

The Convention on the Rights of the Child



A Quick Guide

The Convention

The Optional Protocols

The Convention at a Glance

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Introduction

The *Universal Declaration of Human Rights* states that every person has the same rights¹. However, the world has recognised that children have particular needs and vulnerabilities which require special protection. The *Convention on the Rights of the Child* describes the particular rights of children, and specifies the obligations that governments have to ensure they are met.

The Convention is part of the treaty system of the United Nations. It came into force in 1990 and has been ratified by all but two of the world's nations (the two countries are the USA and Somalia).² No other UN treaty has been accepted as quickly or by as many countries.

In addition to the Convention, two Optional Protocols, relating to children in armed conflict and child trafficking, prostitution and pornography, came into force in 2002 to provide more rigorous terms for eliminating these problems.³

Using this booklet

This booklet is intended as a quick reference to the Convention. It lists every right and shows how the rights relate to each other.

- The four rights recognised as *Guiding Principles* are marked with . The Guiding Principles are useful as a means of quickly assessing if something conforms to the Convention. If something is non-discriminatory, if children have a say, if it promotes their development and is in their best interests, then it is almost certainly promoting child rights.
- Other child rights have been grouped under four *Key Areas* - *Survival*, *Development*, *Protection* and *Participation*. These key areas were created in recognition that by staying healthy, by learning and developing, by being secure and by being involved, children will have the greatest chance of a rich childhood and prosperous life. Sorting child rights under the four key areas is invaluable in helping to understand the implications of child rights and to implement and evaluate activities which support them. In this booklet, the rights have been listed in the order in which they appear in the Convention itself, with the key area under which it falls clearly marked. For example, Article 8 is a Protection right:

Article 8

Preservation of Identity

S D **Pr** Pa

Each child has the right to preserve his or her identity.

- For a quick reference, the final page of this booklet 'The Convention at a Glance' groups the various child rights under their relevant category.
- Two Optional Protocols to the Convention are summarised towards the end of the booklet.

Preamble

The *Convention on the Rights of the Child* was created in recognition of the following:

- The inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.
- Human rights confirm the dignity and worth of the human person.
- Everyone is entitled to all rights and freedoms, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- During childhood, each person is entitled to special care and assistance.
- The family is the fundamental group of society. The child, for the full and harmonious development of his or her personality, should grow up in a family environment in an atmosphere of happiness, love and understanding.
- The child should be fully prepared to live an individual life in society, in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.
- The child, by reason of his or her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.
- In all countries in the world there are children living in exceptionally difficult conditions. Such children need special consideration.
- The traditions and cultural values of each people are important for the protection and harmonious development of the child.
- International co-operation is important for improving the living conditions of children in every country, in particular in the developing countries.

¹ As laid down in the Universal Declaration of Human Rights, 1948: www.unhcr.ch/udhr/index.htm

² The full text can be found at www.unhcr.ch/html/menu2/6/crc/treaties/crc.htm.

³ The full texts of the Optional Protocols can be found through links at: www.unhcr.ch/html/menu2/6/crc/.

The Convention

Article 1

The age of a child

"A child" means every human being below the age of eighteen years ...
... unless under the law applicable to the child, majority is attained earlier.

Article 2

GP

Non-Discrimination

Rights shall be ensured for all children without discrimination of any kind, including for race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or any other status.

Article 3

GP

Best Interests of the Child

In all actions concerning children, their best interests shall be a primary consideration.

Article 4

Implementation of the Convention

Governments shall take all appropriate legislative, administrative, and other measures for the implementation of the Convention.

Article 5

Rights of Parents

Governments shall respect the responsibilities, rights and duties of parents (or other guardians) to give direction and guidance to each child in exercising his or her rights.

Article 6

GP

Survival and Development

Every child has the inherent right to life. Governments shall ensure to the maximum extent possible the survival and development of the child.

Article 7

S D Pr Pa

Name and Nationality

Children have the right to a name, a nationality and to know and be cared for by their parents. They shall be registered immediately after birth.

Article 8

S D Pr Pa

Preservation of Identity

Each child has the right to preserve his or her identity.

Article 9

S D Pr Pa

Separation from Parents

Children shall not be separated from their parents against their will, except when such separation is found to be necessary for the best interests of the child. All interested parties, especially the child, have a say in making such a decision.

A child who is separated from one or both parents has the right to maintain contact with both parents, except if it is contrary to the child's best interests.

