

INTERNATIONAL LAW: RIGHTS OF THE CHILDREN

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ABSTRACT:

One of the most vulnerable groups among persons with disabilities are children. They are more vulnerable to wars, exploitation, malnutrition, physical and psychological ill-treatment, trafficking etc., and rely on adults for the enforcement of their human rights mechanisms have taken a significant interest in the protection of disabled children. It was not until the late nineteenth century that a nascent children's rights' protection movement countered the widely held view that children were mainly quasi-property and economic assets. In the United States, the Progressive movement challenged courts' reluctance to interfere in family matters, promoted broad child welfare reforms, and was successful in having laws passed to regulate child labor and provide for compulsory education. It also raised awareness of children's issues and established a juvenile court system. Another push for children's rights occurred in the 1960s and 1970s, when children were viewed by some advocates as victims of discrimination or as an oppressed group. In the international context, "[t]he growth of children's rights in international and transnational law has been identified as a striking change in the post-war legal landscape.

***Keywords:** Children, United Nation, Conventions, Human Rights, Violence, Protection.*

INTRODUCTION

One of the most vulnerable groups among persons with disabilities are children. They are more vulnerable to wars, exploitation, malnutrition, physical and psychological ill-treatment, trafficking etc.¹, and rely on adults for the enforcement of their human rights mechanisms have taken a significant interest in the protection of disabled children². It was not until the late nineteenth century that a nascent children's rights' protection movement countered the widely held view that children were mainly quasi-property and economic assets. In the United

¹ http://unipd-centrodirittiumani.it/public/docs/International_Norms_and_Standards_Relating_to_Disability.pdf

² <http://www.un.org/esa/socdev/enable/comp501.htm>

States, the Progressive movement challenged courts' reluctance to interfere in family matters, promoted broad child welfare reforms, and was successful in having laws passed to regulate child labor and provide for compulsory education. It also raised awareness of children's issues and established a juvenile court system. Another push for children's rights occurred in the 1960s and 1970s, when children were viewed by some advocates as victims of discrimination or as an oppressed group. In the international context, "[t]he growth of children's rights in international and transnational law has been identified as a striking change in the post-war legal landscape³. States have an obligation to ensure that children in conflict with the law benefit from diversion and alternatives to the greatest extent possible, in the context of international co-operation where necessary. The importance of diversion and alternatives to detention for children in conflict with the law is set out in numerous international human rights law instruments. At least 15 different international human rights instruments and related guidelines, dating from 1955 to 2009, contain a staggering total of 77 articles, rules, guidelines or provisions supporting diversion and alternatives for children in conflict with the law⁴.

Children's rights are the human rights of children with particular attention to the rights of special protection and care afforded to minors. The 1989 Convention on the Rights of the Child (CRC) defines a child as "any human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier." Children's rights includes their right to association with both parents, human identity as well as the basic needs for physical protection, food, universal state-paid education, health care, and criminal laws appropriate for the age and development of the child, equal protection of the child's civil rights, and freedom from discrimination on the basis of the child's race, gender, sexual orientation, gender identity, national origin, religion, disability, color, ethnicity, or other characteristics⁵.

VALIDATIONS

There is a mass of human rights law, both treaty and 'soft law', both general and child-specific, which recognizes the distinct status and particular requirements of children. [Children], owing to their particular vulnerability and their significance as the future generation, are entitled to special treatment generally, and, in situations of danger, to priority in the receipt of assistance and protection.

— *Jenny Kuper, International law concerning child civilians in armed conflict (1997, Clarendon Press)*⁶.

³ Children's Rights: International Laws <https://www.loc.gov/law/help/child-rights/international-law.php>

⁴ https://www.unicef.org/tdad/index_56373.html

⁵ Children's rights https://en.wikipedia.org/wiki/Children%27s_rights

⁶ Children's rights https://en.wikipedia.org/wiki/Children%27s_rights

CLASSIFICATION

Children have two types of human rights under international human rights law. They have the same fundamental general human rights as adults, although some human rights, such as the *right to marry*, are dormant until they are of age. Secondly, they have special human rights that are necessary to protect them during their minority. General rights operative in childhood include the *right to security of the person, to freedom from inhuman, cruel, or degrading treatment*, and the *right to special protection during childhood*. Particular human rights of children include, among other rights, the *right to life*, the *right to a name*, the *right to express his views in matters concerning the child*, the *right to freedom of thought, conscience and religion*, the *right to health care*, the *right to protection from economic and sexual exploitation*, and the *right to education*⁷.

