



**ALTERNATIVE REPORT TO THE UNITED NATIONS
COMMITTEE ON THE RIGHTS OF THE CHILD**

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Submitted by:

Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR)

Interamerican Association for Environmental Defense (AIDA)

Economic, Social, and Cultural Rights Project (Proyecto de Derechos Económicos, Sociales y Culturales, A.C./ProDESC)

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The present submission by 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) aims to analyse the compatibility of the energy legislation and policy in Mexico with the States' human rights obligations enshrined in the Convention on the Rights of the Child. The submission conveys the shortcomings in the Mexican national energy framework that pose a risk to the realisation of children's rights and provides recommendations the Committee could consider in their Concluding Observations.

The inputs provided are divided into the following sections, namely:

- I. The relationship between children's rights and the imperative of advancing a just energy transition.
- II. States' human rights obligations in the context of the energy transition.
- III. Energy policy in Mexico and the duty to pursue a just energy transition.
- IV. Summary of recommendations.

I. The relationship between children's rights and the imperative of advancing a just energy transition

Anthropogenic **climate change**, driven by an overreliance on fossil fuels, **has precipitated a climate emergency that risks devastating the ecosystems that sustain life on the planet.** The climate emergency has **catastrophic implications for human rights, including for children, one of the groups most disproportionately affected** by environmental harm globally.¹ As the effects of climate change accumulate and intensify over time, the current escalating degradation of the natural environment will have more severe and long-lasting implications for children.

Environmental crises also pose a specific and immediate threat to **children** as they **are more susceptible to environmental hazards, which jeopardise their**

¹ [Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/37/58](#), (2018). ¶15.

development and can lead to premature or unnatural deaths, or irreversible and long-lasting effects.² As the development of the child is intrinsically intertwined with the environment in which they live, the disruption of the climate system affects all the environmental determinants of children's well-being. Moreover, there are greenhouse compounds that affect children to a higher extent, such as short-lived climate pollutants like black carbon, whose warming potential is higher than CO₂, and whose relatively small diameter allows it to penetrate deep into people's lungs,³ causing a decrease in lung function and the development of asthma, especially in children. In addition, it can have cardiovascular effects, such as cardiac arrhythmia and heart rate variability.⁴

In this context, the Committee on the Rights of the Child (CRC) has recognised that under international law, **children have an inherent right to live in a clean, healthy and sustainable environment.**⁵ This right is a **prerequisite for the fulfilment and full enjoyment of all rights** envisaged in the Convention on the Rights of the Child, including the rights to life, the highest attainable standard of health and an adequate standard of living.

Therefore, **to respect, protect and fulfil children's rights, States must combat the climate emergency by immediately phasing out fossil fuels and ensuring a just and equitable transition to clean energy sources.** Furthermore, States must ensure children's rights are at the forefront of the energy transition, including a holistic understanding of, and consideration for children's right to participation, access to information and justice.

² [Committee on the Rights of the Child. General comment No. 26 \(2023\) on children's rights and the environment, with a special focus on climate change.](#) ¶73.

³ Asociación Interamericana para la Defensa del Ambiente-Instituto de Energia e Meio Ambiente, "Contaminantes climáticos de vida corta, Una oportunidad para mejorar la calidad del aire y mitigar el cambio climático. El caso de Brasil, Chile y México", 2016, http://www.aida-americas.org/sites/default/files/featured_pubs/reporte_ccvc_1.pdf

⁴ Von Schneidemesser, Erica, et al, "Black Carbon in Europe – Targeting an Air Pollutant and Climate Forcer", IASS Policy Brief, 2017, p.4, http://publications.iass-potsdam.de/pubman/item/escidoc:2359909:5/component/escidoc:2359910/IASS_Policy_Brief_2017_2_en.pdf

⁵ [Committee on the Rights of the Child. General comment No. 26 \(2023\) on children's rights and the environment, with a special focus on climate change.](#) ¶63.

