

United Nations Convention on the Rights of the Child

Introduction

In 1924, the League of Nations adopted the Geneva Declaration of the Rights of the Child and in 1959 the United Nations (UN) adopted a similar declaration. Specific provisions concerning children were also incorporated in human rights and humanitarian law treaties. However, the preparation for a legally binding instrument specifically protecting the rights of children began in 1979 during the International Year of the Child when Poland submitted a draft convention on children's rights. A working group was set up to draft a children's convention where not only government delegates participated but also representatives of UN bodies and specialized agencies,¹ and nongovernmental organizations. The UN Convention on the Rights of the Child (CRC)² was adopted by the UN General Assembly on 20 November 1989 and entered into force on 2 September 1990.³

The Convention on the Rights of the Child

The Convention in general

The CRC is the first UN human rights treaty to deal comprehensively with the rights of a specific group of people,⁴ i.e. children. According to the Convention, a child is any human being below the age of eighteen (article 1). The Convention enshrines the traditional human rights: civil, political, economic, social and cultural rights, such as the right of the child to freedom of expression, thought, conscience and religion (articles 13–14), and to privacy (article 16), access to information (article 17), social security (article 26) and an adequate standard of living (article 27). The CRC, in addition, addresses issues of particular concern for children such as: the child's right to identity (articles 7 and 8); separation from parents (article 9); family reunification (article

10); illicit transfer of children (article 11); child refugees (article 22); economic and sexual exploitation of children (articles 32 and 34); particular care of children with disabilities (article 23); and States parties' obligations in armed conflict (article 38).

The Committee on the Rights of the Child (see the section below on the competencies of the Committee) has identified four principles, enshrined in the Convention, that are to guide States parties in their implementation of the entire Convention, including the right to health and related rights.⁵ The first principle, "non-discrimination" (article 2), requires States parties to ensure that all children within their jurisdiction enjoy the rights contained in the Convention 'without discrimination of any kind'.⁶ The second principle, "the best interests of the child" (article 3), obliges States parties to ensure that the primary consideration of all decisions or actions, concerning children, taken by courts of law, administrative authorities, legislative bodies, and public and private social welfare institutions, are in the 'best interests of the child'. According to the third principle, "the right to life, survival and development" (article 6), States parties undertake to ensure the survival and

⁵ General Comment 5 *General Measures of implementation for the Convention on the Rights of the Child*, UN Doc. CRC/GC/2003/5, 27 November 2003, para. 12.

⁶ This means irrespective of the 'child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'. Ibid.



¹ Including the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO).

² The United Nations Convention on the Rights of the Child will herein be referred to as the Convention or the CRC.

³ If otherwise not referenced the information included in this fact sheet can be found in the Convention on the Rights of the Child or the website of the Office of the United Nations High Commissioner for Human Rights (www.ohchr.org).

⁴ *The United Nations human rights treaty system: an introduction to the core human rights treaties and the treaty bodies*, Office of the United Nations High Commissioner for Human Rights, Fact Sheet No. 30, p. 18. Available at: www.ohchr.org/english/about/publications/sheets.htm





development of the child to ‘the maximum extent possible’.⁷ The fourth principle safeguards the child’s right to “express his or her views freely in all matters affecting the child” (article 12) and those views should be given due weight ‘in accordance with the age and maturity of the child’.⁸ Consequently, when a State party is implementing article 24 (a child’s right to health), the State party has to make sure that the principles of non-discrimination, the best interests of the child, the child’s right to life, survival and development and the right of the child to express his or her views freely in those matters affecting the child, are also respected.

The following two sections consider those obligations in the Convention which are directly and indirectly linked to the right to health. While reading this section, keep in mind the introduction to this folder discussing the linkages between the implementation of various human rights and the specific right to health.

Direct linkages to health

In article 24 the CRC recognizes ‘the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health’ and establishes that ‘States parties shall strive to ensure that no child is deprived of his or her right of access to such health care services’. The article lists some of the measures to be taken by States parties to ensure the full implementation of the right to health such as measures aimed at: diminishing infant and child mortality; combating disease and malnutrition; ensuring appropriate pre-

⁷ In considering the term “development”, the Committee on the Rights of the Child has indicated that it should be interpreted in a broad sense, including not only physical health, but also mental, emotional, cognitive, social and cultural development. Ibid.

