



NONDISCRIMINATION/EQUALITY AND CHILDREN'S RIGHTS IN THE CLIMATE CRISIS


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Children are active agents who are leading efforts to combat climate change, but they are generally not permitted to vote, and cannot influence climate policy. The CRC has generally not resulted in explicit consideration of **age discrimination against children**. Yet there is potential for doing so, primarily through **CRC Article 2**.



This article examines how the principle of **non-discrimination/equality** applies to children's rights and interests in the climate crisis. It is argued that it is important to use the principle to progress the rights of children/young people as a group in the climate crisis.

The principle of non-discrimination/equality and children in the climate crisis



- **Article 2 of the CRC** provides that 'States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction; and that 'States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination'.
- Although the ground of age is not explicitly included, the argument can be made that it falls under the heading of "other status." The Committee on the Rights of the Child has not yet had the opportunity to clarify this.
- In failing to adequately mitigate the climate crisis, **states are failing to treat children differently to adults**, when their situations are significantly different.

Children's rights and the climate crisis

- The climate and environmental crisis is "an urgent and systemic threat to children's rights globally". States are under an obligation to immediately take action to protect children's rights (General Comment (No 26))
- However, in climate policymaking, most States do not explicitly give primary consideration to **children's rights and interests**. Research conducted by UNICEF found that in only 34% of countries examined could their climate plans be described as 'child sensitive'.
- Those under 18s are generally excluded from the right to vote, which creates a democratic deficit when it comes to the formation of climate policy. This leaves a **democratic gap** which means that states arguably have significant obligations when it comes to ensuring the best interests of children.





Recent cases/applications invoking nondiscrimination/equality for children and youth

- Greater levels of reliance on arguments relating to nondiscrimination/equality for children are evident in climate cases in the past few years. Examples include: **Juliana v USA**, **Armonda Ferrao Carvalho and Others v. The European Parliament and Council of the European Union**, **Children of Austria v. Austria** or **Mathur v Ontario**.
- It is really exciting that lawyers are arguing in climate cases that we need equality for children/youth.
- There are **challenges** for success and cohesion of nondiscrimination/equality arguments in climate applications/cases concerning children however.
 - References to nondiscrimination/equality can appear **tokenistic**.
 - Many of these cases involve both under and over 18s as litigants; and/or arguments that the interests of 'younger people' are harmed by climate change.
 - The **focus of 'youth' arguments** are not particularly on under 18s (i.e. children), and so are unlikely to provide detailed arguments about nondiscrimination/equality for children.
- It is possible that arguments relating to both '**intergenerational equity**' and '**the rights of future generations**' could be distracting those taking cases from the realisation of the potential usefulness of CRC rights.
- These are important arguments, but UNCRC rights could potentially be relied on more in these cases, as all states (except one) have ratified the UNCRC.'
- Those taking cases should **consider including more** about the special rights and interests of children in their application.

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