiffs, aged 8 to 19 at filing, accused the U.S. government of violating their constitutional rights through climate inaction. They argued that by promoting fossil fuel production, the government violated their constitutional rights to life, liberty, and property, as well as the public trust doctrine. Though the Ninth Circuit Court of Appeals dismissed the case in 2020 for lack of standing, the litigation sparked a global conversation about intergenerational justice, government accountability, and the role of youth as claimants in climate litigation. The plaintiffs solicited the Supreme Court to continue to pursue alternative legal avenues, and the case remains emblematic of youth-led environmental activism seeking recognition of a constitutional right to a livable climate. However, the Supreme Court dismissed the case by declining *Mandamus* and *Certiorari* Petitions in 2025.

In the framework of this chapter, we can highlight that this case achieved what procedural dismissals cannot erase: it concretised climate change as an intergenerational rights issue under constitutional law while demonstrating the power of youth activism in advancing SDG 13 (Climate Action). The plaintiffs' decade-long persistence, from district court to Supreme Court petitions, forced the acknowledgement of the impact of climate change on the next generations.

4.2 Case 2: Urgenda Foundation v. The State of the Netherlands (2019) – Netherlands

In *Urgenda v. The Netherlands*, Dutch citizens sued their government, claiming that its inadequate climate action violated their rights to life and well-being under Articles 2 and 8 of the European Convention on Human Rights (ECHR). The Dutch Supreme Court upheld the claim, ordering the government to reduce greenhouse gas emissions by at least 25% compared to 1990 levels. While this case did not focus exclusively on children, its outcome set a powerful precedent, confirming that governments have a legal duty to protect citizens, particularly future generations, from the foreseeable harms of climate change. Moreover, this ruling represents the first ever judicial mandate, compelling a national government to restrict greenhouse gas emissions based not on legislative requirements, but on fundamental legal principles.

4.3 Case 3: Sacchi et al. v. Argentina, Brazil, France, Germany, and Turkey (2019) – United Nations

In this groundbreaking case, 16 children, including Swedish activist Greta Thunberg, filed a petition before the UN Committee on the Rights of the Child, alleging that the respondent states were violating their rights under the UNCRC by failing to take adequate measures to address climate change. Although the Committee declared the case inadmissible in 2021 due to failure to exhaust domestic remedies, it made a crucial acknowledgement: States can be held responsible for the cross-border impact of emissions originating from their territories, and children are victims of foreseeable harm to their rights to life, health, and culture. This recognition marked an important step in developing extraterritorial obligations in environmental human rights law.

4.4 Case 4: Milieudefensie et al. v. Royal Dutch Shell (2019)

This climate case marks the first successful attempt to hold a private corporation legally accountable for its contributions to climate change. It builds upon the success of the already mentioned case, *Urgenda Foundation v. The State of the Netherlands* (2019), which established a governmental duty of care. The facts of the case mention that on 5 April 2019, the environmental organisation Milieudefensie (Friends of the Earth Netherlands), together with six NGOs and over 17,000 Dutch citizens, filed

a lawsuit against Shell in the Hague District Court. The plaintiffs argued that Shell's continued fossil fuel operations breached its duty of care under Dutch tort law (Article 6:162 of the Dutch Civil Code) and its obligations under human rights law (Articles 2 and 8 of the ECHR), while also failing to align with the Paris Climate Agreement (*Milieudefensie v. Shell*, 2021).

The plaintiffs sought a court order requiring Shell to align its emissions with the Paris targets—namely, a 45% reduction by 2030 and net-zero emissions by 2050. Their claim highlighted Shell's long-standing knowledge of climate risks, misleading public messaging, and inadequate mitigation efforts as evidence of unlawful endangerment. The Hague District Court ruled that Shell must reduce its Scope 1, 2, and 3 emissions by 45% by 2030 (compared to 2019 levels). However, the Hague Court of Appeal delivered a more nuanced judgment: while upholding Shell's duty of care under Dutch law, it overturned the 45% reduction mandate, citing the absence of scientific consensus on company-specific pathways, practical enforcement issues, and concerns about emissions leakage if competitors filled Shell's market share. The Court also suggested that new fossil fuel investments might breach Shell's duty of care, though this was not decisive to the ruling. Notably, it acknowledged Shell's stated aim of achieving a 45% reduction by 2035.

This ruling sets a significant precedent for defining the boundaries of judicial intervention in corporate climate policy. It balances emission reduction obligations with market realities and applies human rights law to private sector climate responsibilities. In February 2025, Milieudefensie announced its intention to appeal to the Supreme Court of the Netherlands, seeking a reinstatement of a specific emissions reduction target.