Article 10

S D Pr Pa

Family Reunification

A child or his or her parents applying to enter or leave a country for family reunification shall be dealt with positively, humanely and quickly. Such a request will have no adverse consequences for the applicants and their family.

Article 11

S D Pr Pa

Illicit Transfer of Children

Governments shall combat the illicit transfer and non-return of children abroad.

Article 12

GP

S D Pr Pa

Participation

Children have the right to express themselves freely in all matters affecting them. Their views shall be given due weight in accordance with their age and maturity.

Article 13

S D Pr Pa

Freedom of Expression

Children have the right to seek, receive and impart information and ideas of all kinds. They can express themselves in any manner that they choose.

Article 14

S D Pr Pa

Freedom of Thought, Conscience and Religion

Children have the right to freedom of thought, conscience and religion. Parents and guardians have the right to provide direction to their children in a manner consistent with their evolving capacities.

Article 15

S D Pr Pa

Freedom of Association

Children have the right to freedom of association and to freedom of peaceful assembly.

Article 16

S D Pr Pa

Privacy

No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to attacks on his or her honour and reputation.

Article 17

S D Pr Pa

Access to information

Children shall have access to information and material from a variety of national and international sources, especially those aimed at the promotion of their social, spiritual and moral well-being and physical and mental health. Governments are responsible for ensuring that such information is widely and readily available.

Article 18

S D Pr Pa

Parental Responsibilities

Parents or guardians have primary responsibility for the upbringing and development of their child. Each parent (or guardian) of a child is equally responsible for their upbringing and development. The child's best interests will be their basic concern.

Governments shall ensure that children of working parents can benefit from child-care services and facilities.

Article 19

S D Pr Pa

Protection from abuse

Children shall be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, guardians or any other person. Treatment and follow-up services for abused children should also be provided.

Article 20

S D Pr Pa

Protection of Children Without Family

Children temporarily or permanently deprived of their family environment are entitled to special protection and assistance provided by the State, such as foster care, adoption or placement in suitable institutions.

Article 21

S D Pr Pa

Adoption

Adoption shall be done in consideration of the best interests of the child. Inter-country adoption is acceptable if a child cannot be cared for in his or her home country.

Article 22

Refugee Children

S D Pr Pa

Accompanied and unaccompanied refugee children shall receive appropriate protection and humanitarian assistance, including help in tracing and reuniting with their parents or other family members.

Article 23

S D Pr Pa

Children with Disabilities

Mentally or physically disabled children should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate their active participation in the community. Children with disabilities have the right to receive any needed special care and assistance.

Article 24

S D Pr Pa

Health

Children have the right to the highest attainable standard of health and to facilities for treatment and rehabilitation. Of special importance are primary health care, reducing infant and child mortality, combating disease and malnutrition, family planning and mothers' pre- and post-natal care.

Education in child health, nutrition, breastfeeding, hygiene, environmental sanitation, accident prevention, preventive health care and family planning are priorities.

Governments shall act to abolish traditional practices which damage children's health.

Article 25

S D Pr Pa

Review of Placement

Children receiving special care for their physical or mental health are entitled to periodic review of their treatment and placement.

Article 26

S D Pr Pa

Social Security

Every child has the right to benefit from social security, including social insurance.

Article 27

S D Pr Pa

Standard of Living

Every child has the right to a standard of living sufficient for their physical, mental, spiritual, moral and social development.

Article 28

S D Pr Pa

Education

Every child has the right to education. Primary education shall be compulsory and available free to all.

Article 29

S D Pr Pa

Aims of Education

Children's education shall be directed to developing the child's personality, talents and mental and physical abilities to their fullest potential; to respect for parents, society and human rights, to respect for the environment and to preparation for a responsible life.

Article 30

S D Pr Pa

Children of Minorities

Children of ethnic, religious or linguistic minorities or of indigenous origin have the right to enjoy their own culture, religion and language.

Article 31

S D Pr Pa

Leisure and Cultural Activities

Children have the right engage in play and recreation and to participate freely in cultural life and the arts.

Article 32

S D Pr Pa

Child Labour

Children have the right to be protected from economic exploitation and from performing any work likely to interfere with their education or be harmful to their health or physical, mental, spiritual, moral or social development.

