

# CHILD AND YOUTH FRIENDLY JUSTICE FOR THE CLIMATE CRISIS: RELYING ON THE UN CONVENTION ON THE RIGHTS OF THE CHILD

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This article considers child and youth friendly justice in the context of the climate crisis through the **UN Convention on the Rights of the Child**, and through the concepts of **access, participation, interests, and judgments**.

The analysis provided here urges scholars to provoke and support reflection on how to ensure that climate justice efforts are positive for children and youth, and that they are underpinned by **children's rights principles**.

**Child Friendly Justice:** "justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity" ([Council of Europe, 2010](#))

## Child/Youth and climate justice

- Children and youth have, of late, been active agents in the fight for climate justice ([Daly, 2022](#)).
- Because of difficulties in accessing other justice processes (e.g. participation in policy-making), **young activists have begun to access courts** and other complaints mechanisms. Climate-related applications include: [Sacchi et al. v. Argentina et al.](#), [Duarte Agostinho and Others v. Portugal and 32 Other States](#), [Neubauer et al. v. Germany](#), [Juliana v United States](#).

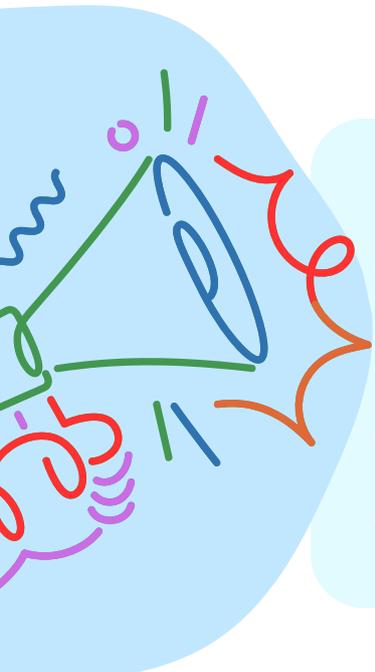
## Child-friendly justice in the climate crisis

- The CRC provides a useful basis for organising an approach to child/youth-friendly climate justice based on children's rights principles. This article emphasises **access, participation, interests** and **judgments**.
- We need to hear more from young climate advocates about how to ensure a children's rights-based experience. The [Youth Climate Justice project](#) is doing that.

## 1) Access: Courts and complaints mechanisms

- The CRC provides a key mechanism for children to invoke their rights in court. E.g. the **right to health** (art. 24) and the **right to be heard** (art. 12).
- The **principle of nondiscrimination** (Article 2 of the CRC) requires children's unique interests are considered by States, lawyers and courts.
- Challenges:
  - At domestic level, less than half of all countries allow the CRC to be **directly enforced in courts** ([Children's Rights International Network, 2016](#)).
  - **Legal status of children:** those under 18 years are required to approach the courts through a litigation guardian and not as independent individuals.
  - **Admissibility:** international courts should continue to recognise children's victim status in relation to the climate crisis, as well as transboundary responsibilities for climate harms.





## 2) Participation: Being and active, supported participant

- Participation is guaranteed by the **right to be heard** (article 12 of the CRC).
- Child friendly justice involves in-depth work to ensure that **children understand and consent to involvement in proceedings**. Practitioners should examine their assumptions around child capacity and maturity ([Nolan and Skelton, 2022](#)).
- The **right to information** is crucial to ensure access and participation in justice.
- Children and youth must also receive **support and guidance** to be protected from any adverse consequences of their participation in climate justice.

## 3) Interests: Children/youth adequately considered in all matters

- Article 3 of the CRC requires that the **best interests of children** are a primary consideration in all matters affecting them.
- States must explain how the best interests principle has been respected in a particular decision, 'that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases' ([UN Committee on the Rights of the Child, 2013](#)).



## 4) Judgments: Children's rights awareness and information

- Judges can be proactive in taking a **children's rights approach to legal sources**. They also have significantly leeway in interpreting provisions such as the best interest principle.
- Judges and practitioners working on proceedings concerning children should have some training in children's rights, including: 'competence to communicate with children, to understand autonomy and autonomy support, to understand children's rights, and to be able to think critically about the adult/child dichotomy' ([Daly, 2018](#)).



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