However, to avoid replicating the inequalities and human rights abuses generated by fossil fuel-based energy systems, we not only need to switch technologies to decarbonise but to transform the energy paradigm.⁶ This means re-evaluating the relationship that energy has with social and gender justice, the environment and the economic model.⁷ **The energy transition must be conducted in such a way that both addresses the climate emergency and prioritises compliance with children’s human rights, including by centring the best interest of the child with an intersectional approach in all energy policies, projects and decision-making processes.** For an energy transition to be just, regulatory frameworks and public policies must consider and address the circumstances that place children uniquely at risk, and emphasise the development of environmentally and socially sustainable societies.

We are at a critical juncture in which **the world will shape new energy models that will have fundamental human rights and intergenerational implications.** It is therefore **key to create new sustainable energy services** that can be enjoyed by all present and future generations alike **fostering inclusive governance and decision making.**

II. States’ human rights obligations in the context of the energy transition

The international human rights system has addressed the imperative of phasing out fossil fuels and ensuring a just energy transition, considering the wide-ranging implications that these critical processes have on children’s rights.

Under the Convention on the Rights of the Child, children are conferred a wide range of rights, each of which is at risk of being violated due to the effects of environmental degradation. **In particular, the CRC recognised that, in light of children’s right to a clean, healthy and sustainable environment,⁸ States should immediately phase out the use of coal, oil and gas, ensure a fair and just transition of energy**

⁶ Fairchild, D. and Weinrub, A.I., “Introduction,” in Fairchild, D. and Weinrub, A.I. (eds), *Energy Democracy: Advancing Equity in Clean Energy Solutions* (Island Press, 2017).

⁷ Ibid.

⁸ United Nations. 1989. “Convention on the Rights of the Child.” Treaty Series 1577 (November): 3, articles 6, 24, 27, 28 and 29.

sources and invest in renewable energy, energy storage and energy efficiency to address the climate crisis.⁹

Moreover, the CRC established that although environmental harms can affect entire populations, **due to existing socioeconomic inequalities, environmental degradation is disproportionately discriminatory toward certain groups of children.**¹⁰ Thus, **States must remedy these violations by identifying the differential effects —with an intersectional approach— environmental harms have on children** and ensuring that all subsequent environmental policies are not discriminatory in their content or implementation, including energy transition policies and frameworks.

Additionally, **during decision-making processes regarding the environment, States shall make the best interests of the child a primary consideration.**¹¹ **This should also involve the inclusion of children’s views in the design and implementation of environmental measures** and the administration of impact and risk assessments to ensure children’s well-being both in the present and future.¹²

Furthermore, **States must take all necessary, appropriate, and reasonable measures to protect children’s rights from harms related to climate change caused or perpetuated by business enterprises.**¹³ In the development of environment-related legislation, **States must take preventative measures by assessing potential impacts on children’s rights** and preventing or mitigating foreseeable and actual harm. In conducting these impact assessments, States ought to recognise that certain measures that address one issue, may risk exacerbating others, the energy transition has challenges that must be addressed in order not to make a blind technological replacement. For instance, large-scale renewable energy projects that are developed to curb greenhouse emissions often result in human rights violations, including the denial of Indigenous children’s right to have access to

⁹ [Committee on the Rights of the Child. General comment No. 26 \(2023\) on children’s rights and the environment, with a special focus on climate change.](#) ¶63,65.

¹⁰ Ibid. ¶14,15.

¹¹ Ibid. ¶16-18.

¹² Ibid. ¶26-28.

¹³ Ibid. ¶107.

their land and natural resources.¹⁴ Therefore, **States have an obligation to promote rights-aligned energy transition frameworks to ensure that children's rights are respected**, including by businesses and other third parties, and that no retrogressive actions are taken in the shift towards clean and efficient energy technologies.

In conclusion, States, as duty bearers, are obliged to take positive actions in safeguarding children's rights in the wake of the transformation of energy systems. **By pursuing a just energy transition, that not only accounts for but prioritises children's rights, States can uphold their obligations to respect, protect and fulfil children's rights.**

III. Energy policy in Mexico and the duty to pursue a just energy transition

Despite having ratified all major human rights and climate-related treaties and the potential of solar and wind energy sources, in **Mexico energy systems are still largely based on the use of fossil fuel resources.**¹⁵ In 2022, around 71% of energy generation corresponded to fossil sources and only 15% was linked to solar energy (9 GW) and wind energy (7 GW).¹⁶