Overall, in the framework of the topic discussed in this chapter, this particular case reinforces the recognition of a safe and healthy environment as a fundamental human right, which is essential for the protection and well-being of children. By holding a private corporation accountable under human rights and environmental law, the case strengthens legal pathways to safeguard children's rights under the UN SDGs and the Paris Climate Agreement, particularly in securing a livable planet for future generations.

4.5 Case 5: European Collective Climate Litigation- Duarte Agostinho and Others v. Portugal and 32 Other States (2020)

In *Duarte Agostinho and Others v. Portugal and 32 Other States* (ECtHR, no. 39371/20), six Portuguese youth filed a landmark climate case alleging that inadequate state policies violated their rights under Articles 2 (right to life), 8 (right to privacy), and 14 (non-discrimination) of the ECHR. The applicants specifically cited climate-related threats to their well-being, including intensifying heat waves and forest fires in Portugal.

The case, fast-tracked by the ECtHR in 2020, represented an effort by young Europeans to hold 33 states accountable for climate-related harms, arguing that insufficient action under the Paris Agreement framework violated their human rights due to cross-border climate risks.³⁸ The proceedings attracted third-party interventions from organisations including Amnesty International and the European Commission, which supported the applicants' arguments regarding states' human rights obligations in the context of climate change. However, in its April 9, 2024, decision, the ECtHR declared the application inadmissible on two key grounds: First, it rejected the extraterritorial jurisdiction argument, finding no legal basis to hold the 32 non-Portuguese states accountable for emissions impacts in Portugal. Second, while accepting territorial jurisdiction over Portugal, the Court ruled that domestic remedies had not been properly exhausted for claims against the Portuguese government. This dual reasoning resulted in the comprehensive dismissal of the case while leaving open important questions about climate justice under international human rights law.

5 Conclusion

As this chapter has illustrated, the journey toward fully realising children's rights has been long, progressive, and often fragmented. From the early 20th-century efforts to regulate guardianship and prohibit child labour to the landmark adoption of the UNCRC in 1989, the international community has made substantial strides in elevating children from objects of protection to rights-holders in their own capacity. The UNCRC and its optional protocols, alongside complementary instruments such

³⁸ United Nations (2015) The Paris Agreement [Online]. Retrieved from: https://unfccc.int/sites/default/files/english_paris_agreement.pdf (accessed: 2 July 2025).

as the ILO Conventions, regional treaties, and the SDG, have forged a robust normative framework that champions children's rights to health, development, education, and participation.

However, as analysed in Part II, this progress remains incomplete in the face of mounting environmental challenges. Despite being among the least responsible for environmental degradation, children are disproportionately affected by its consequences, which undermine their rights to life, health, food, water, and development. The absence of an explicit and enforceable environmental right within the CRC reveals a significant normative gap, one that is only partially addressed by soft law, interpretive documents like General Comment No. 26 (2023) on the environment, and broader human rights instruments such as the ICESCR or the UDHR.

The landmark climate litigation examined in Part III, *Juliana v. United States*, *Urgenda v. the Netherlands*, and *Sacchi et al. v. Argentina et al.*, demonstrates the rising momentum of children and youth asserting their rights through legal channels, demanding accountability and urgent action to safeguard their future. While some of these cases have faced procedural hurdles, they signal a vital shift: children are no longer passive victims of environmental harm; they are active agents in shaping climate justice and legal innovation.

Looking ahead, the recognition of the right to a clean, healthy, and sustainable environment as a human right by the United Nations General Assembly and Human Rights Council in 2021–2022 offers a historic opportunity to solidify this right in binding international law. Yet to be truly transformative, this right must be explicitly child-sensitive, guided by principles enshrined in the UNCRC, non-discrimination, the best interests of the child, survival and development, and child participation.

As we mark 35 years since the adoption of the UNCRC, the time has come to reaffirm our global commitment to children's rights by addressing the environmental dimension with the seriousness it demands. Sritharan identifies climate change and air pollution as the twin threats to children's health and well-being, requiring immediate global action.³⁹ Vončina further underscores this threat, highlighting how

³⁹ Sritharan, 2025.

toxicologically significant compounds in PM10 and PM2.5 emissions, particularly from industrial sources like cement plants, pose disproportionate risks to public health, including children's health, necessitating stringent monitoring under the best available technology standard.⁴⁰

To effectively combat these challenges, along with others outlined in this chapter, we must:

- strengthen legal frameworks to explicitly protect children's environmental rights;
- enhance accountability mechanisms for violations of these rights;
- guarantee meaningful child participation in environmental policymaking;
- integrate environmental indicators into child rights monitoring systems.

These measures are essential to fulfil our collective promise of creating a just, inclusive and sustainable world where all children can thrive, not merely survive.

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⁴⁰ Vončina, 2024.

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