Article 33

S D Pr Pa

Drug Abuse

Children shall be protected from the illicit use, production and trafficking of narcotic drugs and psychotropic substances.

Article 34

S D Pr Pa

Sexual Exploitation

Children shall be protected from all forms of sexual exploitation and sexual abuse. This includes inducement or coercion to engage in any unlawful sexual activity; exploitative use of children in prostitution, pornography or other unlawful sexual practices..

Article 35

S D Pr Pa

Abduction and Trafficking

States Parties shall prevent the abduction, sale or trafficking of children for any purpose and in any form.

Article 36

S D Pr Pa

Other Exploitation

Children shall be protected from all other forms of exploitation.

Article 37

S D Pr Pa

Torture and Deprivation of Liberty

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Children cannot be sentenced to capital punishment or life imprisonment. No child shall be detained unlawfully or arbitrarily. Any detention should only be done as a last resort and for the shortest possible time.

Article 38

S D Pr Pa

Armed Conflict

Children younger than fifteen years should not take a direct part in hostilities. Children under fifteen years shall not be recruited into the armed forces. Children affected by armed conflict shall protected by international law.

Article 39

S D Pr Pa

Rehabilitation

Governments shall support the recovery and social reintegration of child victims of any form of neglect, exploitation, abuse, torture or armed conflict.

Article 40

S D Pr Pa

Juvenile Justice

Every child accused of having infringed the penal law shall be treated in a manner consistent with the promotion of his or her dignity, worth and human rights.

Article 41

Respect for Higher Standards

The Convention does not override any national or international law which offers greater protection or promotion of children's rights.

Article 42

Promotion of the Convention

Governments shall make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Articles 43- 44 Committee on the Rights of the Child

A Committee on the Rights of the Child shall be established, to which countries party to the Convention shall submit five-yearly reports on its implementation.

Articles 45-54 Procedural Matters

The final articles of the Convention cover procedural matters for the implementation of the Convention.

Optional Protocols to the Convention

Two *Optional Protocols* to the Convention came into force in 2002. They establish stringent requirements for two important issues affecting children: child soldiers and child trafficking, prostitution and pornography. To date (May 2004) 72 countries have ratified the two protocols. Australia has signed, but not ratified, both.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts

This Optional Protocol builds on Articles 38 and 39 to address more explicitly the protection of children from involvement in armed conflict. It requires:

- Governments to take all feasible measures to ensure that members of their armed forces younger than 18 years do not take a direct part in hostilities.
- That persons under 18 years of age shall not be compulsorily recruited into their armed forces.
- That persons under 15 years of age shall not be voluntarily recruited into their armed forces. All possible measures should be taken to ensure that those younger than 18 shall not participate in hostilities.
- That armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
- Promotion in the public at large, including children, of the terms of the Protocol.
- Demobilisation of all those recruited or used in hostilities contrary to the Protocol.
- The physical and psychological recovery and social reintegration of victims of acts contrary to the protocol.
- Reporting to the Committee on the Rights of the Child within two years on measures taken to implement the Protocol, and every five years thereafter.

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

This Optional Protocol extends the measures of the Convention, particularly articles 11, 21, 32, 33, 34, 35 and 36, to guarantee children protection from being sold, from prostitution and from pornography. It responds to increasingly recognised problems including child sex tourism, illicit adoption, internet child pornography and child trafficking. The Optional Protocol requires:

- Prohibition of the sale of children, child prostitution and child pornography.
- Criminalisation, both nationally and transnationally, of child sexual exploitation, transfer of organs for profit, forced child labour, illegal adoption, child prostitution and pornography.
- Making such offences punishable by appropriate penalties that take into account their grave nature.
- Extensive international cooperation in investigations and criminal proceedings and extradition.
- Seizure and confiscation of goods and assets used to commit or facilitate offences under the protocol, as well as confiscation of the proceeds of such offences.
- Measures to protect the rights and interests of child victims at all stages of the criminal justice process.
- Promotion to the public at large, including children, of the preventive measures and harmful effects of the offences referred to in the Protocol.
- Ensuring all appropriate assistance to victims of such offences, including compensation, social reintegration and physical and psychological recovery.
- Multilateral, regional and bilateral cooperation for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.
- International cooperation to address the root causes of children's vulnerability to these offences, such as poverty and underdevelopment.
- Reporting to the Committee on the Rights of the Child within two years on measures taken to implement the Protocol, and every five years thereafter.

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