Furthermore, **Mexico's current energy mandate** has focused on modernising the energy sector and returning it to the oil boom of the last century. In that sense, the

¹⁴ It is also important to highlight Indigenous communities are more vulnerable to the effects of adaptation and mitigation measures to tackle the climate crisis if those fail to factor in human rights implications. It is paramount that transitions to green energy processes follow human rights principles, to avoid human rights violations. In that sense, for instance, mitigation measures that aim to reduce emissions can have negative effects for Indigenous Peoples if their rights are not duly considered. Such is the case of local communities that have been dispossessed from their land by renewable energy production or reforestation projects. (Melissa Leach et. al, Gender Equality and Sustainable Development: A Pathways Approach, UN Women Discussion Paper No. 13. United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), 2016. Miriam Gay-Antaki, "Now We Have Equality": A Feminist Political Ecology Analysis of Carbon Markets in Oaxaca, Mexico, *Journal of Latin American Geography* 15(3) at 49-66, 2016.)

¹⁵ Secretariat of Energy (Secretaría de Energía de México, SENER). "A Un Año De Iniciar Este Gobierno, El Rescate Del Sector Energético..." gob.mx. Mexican Federal Government. December 2019. <https://bit.ly/3ptYIWO>

¹⁶ Organización Latinoamericana de Energía – OLADE (2023). Panorama energético de América Latina y el Caribe 2023, pp. 205-212.

main focus of the National Development Plan 2019-2024 (PND) has been to “**rescue the hydrocarbon energy sector**”.¹⁷ In line with this, the 2020-2024 Energy Sector Program (PROSENER) —which, in general terms, is a roadmap for energy policy— links national development to the use of fossil fuels, including fuel oil; reduces public resources to address climate change; conditions the energy transition and the use of solar and wind energies due to the lack of promotion of electricity generation and the absence of distributed generation projects (decentralised scheme that allows for the self-generation of electricity).¹⁸

Worse yet, the Program for the Development of the National Electric System (PRODESEN) 2020-2034,¹⁹ which details the planning with a fifteen-year horizon regarding electricity, **prioritises the use of fossil fuels in the production of electric energy** and omits to promote wind and photovoltaic projects for electricity generation, as well as omitting projects to promote distributed generation. Along the same line, PRODESEN 2020-2034 even states that “**gas consumption will be predominant in the evolution of energy production estimated from 2021 to 2035**”,²⁰ ignoring that this fossil fuel emits large amounts of methane,²¹ which has negative impacts both on the atmosphere²² and on people's health.²³

We highlight our concern that **the State has, through a series of policies and decisions, failed its commitment to reduce greenhouse gas (GHG) emissions.** The State has advanced measures that have implied a retrogression from its previous

¹⁷ Secretariat of Governance (SEGOB). (12 July 2019). National Development Plan 2019-2024. Mexico. Federal Government. Official Gazette of the Republic. <https://bit.ly/3joHReR>

¹⁸ Secretariat of Energy (Secretaría de Energía de México, SENER). Energy Sector Programme 2020-2024. Mexico. Federal Government. p. 68. <https://bit.ly/3mgAmIT>

¹⁹ Programme of Development of the National Electric System 2020-2034. Available on 14 August 2024 at: <https://www.gob.mx/sener/articulos/prodesen-2020-2034>

²⁰ Ibid, p.66.

²¹ Energy Information Administration, Methane from oil & gas, 2020, available on 14 August 2024 at: <https://www.iea.org/reports/methane-tracker-2020/methane-from-oil-gas>

²² The World Health Organization (WHO) states that short-lived climate pollutants, particularly ozone and black carbon, which are highly correlated with methane emissions, are largely responsible for more than 7 million premature deaths annually worldwide, related to air pollution.

