Towards A Better Tomorrow

Child Rights and Health

World Health Organization
South East Asia Region
World Health Organization

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Towards A Better Tomorrow

Child Rights and Health
Message from the Regional Director

The healthy growth and development of children is crucial to the future of any society. Health and well-being are an integral part of the child’s right to life, survival and development.

We live in a world where inequity, poverty, underdevelopment persist – a world of unequal and inadequate access to food, health and care. There are huge gaps between the rich and the poor and children bear the brunt of inequality.

The principle of human rights is universal and each child, including the adolescent, is entitled to fundamental rights and freedom. WHO’s mandate is universal, as enshrined in our Constitution. It calls for equity: “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”.

Since its adoption in 1989, the Convention on the Rights of the Child (CRC) has been ratified more quickly and by more governments than any other human rights instrument. This near universal acceptance of the Convention speaks for the commitment of States to their children.

Child Rights in terms of health, translate into the need for countries to provide a safe physical environment as well as a supportive political, economic and social framework health. There are many challenges that confront us in various fields before the rights become a reality.

WHO’s role in realising the objectives of the CRC is to promote, coordinate and mainstream a “rights-based approach”, in the area of health, as well as in other related sectors, which have a bearing on health.

The WHO Regional Office for South-East Asia has taken several steps towards this. It has been assisting Member Countries to prioritize their work in relation to child and adolescent health. It provides technical support that makes health and health care services, “child-centered”. The Integrated Management of Childhood Illness (IMCI) strategy, developed in collaboration with UNICEF, which has been introduced and implemented in many countries of the Region, is a good example of this.

WHO also provides country-specific information on health matters regarding children and adolescents to the Committee on the Rights of the Child which monitors the implementation of the CRC.

Additionally, WHO plays a significant role in the promotion of a child rights approach in health training curricula.

Towards a Better Tomorrow is an introduction to the CRC for health professionals. This document will hopefully inspire a more child-oriented “human-rights culture” to permeate all health activities. Health Professionals will be continuously challenged to make more effective use of CRC norms, and their implementation systems, and contribute to the still wider, and more effective, application of these norms in their tasks.

I hope this publication will prove useful for decision-makers, planners and policy makers in health and other sectors to promote a more child’s rights-approach, influencing the present and future health and development of the children of South-East Asia and the world.

Dr. Uton Muchtar Rafei
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We are guilty
of many errors and many faults
but our worst crime
is abandoning the children,
neglecting the fountain of life.
Many of the things we need can wait.
The child cannot.
Right now is the time.
His [Her] bones are being formed, his [her]
blood is being made, and
his [her] senses are being developed.
To him [her] we cannot answer
“Tomorrow.”
His [her] name is “Today.”

- Gabriela Mistral
I. Preface
Introduction
The Convention on the Rights of the Child

Guiding Principles
- Non-discrimination
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Challenging the Future is an introduction to the Convention on the Rights of the Child (CRC) for health professionals. It has special relevance to countries in the South-East Asia Region. As the name suggests, the Convention lays down universally agreed non-negotiable set of standards and obligations regarding the rights of children. The Convention lays down guiding principles about what action is permissible and what is not for a State party to the Convention in order to respect, protect and promote child rights in order that children are able to lead better, and more meaningful lives. Member States that have ratified or acceded to the Convention are legally bound to ensure that the rights enshrined in the Convention are available to all children under their purview. In order to do so, Member States must bring all relevant legislation in line with the provisions of the Convention, and respect, protect and promote children’s rights while legislating, designing, implementing and monitoring policies and programmes. The standards in the Convention also provide Member States with benchmarks against which they can measure their progress in regard to children’s rights.

The Convention on the Rights of the Child has the distinction of having been ratified by 191 countries as of July 2000. This near universal acceptance of the Convention speaks for the commitment of States to their children. And yet, one is very much aware of the challenges that confront us in various fields before the rights become a living reality for the children. We would like to point out that it is important to ensure that these rights are available equally to girls and boys, to children and adolescents, both in urban and rural areas, to those able and those with a disability, and to any other group of children. An instrument that sets standards can be effective only when more and more people are aware of its existence and use it to demand and bring about change for the better. Through this document, we hope to reach out to you. We envisage it as one of the many steps taken towards raising awareness and facilitating discussion and debate on children’s rights. We hope it will promote a more human rights sensitive approach to our work, influencing the present and future of the children of the world.

“In their little worlds in which children have their existence, there is nothing so finely perceived and so finely felt as injustice.”

(Great Expectations, Charles Dickens)
Soni, nearly three years old, was found abandoned in a crowded local bus in a metropolital city in India. The police placed her in a home for children while they waited for someone to come forward to claim her. No one did for several months, allowing Soni to be considered free for adoption under the legal provisions for abandoned children. Soni spent nine months of her life in the institution, one among the many awaiting adoption. The first seven of these were spent in silence; she had not spoken since she came to the institution and it was assumed by the staff that she was deaf and dumb. The possibility of her silence being a result of trauma and shock resulting from abandonment did not even perhaps occur to her caregivers.

There was a perennial shortage of staff at the institution, and there was hardly anyone trained to work with children, still less with those in trauma. Visits by health professionals were rare. Due to this, even though the institution was well-stocked in basic medical supplies from generous donations, they were hardly put to effective use. There was also no provision for any kind of developmental or educational activities for children who ranged from the newborns to five year olds. The staff was indifferent to the physical, emotional, social and developmental needs of children, leaving it all to their future parents. Thus, when Soni got an ear infection, the staff neglected it so that by the time she got medical attention, her inner ears were damaged.

In the last two months of her stay at the institution, Soni found a friend in a voluntary worker who started visiting her on a daily basis. She opened up to this worker and began talking. With her subsequent hospitalization due to the ear infection, her progress suffered a setback. However, the close relationship that Soni had developed with the worker helped her to become communicative once again.

The institution had difficulty finding Soni an adoptive family in India, because most couples preferred to adopt babies, especially males. Soni was finally placed with a caring German couple and one would have thought that her problems were over. She had of course her hearing problem, but shortly after arriving in Germany, she was detected to have hepatitis B, presumably contracted during her stay at the hospital in India. It took her three years of prolonged treatment to overcome it, only for her to be hospitalized one more time for a rare form of tuberculosis, which too she had carried from her home country.
Clearly, Soni has paid and continues to pay a very heavy price. The question that arises is whether adequate efforts were made to locate her guardians? Did the institution that became her home for some months extend to her the care and medical attention that should have been her due? Did the hospital that operated on her hold the institution answerable for bringing her late to the point that her hearing was permanently impaired? Why did the hospital staff not ensure a standard of care that would have obviated postoperative infections? The case also leads one to question whether necessary standards of care for children in institutions are ensured and mechanisms for ongoing monitoring of the same are in place? Have sustained efforts been made to promote adoption of girl children, older children and those with special needs in the concerned country?