They may be elaborated as follows:

- **Provision:** Children have the right to an adequate standard of living, health care, education and services, and to play and recreation. These include a balanced diet, a warm bed to sleep in, and access to schooling.
- **Protection:** Children have the right to protection from abuse, neglect, exploitation and discrimination. This includes the right to safe places for children to play; constructive child rearing behavior, and acknowledgment of the evolving capacities of children.
- **Participation:** Children have the right to participate in communities and have programs and services for themselves. This includes children's involvement in libraries and community programs, youth voice activities, and involving children as decision-makers.^[21]

In a similar fashion, the Child Rights Information Network (CRIN) categorizes rights into two groups:

- Economic, social and cultural rights, related to the conditions necessary to meet basic human needs such as food, shelter, education, health care, and gainful employment. Included are rights to education, adequate housing, food, water, the highest attainable standard of health, the right to work and rights at work, as well as the cultural rights of minorities and indigenous peoples⁸.
- Environmental, cultural and developmental rights, which are sometimes called "third generation rights," and including the right to live in safe and healthy environments and that groups of people have the right to cultural, political, and economic development.

⁷ en.m.wikipedia.org

⁸ en.wikipedia.org

Amnesty International openly advocates four particular children's rights, including the end to juvenile incarceration without parole, an end to the recruitment of military use of children, ending the death penalty for people under 21, and raising awareness of human rights in the classroom. Human Rights Watch, an international advocacy organization, includes child labor, juvenile justice, orphans and abandoned children, refugees, street children and corporal punishment.

Scholarly study generally focuses children's rights by identifying individual rights. The following rights "allow children to grow up healthy and free"

- Freedom of speech
- Freedom of thought
- Freedom from fear
- Freedom of choice and the right to make decisions
- Ownership over one's body⁹

INTERNATIONAL RIGHTS OF CHILDREN'S

The United Nations **Convention on the Rights of the Child** (commonly abbreviated as the **CRC** or **UNCRC**) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation. Nations that ratify this convention are bound to it by international law. Compliance is monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world. Once a year, the Committee submits a report to the Third Committee of the United Nations General Assembly, which also hears a statement from the CRC Chair, and the Assembly adopts a Resolution on the Rights of the Child¹⁰.

The United Nations **Convention on the Rights of the Child (CRC)** is the first legally binding international instrument to incorporate the full range of human rights — civil, cultural, economic, political and social rights. On November 20th, 1989, world leaders decided that children needed a special convention just for them because people under 18 years old often need special care and protection that adults do not.

1. Children have the **right to live**. Governments should ensure that children survive and develop healthily.

⁹Children's rights https://en.wikipedia.org/wiki/Children%27s_rights

¹⁰Convention on the Rights of the Child https://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child

2. All children have the **right to a legally registered name**, officially recognized by the government. Children have the right to a **nationality** (to belong to a country). Children also have the right to know and, as far as possible, **to be cared for by their parents**.
3. Children have the **right to an identity** – an official record of who they are. Governments should respect children’s right to a name, a nationality and family ties.
4. Children have the **right to live with their parent(s)**, unless it is bad for them. Children whose parents do not live together have the right to stay in contact with both parents, unless this might hurt the child.
5. Families whose members live in different countries should be allowed to move between those countries so that parents and children can stay in contact, or get back together as a family.
6. Governments should take steps to stop children being taken out of their own country illegally. This article is particularly concerned with **parental abductions**. The Convention’s Optional Protocol on the **sale of children**, child prostitution and child pornography has a provision that concerns abduction for financial gain.
7. When adults are **making decisions that affect children**, children have the right to say what they think should happen and have their opinions taken into account¹¹.
8. Children have the **right to get and share information**, as long as the information is not damaging to them or others. In exercising the right to freedom of expression, children have the responsibility to also respect the rights, freedoms and reputations of others. The freedom of expression includes the right to share information in any way they choose, including by talking, drawing or writing.
9. Children have the **right to think and believe what they want and to practice their religion**, as long as they are not stopping other people from enjoying their rights. Parents should help guide their children in these matters..
10. Children have the **right to meet together and to join groups and organizations**, as long as it does not stop other people from enjoying their rights. In exercising their rights, children have the responsibility to respect the rights, freedoms and reputations of others.
11. Children have a **right to privacy**. The law should protect them from attacks against their way of life, their good name, their families and their homes.
12. Children have the **right to get information that is important to their health** and well-being. Governments should encourage mass media – radio, television, newspapers and Internet content sources – to provide information that children can understand and to not promote materials that could harm children.