²³ Riojas Rodríguez, Horacio, “Impactos del metano en la salud, Ponencia dictada en el Seminario virtual ‘Impactos del metano en el aire, el clima y la salud: Regulación y retrocesos en México’”, 28 de octubre 2020, available on 14 August 2024 at: <https://aida-americas.org/es/blog/seminario-virtual-impactos-del-metano-en-el-aire-el-clima-y-la-salud-regulacion-y-retrocesos>

push for solar and wind energy, while, **at the same time, increasing its investment in fossil fuels.** For instance, the government has cancelled several electricity auctions that would have allowed the Federal Electricity Commission (CFE, for its acronym in Spanish) to purchase lower-cost electricity, produced through solar and wind energy sources.²⁴ Also, recently, through Agreement A/018/2023, the legal qualification of clean energies was forced to include gas combined cycle power plants, equating them to solar or wind projects, despite burning fossil fuels that emit methane to the detriment of the climate and people's health, as explained above.²⁵

On the other hand, between 2019 and 2022, 769.8 billion Mexican pesos have been granted to Pemex, the public oil company, from the public budget, in the form of capital contributions, tax credits and other support and incentives.²⁶ Additionally, further investments have also been destined for the oil sector through, for instance, the construction of a new large-scale refinery in Dos Bocas in the State of Tabasco, which according to estimates could have total annual emissions of 2.16 million tons of CO₂.²⁷

Moreover, in 2020, Mexico decided to eliminate the Climate Change Fund,²⁸ arguing the need to eliminate corruption in the management of resources. This trust was established under the Climate Change Law in 2012 in order to *“capture and channel public, private, national and international financial resources, to support the*

²⁴ See decision on the suspension of the 4th auction by the National Centre on Energy Control (CENACE, for its acronym in Spanish) available on 14 August 2024 at: https://www.cenace.gob.mx/Docs/MercadoOperacion/Subastas/2018/39_Acuerdo%20de%20suspensi%C3%B3n%20de%20la%20SLP%20No.1%202018%20v03%2012%202018.pdf

²⁵ Alavez, Mario. “Acuerdo que clasifica al gas natural como energía limpia vulneraría derecho a medio ambiente sano: ONG’s”. *Energía a Debate*. 5 July 2023. <https://energiaadebate.com/acuerdo-que-clasifica-al-gas-natural-como-energia-limpia-vulneraria-derecho-a-medio-ambiente-sano-ongs/>

²⁶ Díaz, Diego. “Pemex, ¿un barril sin fondo?” IMCO, 5 May 2022. <https://imco.org.mx/pemex-un-barril-sin-fondo/>.

²⁷ CEMDA, “Refinería Dos Bocas, En Sentido Contrario Al Esfuerzo Contra El Cambio Climático,” Data set, 2019, available on 14 August 2024 at: https://www.cemda.org.mx/wp-content/uploads/2019/10/CEMDA_refineriadosbocas.pdf.

²⁸ See the press release from the Chamber of Deputies of the Mexican congress publishing the decree that eliminated the Trust, available on 14 August 2024 at: <http://www5.diputados.gob.mx/index.php/esl/Comunicacion/Agencia-de-Noticias/2020/Noviembre/06/7410-Publica-DOF-decreto-que-extingue-109-fideicomisos-entra-en-vigor-manana-sabado>

implementation of actions to confront climate change."²⁹ At the time, the creation of the Fund responded to the need to have resources to address the climate crisis, through support for mitigation and adaptation projects and measures that are key due to Mexico's high vulnerability. Despite the need to guarantee a transparent management and administration of public resources, the elimination of the Climate Change Fund constitutes a serious regression in compliance with climate, environmental and human rights obligations of the Mexican State.

The energy model based on fossil fuels is not only environmentally unsustainable but also has generated and deepened structural inequalities, which have disproportionately affected those segments of the population that are already marginalised or in situations of vulnerability or who, due to pre-existing conditions of discrimination, have limited access to decision-making or resources. The current energy policy in Mexico is not only a failure of its environmental commitments but a violation of its obligations under the Convention on the Rights of the Child. Mexico's continued actions to increase the production and use of hydrocarbons, which aggravates the climate crisis and affects air quality, also violate the rights of present and future generations and are contrary to the principle of intergenerational equity. These actions will undoubtedly have disproportionate repercussions on children's rights. They will affect new generations, who will face to a greater extent the effects of climate change caused by the emissions currently generated by the burning of fossil fuels. **In this regard, Mexico should review its current energy policy to comply with its obligations under the convention by immediately phasing out the use of coal, oil and gas and ensuring a fair and just transition to clean and efficient energies.**