The right to life is held sacred around the world and constitutions of most countries protect it as a fundamental right. Nevertheless, Soni’s right to life and to health were imperilled repeatedly. Who is to be held responsible for the price of this neglect that she will continue to pay throughout her life? Cases such as this highlight the relevance and importance of the human rights perspective that takes cognizance of the fundamental needs of children, and facilitates a legal framework that supports and upholds these needs. The extent to which a well-organized society protects and promotes the rights and interests of its more vulnerable sections is a viable yardstick for judging its maturity and level of development. All countries would agree that children are the future wealth of a nation – they have to be nurtured carefully and provided the best. Only thus can a country ensure that the generation that subsequently comes to the forefront has developed its potential to the fullest.

**Every child has the right to:**

- Live with his or her parents or maintain contact if separated from either one;
- Cross national boundaries to be united with his or her parents;
- Receive alternate care when a family environment cannot be maintained;
- A safe adoption system.
In practice, it is easy to overlook the needs of children under the day-to-day pressure in various fields that a country faces: social, economic and political. Not surprisingly, *The State of the World’s Children 2000* (UNICEF) reveals the extent to which most countries have to go before it can be said that their children are faring well. Statistics indicate that globally, Under-5 Mortality Rate in 1960 stood at 193 and in 1998, it had fallen to 86. Progress is indicated at this level. However, when one takes a look at regional differences, the picture becomes more complex. For example, the Under-5 Mortality Rate for the South Asian Region in 1998 was 114. In comparison, this rate was 50 for East Asia and the Pacific, 39 for Latin America and Caribbean, 35 for CEE/CIS and Baltic States, 66 for the Middle East and North Africa and 173 for Sub-Saharan Africa. This figure is 6 for industrial countries. In the areas of nutrition, health and education, the trends are not too different. The *Human Development Report 2000* (UNDP) estimates that some 90 million children are out of primary schools. There are 250 million child labourers globally and of these 153 million are found in the Asian region. About a 100 million children are estimated to be living or working on the street. Worldwide, approximately 1.2 million women and girls under 18 are trafficked for prostitution each year. In the 1990s, about 6 million children were injured in armed conflicts. The statistical roll call can be endless.

### Infant mortality rate (per 1000 live births)

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(Source: UN, World Population Prospects, The 1996 Revision)
Because children lack the ‘political’ voice to bring their needs and demands to the forefront, they pay the heaviest price for the shortsighted policies of the State. Given the widespread poverty in so many countries across the globe, measures that promote the development of children are the exception, not the rule. Most countries postpone the concern for children to better times. But time does not wait for the child. The present of children is important - equally important for both girls and boys, and for children and adolescents alike. The rights-based approach is one way of putting first what is most essential for the children of the world, what each one, irrespective of age, sex, ability, religion, ethnicity, race or social standing must have in order to achieve maximum possible growth and development. The essence of rights is in being and that is where lies the strength of the human rights perspective. Rights are legally enforceable; cannot be created or taken away; some rights cannot be more or less important than others; and rights bring duties as much as obligations towards their respect, protection and fulfillment.

Children are born with fundamental freedoms and the inherent rights of all human beings. This is the basic premise of the Convention on the rights of the child.
Children and adolescents have **NEEDS** for healthy growth and development.

Meeting these needs implies a social **OBLIGATION** and suggests **STANDARDS**.

A “rights-based” approach seeks to ensure that these responsibilities and obligations are recognized and upheld, thereby ensuring that the needs of children and adolescents are met.

Thus, when a country ratifies an international convention on rights it accepts its international legal responsibility to its entire population.

Existence of legal rights places a **LEGAL RESPONSIBILITY** and **OBLIGATION** on others, including the State to see that they are respected and fulfilled.

**RIGHTS** make the standards of permitted and forbidden action within a certain sphere legally binding. Rights are about just or equitable treatment and fairness in decisions according to standards and codes established by a legitimate authority.
The Convention on the Rights of the Child

The Convention on the Rights of the Child is universal in its applicability to children and adolescents. The Convention defines a child as being under 18 years of age unless majority is attained earlier according to the law of the country. The Convention outlines in 41 articles the rights of the child to be respected, protected and fulfilled. Articles 42 to 45 cover the obligation for State parties to disseminate principles and rights enshrined in the Convention to adults and children; the implementation of the Convention and monitoring of progress towards the realization of child rights through obligations undertaken by State parties; and the responsibility of the State parties to report on their efforts towards realization of the rights guaranteed by the Convention. The final articles cover the processes of accession and ratification by State Parties, the Convention's entry into force and the depository function of the Secretary-General of the UN.

In this introduction, we attempt to present the CRC in terms of substantive rights, rather than a collection of articles that may seem unrelated to each other in the order in which they appear in the Convention. The articles of the Convention have been grouped under five overarching categories of rights:

- Basic health and welfare
- Family environment and alternative care
- Education, leisure and cultural activities
- Civil rights and freedoms
- Special protection measures

We hope that this approach will also facilitate an understanding of rights as indivisible, rather than as compartmentalized entities. For example, children’s health is not only freedom from illness. As the WHO definition of health declares, it is “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” However in order to reach this level, countries need to do far more than provide curative health services. They have to provide a safe physical environment (immunization, clean air and drinking water, sanitation, proper nutrition) as well as a supportive political, economic and social framework (peace, social security, economic stability) that promote good health.

In the following sections, we discuss briefly the guiding principles of the Convention. We then move on to various categories of rights under the CRC.
Case studies have been used to provide illustrations; and some initiatives that build on the CRC have been highlighted.

**Guiding principles to the Convention**

The Convention gives four guiding principles that are important in interpreting the rights it encompasses. These are:

- non-discrimination,
- best interests of the child,
- right to survival and development,
- and respect for the views of the child.