⁸ This means that States parties undertake to give due weight to children’s views in all measures adopted by States including any judicial or administrative proceedings affecting them. This principle emphasizes the child’s role as an active participant in promoting, protecting and monitoring his or her rights. Ibid.

natal and post-natal health care for mothers; developing preventive health care; abolishing traditional practices prejudicial to the health of children; and promoting international cooperation with a view to progressively achieving the full realization of the right to health.

The CRC also contains other provisions which are directly linked to health such as the obligation of States parties to protect the child from: all forms of physical and mental abuse while in the care of parents or legal guardians (article 19); economic exploitation and performing work that is likely to be hazardous to a child’s health (article 32); illicit use of narcotic drugs and psychotropic substances (article 33); and sexual abuse and exploitation, abduction, trafficking and sale of children (articles 34–36). States parties must also ensure special protection and care for children who are affected by armed conflict (article 38) and freedom from torture or other cruel, inhuman or degrading treatment or punishment (article 37), while promoting the physical and psychological recovery and social integration of child victims of any form of neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflict (article 39). Furthermore, States parties are obliged to ensure that disabled children obtain, have effective access to and receive health care and rehabilitation services (article 23). In recognizing the importance of mass media, States parties must, moreover, guarantee access to information from a variety of national and international sources, in particular, information which aims to promote the child’s physical and mental health as well as information related to the child’s social, spiritual and moral well-being (article 17). This right is linked with States parties’ obligation to ensure the right to freedom of expression which includes the right to seek, receive and impart information and ideas of all kinds (article 13). It is important to remember that in implementing these “health-linked” rights, States parties must be guided by the four general principles identified by the Committee.

Indirect linkages to health

The fulfilment of a child’s right to health is linked to the protection and implementation of other provisions in the CRC which may have direct or indirect implications on the right to health. These provisions, together with the four general principles, include States parties’ obligations to guarantee: the right to life (article 6); the right to seek, receive and impart information and ideas of all kinds (article 13, as seen in the previous section); freedom of thought, conscience and religion (article 14); freedom of association and peaceful assembly (article 15); the right to privacy and confidentiality (article 16); the right to benefit from social security (article 26); a standard of living adequate for the child’s physical and mental development, which includes States parties’ obligations to provide material assistance in providing nutrition, clothing and housing (article 27); the right to education (articles 28–29); and the right to rest and leisure (article 31). In addition, States parties recognize the right of children to have a periodic

review of the physical or mental care, protection or treatment received when such placement has been made by competent authorities (article 25).

The Committee on the Rights of the Child

The Committee in general

The Committee on the Rights of the Child was established in order to examine the progress made by States parties in implementing the CRC (article 43). The Committee examines reports submitted by States parties (in accordance with article 44) on the measures they have taken to implement the rights contained in the Convention and the progress made in ensuring the enjoyment of these rights. The outcome of the Committee's examination of these reports is known as 'concluding observations'.⁹ The Committee also issues so-called "general comments" on specific articles, provisions and themes of the Convention. These general comments are aimed to assist State parties in fulfilling their obligations under the Convention. They can be seen as guides on how to implement the Convention rights. They are, furthermore, a useful tool for the general public to know what to expect from the government. The Committee, in addition, holds so-called "days of general discussion" which aim to foster a deeper understanding of the contents and implications of the Convention as they relate to specific Convention articles or topics. The Committee may also make informal in-country visits to States parties to aid them in their implementation of the Convention.

⁹ The concluding observations are publicly available on the United Nations human rights treaty bodies' database of the Office of the United Nations High Commissioner for Human Rights (www.unhchr.ch/tbs/doc.nsf).



How can the Committee help in ensuring the right to health?