Additionally, transitions towards environmentally and socially sustainable economies can be significant drivers for social justice, the advancement of gender equality and the eradication of poverty conditions. Therefore, the energy transition presents a unique opportunity for environmental and social policies to reconcile and complement each other. Along these lines, the just transition should be set as a priority, adopting an integrated approach that simultaneously addresses the

²⁹ See article 80 of the Law on Climate Change prior to the reform, available on 14 August 2024 at: https://www.profepa.gob.mx/innovaportal/file/6583/1/ley_general_de_cambio_climatico.pdf

necessary transformation of the energy matrix and the reduction of inequalities and energy poverty. **Thus, Mexico should review and harmonise its national energy legislation in accordance with human rights and robust environmental standards. Ensure that the energy transition is conceived not only as a technical process of changing from one energy source to another but as a structural transformation of the sector based on human rights principles, guaranteeing that the promotion of renewable energies does not reproduce the practices of the extractivist model.**³⁰

I. Summary of recommendations

In conclusion, we ask the CRC to consider the following recommendations in its Concluding Observations to the Mexican State:

1. Update and increase the level of climate ambition reflected in its Nationally Determined Contributions - including a robust system for monitoring, reporting and verifying the progress of its implementation-, having the best interests of children as a primary consideration, to comply with its obligations under the Convention on the Rights of the Child. Therefore, we suggest emphasising the importance of articulating comprehensive and coordinated responses between the three levels of government to confront the scale and scope of the impacts of the climate emergency on children, particularly children coming from vulnerable backgrounds.

2. Adopt effective measures to limit anthropogenic emissions of greenhouse gases (climate mitigation measures), by progressively phasing out the consumption and production of fossil fuels, in order to stop and prevent further impacts on human rights caused by the adverse effects of climate change and other forms of pollution driven by fossil fuel extraction and use.

³⁰ In that sense, see the case of Unión Hidalgo, where a renewable energy project was prevented from perpetrating the abuses of the extractivist model in terms of human rights violations. For more information, ProDESC, ECCHR and CCFD-Terre Solidaire, "From rights to reality: Ensuring a rights-holder-centred application of the French Duty of Vigilance law", 2019, available on 14 August 2024 at: <https://prodesc.org.mx/en/from-rights-to-reality-ensuring-a-rights-holder-centred-application-of-the-french-duty-of-vigilance-law/>

3. Take advantage of the potential that the national territory has to develop solar and wind energy projects, under traditional and decentralised (distributed generation) schemes, that allow it to ensure the sustainability and security of the national energy system, as well as advance in the decarbonisation of the energy matrix. The shift to solar and wind energies should ensure the best interest of the child and guarantee their inclusion and participation in the design and implementation of sustainable energy policies and frameworks, according to their age, gender identity, disability, ethnicity, religion, migration status, socioeconomic status, etc.³¹

4. Incorporate an intersectional policy lens to take into account the specific needs of groups in conditions of vulnerability to the effects of climate change and the development of energy policies and projects. For instance, establish measures to meaningfully engage with Indigenous children or children affected by poverty conditions and their families, ensuring their voices are heard in energy decision-making processes that affect their environment and lives.

5. Ensure the accountability of business enterprises and other private actors in the course of the energy transition. To that end, establish regulations and monitoring mechanisms of corporate practices in line with the UN Guiding Principles on Business and Human Rights. In particular, establish due diligence obligations across the clean energy value chain, aimed at both private and public enterprises in the energy sector.

³¹ See UNICEF Office of Global Insight and Policy, “Are climate change policies child-sensitive?”, 2020, available on 14 August 2024 at: https://www.unicef.org/media/72561/file/Are-climate-change-policies-child-sensitive-2020_0.pdf

For more information, please consult the following publications:

- [Derechos humanos para una transición energética justa - Informe de monitoreo con recomendaciones](#) - Monitoring Report with Recommendations (2021).
- [Towards a Gender-Just Transition: A Human Rights Approach to Women's Participation in the Energy Transition](#) - Briefing Paper (2021).
- [Setting a Roadmap for a Feminist Green Transformation](#) - Briefing Paper (2022).
- [States' Human Rights Obligations in the Context of Climate Change: Guidance Provided by the UN Human Rights Treaty Bodies](#) - Synthesis Note (2024).

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