1. **Non-discrimination** (Article 2): Perhaps one of the most important principles in human rights, and not just in the CRC, is that of non-discrimination. Article 2 of the Convention states: “States parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, 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.” And that “States parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.” In many countries, customary laws or those that draw heavily from customs in interpretation as in family matters, discriminate on the basis of birth, sex, and marital status. For the children, such laws can be detrimental to their development as human beings, and more so because the discriminatory impact of such laws is often not immediately visible. Thus, it would be important in a health setting to ensure that services are accessible to all children. This may entail securing such services for marginalized populations using the language of the local population with due sensitivity to its culture and practices.

   Non-discrimination is also a facilitating principle in the quest for equality – such as
between girls and boys, different religious/linguial/social/racial or ethnic groups, between the able and those with a disability, between the refugee child and one who is not.

2. **Best interests of the child** (Article 3): The Convention states that “In all actions concerning the children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be of primary concern.” The Convention does not specify on these “best interests” or the way States could determine them. However, we know that children are not too often “visible” or “politically active” in the community. It is therefore becomes imperative that individuals and agencies responsible for protecting and promoting children’s rights take into account their special developmental needs in initiatives on their behalf. This approach of the CRC may be termed as “child-centered”.

In interpreting rights and implementing programmes, one must be very careful that they are designed from the perspective of the child, and not of the adult. Thus, adoption as a way of alternative family care generally focuses on the needs of the child, that is, the needs of the childless family, rather than those of the homeless child. Again, the processing of adoption papers takes up a good deal of time that may be of critical importance in the child’s development. While such administrative processes may be necessary to ensure that a child is placed with an appropriate family, ways must be found to cut down on time so that a child gets the advantages of a family at the earliest possible.

3. **Right to life, survival and development** (Article 6): The Convention states that the “State parties recognize that every child has the inherent right to life”; and that they “shall

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### The Convention on the Rights of the Child

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**Reservations to the Convention**

Human rights treaties generally allow State parties to make reservations to some of its parts. This enables countries to become party to the treaty even if they are not in a position to immediately subscribe to the treaty in its entirety. Reasons for reservations may vary. Thus, Bangladesh and Maldives, being Islamic States, signed the CRC with reservations to Article 14 that directs States to respect the right of the child to freedom of thought, conscience and religion. Such reservations limit rights that may be available to children of a particular country. However, the States are encouraged to make the reservations as precise as possible, review them periodically and most importantly, they should not be incompatible with the object and purposes of the Convention itself.
ensure to the maximum extent possible the survival and development of the child”. The CRC does not identify human life with mere biological existence. It sees the development of the latent potential of every child as an important facet of the right to life. The provision of immunization services, educational and recreational facilities, opportunities for cultural enrichment and for developing social skills are all subsumed under this right.

4. Respect for the views of the child (Article 12):

Article 12 of the CRC states that “State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” Often interpreted to imply right to participation of the children in matters concerning them, this article is significant in that it stresses that maturity and age of the child are determinants in the role that their views will play in decision-making. This must be viewed in relationship to the child-centred approach of the second principle.

The guiding principles outlined above are necessary for the meaningful realization of all other rights. For example, various intervention programmes aimed at street children in India found over a span of time that it was important to have the children participate in the design and delivery of services. Initially, different organizations sought to rehabilitate children with their families as far as possible. They soon realized that this measure might not succeed with all street children. It then became important to take into account the special circumstances of the children on the street for whom “traditional” rehabilitation efforts did not work (for example, no “home” or “family” that could be made responsible for the child’s welfare, an education system that needed to be flexible enough to cater to the needs of children who may be working during the day to sustain themselves, etc.). The world of children may be as complex as that of adults. Children should not be working for a living, but if they are (and until one can ensure that they are not involved in exploitative work), one needs to find innovative ways of protecting their other rights, such as the right to education, adequate health care and shelter, and protection from abuse and exploitation.
II. Thematic Divisions
A. Basic health and welfare
B. Family environment and alternative care
C. Education, leisure and cultural activities
D. Civil rights and freedoms
E. Special protection measures
A. Basic health and welfare

- Survival and development (Article 6)
- Disabled children (Article 23)
- Health and health services (Article 24)
- Social security and child care services and facilities (Article 18, 26)
- Standard of living (Article 27)

Health and welfare are integral to the child’s right to life, and to survival and development. Not only must States provide curative health services, they must take steps to prevent spread of diseases and promote an environment that is conducive to good health. Article 24 of the CRC puts forth clearly that “State parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for treatment of illness and rehabilitation of health. State parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.” State parties are directed to pursue full implementation of this right. Measures to “diminish infant and child mortality, combat disease and malnutrition…provision of necessary medical assistance and health care to all children with emphasis on development of primary health care, appropriate pre-natal and post-natal health care for mothers…development of preventive health care” find specific mention. Included in these measures is the need to provide immunization, nutritious food and clean drinking water, information on the advantages of breastfeeding, education and services for child

Every child has the right to:

- Survival and development;
- An adequate standard of living;
- The highest attainable standards of health and effective health services;
- Special care if he or she is disabled, that ensures dignity, promotes self-reliance and facilitates active participation in the community.
health and nutrition, family planning, hygiene and sanitation, and prevention of accidents. The mental health needs of children and adolescents are no less important. The States are also directed to eliminate traditional practices that are harmful to the health of children. The Convention also stresses on an adequate standard of living as being essential in maintaining good health, and aiding the development of children.

While it is important to ensure that health services and conditions for maintaining optimum health are accessible to all children, the CRC specifically mentions the special needs of children with a disability. They have equal rights to “conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community” – equal rights that demand that States must be sensitive to and provide for their special needs in health, education, leisure and recreational activities and preparation for future employment. These must focus on social integration as much as individual development.

Other welfare measures include childcare services for offsprings of working parents, and the right of children to benefit from social security, including social insurance. In situations of need, States are directed to provide material assistance, particularly with regard to nutrition, clothing and housing.

