



Open letter to the authors

Dear Chiara, Catarina, Iris, Raina, Ridhima, David, Ranton, Litokne, Deborah, Carlos, Ayakha, Greta, Ellen-Anne, Raslen, Carl and Alexandra,

Re: Sacchi et al v Argentina and four similar cases

We write to acknowledge the importance of your actions in bringing this historic case to the Committee on the Rights of the Child. Although you acted on your own behalf, we are aware that many children around the world are experiencing the same effects and concerns that you are. We want you to know that the Committee spent many hours discussing your case, and we struggled with the fact that although we entirely understood the significance and urgency of your complaint, we had to work within the limits of the legal powers given to us under the Optional Protocol on a Communications Procedure (OPIC). So as you will see from the simplified explanation of the case that we have written below, you were successful on some aspects but not on others.

We hope that you will be empowered by the positive aspects of this decision, and that you will continue to act in your own countries and regions and internationally to fight for justice on climate change. We encourage you to use the simplified explanation of the case that we have written, to share your message with other children and young people. Your case also increased the Committee's awareness about these issues and highlighted our shared sense of urgency, and therefore we have already announced our decision to write our next General Comment on children's right and the environment with a special focus on climate change. We plan to consult with children and young people around the world, and we invite you, as the authors of this significant case, to share your views during the processes towards the drafting of the next General Comment.

Yours sincerely

Committee on the Rights of the Child

Simplified explanation of the case

Sixteen children sent a complaint to the United Nations [Committee on the Rights of the Child](#) (CRC Committee). The complaint was that five states: Argentina, Brazil, France, Germany and Turkey, were negatively affecting their rights – both now, and in the future - to life, to health, to culture and for their best interests to be a primary consideration in decisions that are made relating to climate change. The children are from different countries, and from different regions of the world. They give examples about how climate change is affecting their lives, such as global warming that causes hotter temperatures that contribute to disease, wildfires, droughts and storms. They describe effects on small island states that are sinking, and impacts on cultural hunting and fishing practices, and the effects of climate change on the mental health of children around the world.

In this case, the children (some of whom have since turned 18 years) are called 'the authors' of the complaint, and the States all had slightly different arguments in the five different cases, but in this simplified case explanation, they are grouped together and called 'the States'. The authors argued that just because many states collectively contribute to the harm of the global warming, this does not mean that no state is responsible.



When the CRC Committee deals with complaints like this, it follows the rules that are set out in a United Nations document called the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC). Complaints can only be sent to the Committee if the State that the children are complaining about has agreed that the Committee has the legal power to receive cases like this against them.

This case is very important because it concerns climate change, a huge problem facing the world today, and one which children feel strongly about. It was also the first case in which the CRC Committee held special meetings called oral hearings, where the authors' lawyers and the States' representatives made arguments and replied to questions from the Committee. The Committee also had a separate on-line hearing with the authors, who explained the impact of climate change and their reasons for bringing the case to the Committee.

Whenever it receives a complaint, the CRC Committee has to first decide whether the rules have been followed that allow it to accept the case. This stage of the case is called admissibility.

The first decision the CRC Committee had to make was whether the complaint was “within the jurisdiction of the State party”. Cases about climate change affecting children in different parts of the world are complicated because usually a State is responsible for violations of the rights of children who are inside the geographical boundaries of that State. But in this case, the children complained that the carbon emissions that were happening in each of the States they complained about, were affecting the lives, health and culture of children who live in the different parts of the world. The authors therefore argued that the usual rules about whether States could be held responsible for harmful effects of actions the State has taken (or not taken), including where the effects go across geographical boundaries, should be looked at differently when it comes to effects on the environment.

The CRC Committee agreed with the authors on this point. The Committee accepted that carbon emissions in the States contribute to making climate change worse and that climate change has a negative effect on the rights of children living outside the boundaries of those States.

The Committee decided that a State has control over the carbon emissions in its own geographical area, and if it does not take enough steps to reduce those emissions, even when it can reasonably foresee that children in other states will be harmed, the CRC Committee will admit complaints as submitted from children “within the jurisdiction of the State”. Not just any complaints can be accepted, the harm to children needs to be properly explained and it cannot be a vague statement that all children everywhere are being harmed. Children will have to explain the harms that each one of them experience, as they did in this case. The harms they described and the effects on their rights were explained enough for the Committee to say “Yes, we will accept a case like this”.

There is another hurdle for accepting a case under the OPIC. Each State has its own justice system including courts to provide remedies, and the general rule is that children should first try to get remedies through the courts or processes in the State about which they are complaining. This is important because pathways to justice must be built from the ground up – the courts in the States should provide justice systems, adapted so that



children can complain about their rights violations and receive appropriate remedies within a reasonable time. However, the rule that you must first at least try to bring a case at the national level is not absolute. There are exceptions to this rule, and the authors in this case argued that the exceptions applied to them, because there were barriers to bringing the case at the national level, it would take too long, and it would not result in exactly what they wanted. The CRC Committee carefully considered these arguments, and in the oral hearings, States were asked many questions about whether children can bring cases to their national courts, whether this included children who live outside the State, and even children who cannot afford to have lawyers. In the end, the CRC Committee found that the States' answers to these questions were reasonable – they were able to show that the authors could have tried to bring cases to their national courts. The Committee is generally quite strict about this rule, it is not good enough to simply say that it probably would not have worked to take the case to court in the State. The reason is that CRC Committee's OPIC is not there to replace all the courts of the world, and it is important to build stronger access to justice at the national level. So the complaint did not make it past this hurdle.

Overall, the case was successful in several ways:

Firstly, the courage and determination of the authors ensured that this issue was brought to the attention of the only international complaints procedure dedicated to children's rights

Secondly, the Committee accepted that children's rights to life, health, culture and to have their best interests be a primary consideration in decision-making, are affected by climate change. The Committee decided this, even though the States said that the Committee should not accept the case at all, and that the OPIC is not the right forum to discuss the climate change issues.

Thirdly, the Committee decided that it can deal with cases like this, even when the emissions happen in State A, and the harmful effects are experienced by children in States B, C, or D. The emissions are something that the State has control over because they can make rules about this in their own countries. As long as there is a link between the emissions and harm to the child, and as long as the harm is significant, and it is described properly by the author, then that is enough for the Committee to say that it will accept the case.

Finally, this decision is also a message to the States regarding their justice systems. The Committee expects States that have signed up to the OPIC to ensure that it is possible for children in each State to be able to make such complaints and have them dealt with properly. However, if there is no access to justice for children, or if their complaints are not dealt with properly, the case can be brought to the Committee under the OPIC, which is the correct international forum.