¹¹ www.tinystars.org

13. Both **parents share responsibility** for bringing up their children, and should always consider what is best for each child. Governments must respect the responsibility of parents for providing appropriate guidance to their children..
14. Children have the **right to be protected from being hurt and mistreated**, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.
15. Children who cannot be looked after by their own family have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language¹².
16. Children have the **right to care and protection if they are adopted** or in foster care. The first concern must be what is best for them. The same rules should apply whether they are adopted in the country where they were born, or if they are taken to live in another country.
17. Children have the right to special protection and help if they are **refugees** (if they have been forced to leave their home and live in another country), as well as all the rights in this Convention.
18. Children who have any kind of **disability** have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.
19. Children have the **right to good quality health care** – the best health care possible – to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.
20. Children who are looked after by their local authorities, rather than their parents, have the right to have these living arrangements looked at regularly to see if they are the most appropriate. Their care and treatment should always be based on “the best interests of the child”.
21. Children – either through their guardians or directly – have the right to help from the government if they are poor or in need.
22. Children have the **right to a standard of living** that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.
23. All children have **the right to a primary education**, which should be free. Wealthy countries should help poorer countries achieve this right. Discipline in schools should respect children’s dignity. For children to benefit from education, schools must be run in an orderly way – without the use of violence.

¹² www.tinystars.org

24. **Children's education** should develop each child's personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people..
25. **Minority or indigenous children** have the right to learn about and practice their own culture, language and religion. The right to practice one's own culture, language and religion applies to everyone; the Convention here highlights this right in instances where the practices are not shared by the majority of people in the country¹³.
26. Children have the **right to relax and play**, and to join in a wide range of cultural, artistic and other recreational activities.
27. The government should **protect children from work that is dangerous** or might harm their health or their education. While the Convention protects children from harmful and exploitative work, there is nothing in it that prohibits parents from expecting their children to help out at home in ways that are safe and appropriate to their age.
28. Governments should use all means possible to **protect children from the use of harmful drugs** and from being used in the drug trade.
29. Governments should **protect children from all forms of sexual exploitation and abuse**. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.
30. The government should take all measures possible to **make sure that children are not abducted, sold or trafficked**. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.
31. Children should be protected from any activity that takes advantage of them or could harm their welfare and development.
32. **No one is allowed to punish children in a cruel or harmful way**. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release.
33. Governments must do everything they can to **protect and care for children affected by war**. Children under 15 should not be forced or recruited to take part in a war or join the armed forces. The Convention's Optional Protocol on the involvement of children in armed conflict further develops this right, raising the age for direct participation in armed conflict to 18 and establishing a ban on compulsory recruitment for children under 18.

¹³ www.tinystars.org

34. **Children who have been neglected, abused or exploited** should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.
35. Children who are accused of breaking the law have the **right to legal help and fair treatment** in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.
36. If the laws of a country provide better protection of children's rights than the articles in this Convention, those laws should apply.
37. Governments should make the Convention known to adults and children. Adults should **help children learn about their rights**, too¹⁴.

CONCLUSIONS:

Governments of countries that have ratified the Convention are required to report to, and appear before, the United Nations Committee on the Rights of the Child periodically to be examined on their progress with regards to the advancement of the implementation of the Convention and the status of child rights in their country. Their reports and the committee's written views and concerns are available on the committee's website¹⁵. The importance of diversion and alternatives to detention for children in conflict with the law is set out in numerous international human rights law instruments. At least 15 different international human rights instruments and related guidelines, dating from 1955 to 2009, contain a staggering total of 77 articles, rules, guidelines or provisions supporting diversion and alternatives for children in conflict with the law¹⁶.

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¹⁴ <https://justlists.wordpress.com/2009/10/19/54-un-rights-of-the-child/>

¹⁵ Convention on the Rights of the Child https://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child

¹⁶ Children's Rights: International Laws <https://www.loc.gov/law/help/child-rights/international-law.php>

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