Even in times of strife or of epidemics, States need to go beyond providing basic health and welfare. While the growing loss of adult populations have led to States launching preventive action on a comprehensive scale, children have largely remained invisible victims of HIV/AIDS and of conflicts like those in Sri Lanka and East Timor. Research from various countries has revealed that there are specific groups of children who are unable to access health care and related services. These include girl children, street children, children of women in prostitution, children of gypsies, child labourers, children belonging to minorities and such as those who are HIV-positive. The impact of various issues like domestic violence, ethnic conflict, caste discrimination or ostracism, migration and displacement on children may often be overlooked. What is therefore important is to design, implement and monitor

Save the Children runs several community-based projects in Nepal. One such initiative connects their parenting programme with the nutrition and child development project. The project uses the method of “positive deviance” to target children between six months and two years who are moderately or severely malnourished. This methodology is founded on the fact that some children fare better than others even in poor families and communities. In villages covered by this project, children with good nutritional status are identified with community support. The next step is to find out family practices that could account for this “positive deviance” and then plan strategies that would use locally available resources to enhance the nutritional status of malnourished children. Community participation is an essential component at every step of the process. This project connects well with the parenting and caregiving programmes that “started as maternal/child health education programmes and have shifted from an exclusive health and nutrition focus to a concern with children’s overall development and rights.” This shift has included an expansion in terms of reaching out to fathers along with mothers.
health systems in a way that they are able to encompass these “invisible” groups and issues. Thus, in societies where early marriage is a norm, with consequent high rates of infant and maternal mortality, it is imperative to have sex education as part of educational and health programmes that are offered at schools and within communities.

International cooperation and progressive realization are both stressed in order to facilitate provision of better health and related services:

“States parties undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.”

Such cooperation would include bilateral or multilateral cooperation between States, as well as with other bodies such as NGOs, and international organizations. WHO has a significant role in this regard.
Case Study

Salma comes from a tiny village in Bangladesh. Her father went to Dhaka to work and he has not visited the family in the past year. Salma’s mother works as a labourer in the fields.

The village provides a small room that is used for schooling for children between the ages six and eight. The teacher is one of the few literate men in the village. Salma is unable to attend school, as she has to help at home with child-care and household work. A nurse who came once in a while to attend to the health needs of the villagers also used the schoolroom. But she has failed to visit in the last six months. The nearest town with a government hospital is three hours by bus, longer during monsoons, and costs 50 takkas each way. Not many villagers are able to take their sick to town. Salma’s mother can ill-afford the time and cost of such a journey. Her children have not been immunized, suffer from malnutrition, and repeatedly fall sick. The health situation of the village gets noticeably worse during monsoons.

In order that Salma and her family are able to enjoy an appropriate level of health, there is a great need for regular and timely immunization. A programme for nutritional supplements for the malnourished would be an asset. Such a programme can draw support from the school for identification of the needy children and for delivery of the same. Preventive health care campaigns can be launched, especially before the monsoons in order to educate the villagers about epidemics and water-borne diseases. Person/s from the village could be identified and trained in basic health care. Salma’s village would benefit greatly by developing a cooperative system with a crèche and banking. Provision of a crèche for working parents would help to ensure that children are supervised without the responsibility falling on older siblings, while the banking system would provide people the opportunity to save for difficult times without having to run to money lenders or to banks in cities. (Bangladesh, it is worth noting, is a world leader in cooperative banking.)

What are the services that would benefit families such as Salma’s? What agencies could coordinate their work better to reach out to the children, and others in difficult times? List rights that get compromised for Salma and her siblings because they do not enjoy an adequate standard of health. What could be the spin-offs if the general standard of health in the village is improved?
B. Family environment and alternative care

- Separation from parents (Article 9)
- Family reunification (Article 10)
- Recovery of maintenance for the child (Article 27)
- Children deprived of a family environment (Article 20)
- Adoption (Article 21)
- Illicit transfer and non-return (Article 11)
- Abuse and neglect (Article 19), including physical and psychological and social reintegration (Article 39)
- Periodic review of placement (Article 25)

The family plays the role of the primary caregiver for most children. It provides the immediate environment conducive to the growth and development of the child. Ideally, it provides maximum opportunities for the fulfilment of emotional, physical and developmental wants and needs of the child. In the Preamble itself, the Convention states that it is “Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,”
The Convention does not aim at being punitive – towards the family, community or the State. It provides a framework of minimum standards that include all measures that would enable families and communities, and the State to take better care of their children’s needs. Thus, in order to intervene in situations of violence or conflict within the family, the States need to provide for appropriate support services like counselling and temporary homes, apart from having legal safeguards for the affected. CRC also directs that States must take measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child – an important issue, as divorce proceedings may take time to be resolved, and judicial decisions granting maintenance may not necessarily be complied with immediately.
Recognizing that 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.

But there are circumstances that deprive children of the possibility of growing within their own families, and hence the Convention has focused on alternative care as well. This is also an option in situations where a family is unable to provide an appropriate environment for a child. Such recourse may become necessary for example if a child is being exposed to abuse and violence within the family. The best interests of the child qualify almost all the clauses discussed in this section.

Article 5 of the CRC deals with the rights, responsibilities and duties of the immediate family, the extended family as well as those of the community “in a manner consistent with the evolving capacities of the child.” State parties must ensure that children are not separated from their parents against their will, except when necessary. This would be subject to judicial review, in accordance with applicable law and procedures. For children separated from one or both of the parents, the right to maintain personal relations and direct contact with both parents on a regular basis is granted.

In terms of alternative care, the CRC does not limit itself to any one system and encompasses adoption, Kafala of Islamic law, foster placement and institutional care if necessary. In making such arrangements, due regard has to be given to continuity in the child’s upbringing in terms of his/her religious, ethnic, cultural and linguistic background. Article 21 deals with both in-country and intercountry adoption with necessary standards and safeguards. Article 25 of the CRC directs States to periodically review such placements.

The Convention requires that governments will ensure the rights of parents and families to:

- Provide guidance to their child;
- Receive assistance in child rearing;
- Have responsibilities shared equally by both parents;
- Receive material assistance and support programmes especially with regard to nutrition, clothing and assistance.
Case Study

Twelve-year-old Kokila lost her mother when she was five. Her father works in a bank. Until some time back, Kokila was a hard-working student getting good grades. When her school performances dropped drastically, and there was a visible change in her behaviour, her class teacher referred her to the school counsellor. After several meetings, the counsellor discovered that her father was sexually abusing Kokila. With support from an NGO, a criminal complaint was lodged against the father.

Kokila was found to be too old for the local child placement agency and was finally placed in a shelter home for women. Most of the inmates at the home were those rescued from prostitution and the personnel at the institution were unable to understand Kokila’s traumatic condition.