Having considered a State party's report the Committee may highlight in its concluding observations the State party's shortcomings in relation to implementing the right to health, but also for other directly or indirectly health-related rights. The Committee may also indicate how the State party should go about correcting these shortcomings. Both the report and the concluding observations are available to the public. Of the seven general comments issued by the Committee, one, 'adolescent health', deals specifically with the right to health.¹⁰ The Committee in this general comment affirms inter alia that the States parties are obliged to ensure that all adolescents are provided with accurate and appropriate information on how to protect their health and development and practise healthy behaviours, including information on the use and abuse of tobacco, alcohol and other substances, safe and respectful social and sexual behaviours, diet and physical activity.¹¹ The Committee in this general comment also reiterated that States parties must always take fully into account the four general principles of the Convention in exercising their obligations.¹² Other general comments which take into account or may influence the realization of the right to health in the CRC include 'implementing child rights in early childhood',¹³ 'HIV/AIDS and the rights of the child',¹⁴ and 'treatment of unaccompanied and separated children outside their country of origin'¹⁵.

¹⁰ General Comment 4, *Adolescent health and development in the context of the Convention on the Rights of the Child*, UN Doc. CRC/GC/2003/4, 1 July 2003.

¹¹ Ibid. para. 26.

¹² Ibid. para. 39.

¹³ General Comment 7, *Implementing child rights in early childhood*, UN Doc. CFC/C/GC7, 1 November 2005.

¹⁴ General Comment 3, *HIV/AIDS and the Rights of the Child*, UN Doc. CRC/GC/2003/3, 17 March 2003.

¹⁵ General Comment 6, *Treatment of unaccompanied and separated children outside their country of origin*, UN Doc. CRC/GC/2005/6, 1 September 2005.



The days of general discussion organized by the Committee can help to highlight and bring to the fore issues that are directly or indirectly linked to the right to health. Examples of topics of days of general discussion held are: children in armed conflict; economic exploitation; the role of the family; the girl child; children with disabilities; HIV/AIDS; state violence against children; violence against children within the family and in school; the private sector as a service provider (i.e. provider of health services); the rights of indigenous children; implementing child rights in early childhood; and children without parental care. During these days of discussion the Committee welcomes the

participation of State representatives, UN bodies and specialized agencies, nongovernmental organisations and national human rights institutions, as well as individual children and experts. The Committee's in-country visits may be an opportunity for governments to receive advice on health-related issues.

Additional instruments dealing with children's rights and health

Two optional protocols have also been negotiated in the context of the CRC: the Optional Protocol on the sale of children, child prostitution and child pornography, adopted on 25 May 2000 and entered into force on 18 January 2002; and the Optional Protocol on the involvement of children in armed conflict adopted on 25 May 2000 and entered into force 12 February 2002. In May 2002, the UN General Assembly held a Special Session on Children, the first Special Session devoted exclusively to children. The outcome document of the Special Session, 'A world fit for children', contains four key priorities: promoting healthy lives; providing quality education for all; protecting children against abuse, exploitation and violence; and combating HIV/AIDS.¹⁶ There is also the Special Rapporteur of the former UN Commission on Human Rights, now the UN Human Rights Council,¹⁷ on the sale of children, child prostitution and child pornography and the UN Special Representative of the Secretary-General for Children and Armed Conflict.

Eastern Mediterranean Region ratifications

The countries of the Eastern Mediterranean Region that have ratified the CRC are Afghanistan, Bahrain, Djibouti, Egypt, Islamic Republic of Iran, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen. The total number of States parties to the Convention on the Rights of the Child is 192 (as of January 2006).¹⁸

¹⁶ See UN Doc. A/RES/s-27/2, 11 October 2002. See also: www.unicef.org/specialsession

¹⁷ The UN Commission on Human Rights has been replaced by the UN Human Rights Council as per United Nations General Assembly resolution A/RES 60/251 adopted on 15 March 2006. The Commission on Human Rights ceased to exist on 16 June 2006, see press release: www.un.org/News/Press/docs/2006/ecosoc6192.doc.htm

¹⁸ Ratifications, signatures and reservations to international human rights instruments can be found at: www.ohchr.org/english/countries/ratification/index.htm