Alternate care was obviously necessary in this case. However, in arranging it, what were the rights of Kokila that were disregarded? Would suitable foster care not have served her better? Could she have been placed in an orphanage for girls or an SOS village? In all these options, her schooling need not have been affected. Did she not need the continuous support of a counsellor for some time to come? In the absence of all this, isn’t she in effect being punished for having been abused?
C. Education, Leisure and Cultural Activities

- Education, including vocational training and guidance (Article 28)
- Aims of education (Article 29)
- Leisure, recreation and cultural activities (Article 31)

School or more appropriately education, and play remain two defining features of childhood. The Convention emphasizes equal opportunity in the right to education, directs that States shall work progressively towards making primary education compulsory and free, and develop secondary education that includes vocational training, take measures to provide free education and secure financial assistance to the needy. Inherent in the right to education is its accessibility to all, irrespective of sex, age, language, disability, religion, geographical location, race or other status.

The relevance of education to the social and cultural context of children makes it meaningful to them – the emphasis is on a holistic way of approaching education as a system of learning and developing life skills rather than on mere literacy. This includes inculcating and appreciating values, contributing to personality development of the child, facilitating the development of respect for parents, cultural identity, language, the environment, the country of origin and various civilizations. The Convention places emphasis on directing education towards “The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin…”

Those administering the educational system have to be aware that they are equal partners with health professionals. It is now widely acknowledged that health awareness inculcated in early years lays the foundation for sound life-styles in later years. In their curricular and co-curricular work, the educationists need to focus on appropriate diet and nutrition, personal hygiene, sanitation, exercise and play. They also have to be aware of the mental health needs of children, so that they can facilitate early identification and intervention if required. Basic health check-ups at schools and in communities help to identify health problems that may have been overlooked by the family.

Every child has the right to:

- Free primary education;
- Access to secondary education and vocational training;
- An education that:
  - develops his or her personality, talents and mental and physical abilities to their fullest;
  - prepares him or her for an active adult life in a free society;
  - is in the spirit of understanding, peace tolerance and equality.
States are also directed to set standards for educational institutions, encourage regular attendance at schools, reduce dropout rates and ensure school discipline in conformity with the CRC, and respect the child’s dignity. International cooperation is encouraged with a view to eliminating illiteracy, and to enable access to new teaching methods and to advances in scientific and technical knowledge, especially keeping the needs of developing countries in mind.22

**Rest, leisure, recreation and play** appropriate to the age of the child are concerns of Article 31 of the CRC. State parties are encouraged to respect and promote the right of the child to participate fully in cultural and artistic life, and to provide equal and appropriate opportunities for the same to children.

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### Court outlaws corporal punishment in schools

On 1 December 2000, the High Court of Delhi (India) struck down a clause of the Delhi School Education Act and Rules (1973) that allowed corporal punishment in schools in the state. The Court based its decision on the Indian Constitution, the Convention on the Rights of the Child to which India is a signatory, and the National Policy on Education (1992). The provisions for corporal punishment were held to be unconstitutional and not in keeping with the child’s dignity. The judgement reflects an understanding of the negative impact of corporal punishment both on the physical and mental health of children: “Freedom of life and liberty guaranteed by Article 21 [of the Indian Constitution] is not only violated when physical punishment scars the body, but when it scars the mind of the child and robs him of his dignity.” Further, the Court held that such punishment teaches children that physical violence is an acceptable means of exercising control and is antithetic to preparing them for “responsible life in free society in the spirit of understanding, peace and tolerance.” The Delhi state has been directed to “ensure that children are not subjected to corporal punishment in schools and they receive education in an environment of freedom and dignity, free from fear.”
Meljol Hum Bacchon Ka

*Meljol Hum Bacchon Ka* is a project initiated by the Tata Institute of Social Sciences (Mumbai, India) in 1991. Since then, it has moved to other parts of India as well. It works with school children in order to sensitize them towards issues such as their rights and responsibilities, the vulnerable sections of society, cultural diversity and gender equality. A range of activities to “nurture a generation that truly believes in equal rights, opportunities and respect for all” has been introduced in participating (both private and State-run) schools. In 1998, *Meljol* released a series of value education textbooks created in consultation with schools associated with the organization. The *Meljol Twinkle Star* series, as these books are called, target children between the ages of 6 and 9, and reinforced by the *Meljol Explorer* Series until age 13. The books aim to help children understand for themselves what needs to be done in order to create a more sensitive and socially just society, rather than being told: “It needs to be done” or “It should be done”. The books are interactive and child-friendly, include activities in order to facilitate learning through doing and the package includes a teacher’s manual. Efforts are currently underway to translate this series in to selected languages.
D. Civil rights and freedoms

- Name and nationality (Article 7)
- Preservation of identity (Article 8)
- Freedom of expression (Article 13)
- Access to appropriate information (Article 17)
- Freedom of thought, conscience and religion (Article 14)
- Freedom of association and peaceful assembly (Article 15)
- Protection of privacy (Article 16)
- Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (37a.)

Civil and political rights have always had a special place in the human rights movement and are safeguarded by the constitutions of many countries. It is imperative to remember that these rights, like others, are universal in nature. They are available to all. However, their significance and impact may vary for different groups. Thus, for an adult, an election card may serve as an alternative to birth certificate. But for a child, the birth certificate remains the primary document that establishes identity. We are well aware that in many parts of South-East Asia, especially in rural/geographically remote areas, registration at birth may not necessarily be available to all children. This compromises children’s rights under Article 7 of the CRC which directs that: “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible,

Every child has the right to:
- A name and nationality;
- Protection against torture;
- Protection against unlawful arrest;
- Freedom of expression;
- Freedom of thought conscience and religion;
the right to know and be cared for by his or her parents.” High levels of poverty in many of the countries in the South Asian region, compounded by unstable economic and social structures, have a severe impact on the rates of abandonment of babies and children. These children are also affected in their right to an identity and in the right to know and be cared for by their families.

Political rights for children must be seen in the context of their age and maturity. The Convention does not ask States to provide children with voting rights. However, in pursuance of its child-centered approach, it stressing that States develop forums that facilitate the expression of the views of children in matters affecting them. The freedom to receive and impart information has become an important right in contemporary times. A number of campaigns supporting introduction of sex education in school curricula have hinged on this right. However, access to information must be qualified by the concern to protect children from harmful information and exploitation. Watchdog organizations have come up in several parts of the world to monitor pornographic material in print, television and now on the Internet. Other civil and political rights include freedom of thought, conscience and religion, protection of

A unique example of one such association is the Children’s Parliament in Tilonia (Ajmer District, Rajasthan, India) where school children have got together to elect from among themselves representatives to a parliament each year. Most of the children attend night schools, and participate in decisions regarding issues that concern them, such as the absence of teachers or space for schools in their villages, the state of hygiene in their environment, etc. The Social Work Research Centre (an organization working on development issues) facilitates the Children’s Parliament in its activities. Not only has this initiative provided the children with the experience of setting up and running a Parliament (although a mock one), but has developed in them self-esteem, a sense of responsibility towards self and society and an ability to deal more effectively with issues affecting them which would normally have been outside their purview.
privacy, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment and freedom of association and peaceful assembly. The last of these could be interpreted such that States provide all children with opportunities to form groups and associations, to pursue Leisure activities for promoting awareness and skills building. Such associations may also serve for campaigning for other rights. With the increase in child labour in South Asia, children have come together on various occasions to rally and bring the issue to the attention of the State.

Case Study

Chandika was six years old when his family was killed in internal conflict in Sri Lanka. His relatives willingly gave shelter, but were unable to provide for his schooling. When the strife escalated a year later, Chandika’s foster family decided to take refuge in the neighbouring country. During their journey, Chandika unfortunately got separated from the family but managed to reach a refugee camp. At first, he was able to secure his basic needs to sustain himself. But as more and more refugees arrived and the camp got overcrowded, food, shelter and other facilities were shared out by family. As a lone child, Chandika was not entitled to hold an identification card and found himself left out.

What should have been done to secure Chandika’s survival and to promote his rights? Could networking with other refugee camps not have traced his foster family in order to reunite them? Failing that could not the refugee camp authorities have registered Chandika and other children like him and placed them in temporary foster care with a family within the camp? This would have ensured that such children could avail of food, shelter and whatever health and educational facilities were available at the camp.
E. Special protection measures and vulnerable groups

- Children in situations of emergency (Articles 22, 38, 39)
- Children in conflict with the law (Articles 37, 39, 40)
- Children in situations of exploitation, including physical and psychological recovery and social reintegration (Article 32, 33, 34, 35, 36, 39)
- Children belonging to a minority or indigenous group (Article 30)

As stated earlier, the rights guaranteed by the Convention are universal in nature. They are as applicable to children with special needs as any other. However, keeping the vulnerability of certain groups of children in view, the Convention provides for certain protective measures. These include, among others, legislative, judicial and administrative measures. For children in emergency situations, the CRC covers refugee children and those in armed conflict. In regard to refugee children, reunification with family and protection for children permanently or temporarily deprived of their environment are important concerns.1 Children in situations of armed conflict have been a growing cause of concern. The Convention directs States to ensure that measures are taken to provide protection and care to children affected by armed conflict, and to “take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities” and “refrain from recruiting any person who has not attained the age of 15 years into their armed forces.”

Every child has the right to special protection:

- In emergency situations such as armed conflict or when they are separated from family or home;
- When he or she is in conflict with the law;
- From discrimination of any kind.

Children in conflict with the law also require special safeguards. Article 40 provides directions for administration of juvenile justice “in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for human rights and fundamental freedoms of others, and which takes into account the child’s age and desirability of promoting the re-integration and the child’s measures to prevent reintegration.”
All State parties to the Convention are directed to ensure that children are not arbitrarily or unlawfully deprived of their liberty. Those in arrest, detention or imprisonment shall be treated with humanity and respect for the inherent dignity of the human person, and provided prompt access to legal and other services that may be required for the same. The imposition of both death penalty and life imprisonment without the possibility of release for offences committed by persons below 18 years of age are also prohibited.

Measures for children in situations of exploitation involve protection from economic exploitation, prevention of drug abuse, sexual exploitation and sexual abuse and other forms of exploitation. As all children contribute to ‘work’ within homes for example, the CRC has qualified the right to be free from exploitation in work as that which may be hazardous to the health of children or interferes with their education. The right to be free from sexual abuse and exploitation includes protection from coercion into any unlawful sexual activity, including prostitution and pornographic performances. State parties have to take measures to “prevent the abduction and sale of and traffic in children for any purposes or in any form.”

The CRC is sensitive to the negative consequences of exploitation for the physical and mental health of the child. This is significant since mental health gets overlooked in society, more so in the case of children and adolescents. Thus, the CRC, in pursuit of its holistic perspective on health, directs States to take measures to ensure social reintegration of those affected.

The CRC does not overlook the special needs of children from minority groups. It states According to UNICEF, an estimated 300000 children are involved in armed conflict globally in their countries; many below 10 years of age. They become witness to violence against their own families and communities, and are sometimes compelled to perpetrate such violence themselves. In terms of the effects on children, this involvement reverses in very short time periods the advances made through health and education programmes that States and international agencies have achieved through the years. On 25th May 2000, two Optional Protocols to the Convention were adopted by the United Nations General Assembly. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict raised the age for participation in armed conflicts from 15 to 18 years, and establishes a ban on compulsory recruitment below 18 years. However, the Protocol does not establish 18 as a minimum age for voluntary recruitment. At the time of ratification, State parties are required to make a declaration on the age at which voluntary recruitment will be permitted in the national forces and the steps taken to ensure that such recruitment would be free of coercion. The UN itself established 18 years as the minimum age for participation in peacekeeping operations, thereby setting a precedent that individual States could follow. While the nature of the Optional Protocol makes it non-compulsory, it is a step towards ensuring a universal minimum age for participation in armed conflict.
The second Optional Protocol adopted in May 2000 deals with the **Sale of Children, Child Prostitution and Child Pornography**. It puts a special emphasis on criminalization of violations such as sale of children, illegal adoption, child prostitution and pornography. The transnational nature of these activities makes international co-operation essential for any efforts to be effective. The Protocol days emphasis stress on awareness, information and education campaigns on these issues in order to increase protection of children, and build partnerships that would enhance their rights.
Case Study

Lin and Mima were 8 and 12 years respectively. They came from a poor family from Myanmar - so poor that it barely managed to survive. A relative, who paid some money to the parents, offered to help the children find petty jobs in the “city”. Instead, both were brought to Thailand and sold to a brothel in Bangkok. Lin was put to work cleaning and running errands for everyone in the brothel while Mima was “sold” to the highest bidder - prices for virgin girls were high due to a fear of AIDS. Both worked long hours and lived in unhealthy conditions in the belief that they could not escape their bondage. Two years later, Mima was “rescued” by the police and placed in the Immigration Detention Centre. She could only communicate in rudimentary Thai that she had picked up from her clients and others like her. Since prostitution is outlawed in Thailand, her being a commercial sex worker only compounded her status as an illegal immigrant. To complicate matters, the rescue was focused only on women/girls and hence Mima was separated from her brother.

The Alliance for Prevention of HIV/AIDS started working in the red-light districts of Bangkok in 1998. They provide basic health check-ups, free condoms and other related services to the women and children in prostitution. The organization was aware that while such rescue operations could turn out to be positive for some workers, it would bring an uncertain and harsh future to many others.

What action could the Alliance undertake to ensure that those “rescued” were treated fairly? How can the Alliance work to facilitate the rehabilitation of those like Mima? Are there any steps that the Thai authorities need to take to effectively prevent trafficking? What role could legislation and law enforcement authorities play in ensuring that children are free from all kinds of exploitation? What kind of international cooperation could facilitate the prevention of transnational trafficking in women and children?
“My friend Rajesh has a head injury and is running high fever…. What should I do?”

The frantic pleas were uttered by Ahmed, a 14–year old living on the street in Mumbai (India). As soon as CHILDLINE received the call, the team asked Ahmed to bring Rajesh to the centre from where he was taken to the hospital. Two days later, he was transferred to an infirmary for further rehabilitation. When his health improved, Rajesh decided to go back to the street. CHILDLINE told him to keep in touch and reminded him that he could call 1098 whenever he needed.

In the course of time, Rajesh became a volunteer for CHILDLINE and actively helps to promote awareness about its services among children on the street.

CHILDLINE, a 24-hour national emergency help line, offers crisis intervention and rehabilitation services to children in distress. Its approach to child protection issues is guided by its concern for their rights. In order to make its work effective, CHILDLINE collaborates with a number of partners: the police, health system, education system, juvenile justice system, the judiciary, transport system, government departments (including that of labour, telecommunications), media, the corporate sector, NGOs and concerned individuals. It conducts training programmes, documents children’s concerns and advocates for systems that are sensitive to children’s needs and views. The CHILDLINE partnership has also led to the setting up of City Advisory Boards that meet once every two months to decide issues and policies relating to children.

CHILDLINE began in 1996 in Mumbai as a field action project designed by the Tata Institute of Social Sciences. Two years later, the Union Government decided to support the initiative and replicate the service all over India. By the mid-2000, CHILDLINE was functioning in 14 cities across India and plans to expand its operations to cover 30 cities by the end of 2001.
III. Monitoring and Reporting
In order to ensure that norms and standards set by treaties are being followed, one needs to have monitoring and evaluating bodies. While the Convention expects that States would do so in various fields, a Committee of ten experts (elected in their individual capacity) set up in 1991 monitors the implementation of the Convention on the Rights of the Child by the signatories. The Convention requires that State parties submit their first implementation report two years after the ratification or accession to the Convention, and thereafter every five years. The reports, to be prepared in accordance with the guidelines issued by the Committee, are expected to focus on challenges in implementation of the Convention and on priorities and goals for the future. The reports are also expected to contain data that highlight the priority concerns. These reports are circulated among the relevant UN agencies and bodies for comments, as well as to other competent bodies including nongovernmental organizations. Nongovernment bodies can submit alternate reports to supplement information provided by the State. A preparatory meeting is held where input from these bodies is taken into consideration. The Committee then convenes for a plenary meeting to discuss the report with representatives of the relevant State Party.

Introducing new, and updating existing legislation with a view to making them consistent with the provisions of the Convention is a necessary means of fulfilling State obligations under the CRC. However, the Committee is sensitive to the fact that formal commitment to rights may not necessarily translate into practice. Thus, in examining State reports, the Committee strives to initiate a dialogue on what it perceives as important concerns. These include –

To ensure that the Convention is being implemented in the right spirit, countries must report to the UN Committee on the rights of the child two years after ratifying the Convention and every five years after that.
mechanisms (administrative and others) that have been set up at national or local levels to implement the rights of the child; ways in which States are ensuring that children’s concerns remain a priority on the national agenda; awareness and education campaigns that may have been initiated on CRC; forums for redress of violations; preventive action planned/undertaken; kinds of resources allocated for the different areas that the Convention covers as well as those viewed as priority concerns by the State; ways data is collected, analyzed and made more sensitive and efficient in regard to the needs of children; areas where international cooperation has been sought and the extent to which it has been utilized, and collaborative initiatives and programmes that may have been undertaken with nongovernmental organizations.

It is important to point out that the Committee does not believe in confrontation as a tool to examine State reports. It seeks to enable rather than enforce. It also understands that countries will fulfil their obligations under the CRC on a progressive basis. At the end of the Committee’s process of examining and discussion, it agrees on its **Concluding Observations**. These observations
form a public document and become a basis for future dialogue and analysis of the subsequent report. It also provides directions and suggestions for a more effective realization of the objectives of the Convention.

This periodic review provides an excellent tool for countries to measure where they stand in relation to the welfare of their children. The process not only focuses on areas that have been overlooked but also highlights relevant changes in legislation, successful initiatives and innovations in a particular country. For the participating States, it becomes an exercise in introspection and cross-stimulation by other countries, thereby furthering international cooperation.
IV. Complementary Treaties and Bodies
Complementary Treaties and Bodies

The Convention on the Rights of the Child is one of many human rights documents concluded under the auspices of the United Nations system. The other principal treaties are the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), Convention on the Elimination of all Forms of Racial Discrimination (1965), the Convention on Elimination of all Forms of Discrimination Against Women (1979) and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1985). In order to make the realization of rights more meaningful, treaties could be used to complement each other. Collaboration between various monitoring bodies must be strengthened for interpreting rights and providing direction to State parties in the implementation of their commitments. It is easy to see the link between the CRC and the Convention on the Elimination of Discrimination against Women (CEDAW) in that there are several overlapping concerns – for example in the area of health, education and freedom from violence. Interpreting rights in this way would also address any gaps that any single convention may have.

CEDAW has a fairly extensive section on reproductive rights – an important issue for child and adolescent health.

Apart from the treaty documents themselves that could be used, monitoring bodies have also provided comments and recommendations on interpreting certain rights. Many of these have relevance for the rights of children:

- In its General Comment 17 (1989), on Article 24 of the
International Covenant on Civil and Political Rights, the Human Rights Committee said: “The Covenant requires that children should be protected against discrimination on any grounds such as race, colour, sex, language, religion, national or social origin, property or birth…Reports by State parties should indicate how legislation and practice ensure that measures of protection are aimed at removing all discrimination in every field, including inheritance, particularly between children who are nationals and children who are aliens or as between legitimate children and children born out of wedlock.”

- The Committee on Economic, Social and Cultural Rights held in its General Comment 4 on Article 11, paragraph 1 of the International Covenant on Economic, Social and Cultural Rights: “The right to adequate housing applies to everyone. While reference to ‘himself’ and his family’ reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today in implying any limitations upon applicability of the right to individuals, or to female-headed households or other such groups. Thus the concept of ‘family’ must be understood in a wider sense. Further individuals, as well as families, are entitled to adequate housing regardless of age, economic status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination.”

In their more recent General Comment on the Right to Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), the Committee focused on children and adolescents under the section on Special topics of broad application. The Comment states that “the right to health embraces a wide range of socioeconomic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable drinking water…and a healthy environment.” It further reiterates that “The right to health is closely related to and dependent upon the realization of other human rights… including the rights of food, housing, work, education, human dignity, life, non-discrimination, equality…access to information…” (Paragraphs 3 and 4).
The Committee on CEDAW in its General Recommendation no. 19 on Violence Against Women elaborated: “In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.”

The UN System also provides other mechanisms that could be used for support in advancing the rights of various groups. These include special rapporteurs, thematic mechanisms and working groups.

As in the case of various treaties, different UN organizations strengthen and support each other. The CRC is fundamental to UNICEF’s work. And yet, as we have discussed, WHO has a major role to play in promoting the rights of children. Other equally important partners are: UNIFEM (women, girls), ILO (labour and employment issues), UNDP (poverty and development) and UNESCO (education and culture).
V. Looking Ahead
Looking ahead

The *Human Development Report 2000* puts forth conflicts between national borders, economic and political transitions, global inequalities and the marginalization of poor countries and poor people as the threats to human freedom in the 21\textsuperscript{st} century. The **vulnerability of children** to these threats can put back the progress that has been made in the area of children’s rights in recent decades. One great challenge therefore would be to ensure that the gains made by international, regional and national bodies in various countries in the implementation and monitoring of the Convention are protected. At the same time, it is essential to strengthen national and local mechanisms for human rights implementation, redressal and monitoring.

Many States have set up special bodies or mechanisms in order to move towards fulfilling their obligations under the CRC. Thus, **Bangladesh** set up a Ministry of Women and Children’s Affairs (1994) and followed this up by adopting a National Policy for Children in 1995. The Government of **Maldives** in 1992 established a special Unit for the Rights of the Child in the Ministry of Home Affairs. The unit is meant to deal with “all issues related to children’s rights, their publicity, promotion and implementation.”\(^{19}\) This move complemented the Law on the Protection of the Rights of the Child (Law 9/91) passed in 1991. **Myanmar** adopted a National Plan of Action and established a National Committee on the Rights of the Child in 1993.\(^{20}\) **Nepal** established the National Council for Women and Child Development under the chairmanship of the Prime Minister to formulate and monitor policies related to children. The Council coordinates all national and intergovernmental mechanisms in this regard.\(^{21}\) **Sri Lanka** set up an intergovernmental Committee for the Monitoring of Rights of the Child under the Ministry of Health, Highways and Social Service in 1993.\(^{22}\) When **Thailand** adopted a new Constitution in 1997, it included guarantees for the promotion and protection of human rights including those recognized by the CRC.\(^{23}\)

State Parties have to work towards ensuring that such bodies are functional and **accessible** to those in need and to make the system as **decentralized** as possible. They need to ensure health for all, universal primary education and protection to **vulnerable groups**. Many States are today in a better position to understand the causes of violence and exploitation, and provide appropriate safeguards to prevent exploitative practices such as sexual abuse, prostitution and child labour.
**International cooperation** through exchange of information, and technical and financial resources have contributed to strengthening the movement for children’s rights globally. Some examples of efforts in the field of health which are based on the **intersectoral** and multi-layered approach include the Global Alliance for Vaccines and Immunization and the setting up of UNAIDS. While the former brings together WHO, UNICEF, the World Bank, industrial houses, and philanthropic organizations to work together in partnership with public sector agencies for protection of children against diseases prevented by vaccines, the latter encompasses seven UN agencies in a concerted effort to fight the spread of HIV/AIDS. Such programmes work with a range of partners to expand international response to specific issues.

The Convention focuses on the child as an individual, and as a member of a family and community. This focus is noteworthy, in that the status of children places responsibility for their protection and development on the family and the community as much as on States. However, the ultimate responsibility rests with States, as they are the signatories to the Convention. They must provide an enabling environment for families and communities so that they are in a position to maximize opportunities of growth and development for children.

Age cannot be a barrier to the rights contained in the CRC. While the Convention **defines the child** as less than 18 years of age, one does not cease to have rights on reaching the upper limit set by the CRC. Perhaps one of the more controversial features of this definition is whether the unborn child has any rights. While the Convention itself is silent on abortion, the Preamble links CRC to the Declaration of the Rights of the Child (1959). The latter observed: **“the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”** Health care for pregnant women finds a place in the CRC and so do other aspects of protection and development that would affect the unborn child. These could well be used to support the rights of the unborn, especially in countries facing the growing practice of sex selective abortions.

Another challenge to the implementation of the Convention is the varying minimum ages prevalent in different countries in regard to marriage and/or sexual consent, work, recruitment to the armed forces, criminal responsibility...
and the like. This variance usually reflects traditional notions of maturity for specific social roles and functions. Thus, in many countries 16 is considered to be an appropriate minimum age for marriage. The problem is compounded further in multi-ethnic societies where each community has its own customary laws.

Consistency between national laws and revisions that would aid the implementation of the CRC, sensitive administration and adequate resources to implement the standards proposed in the Convention are perhaps some measures that need critical and sustained attention. Good governance is a key to a culture of peace and a sensitive and responsive society that is able to care for and appreciate its children. Only when States can be held accountable for their commitment to human rights to all sections of society will progress be made in substantive terms.
One of the most common questions regarding the use of any international treaty is how it relates to a specific country or region. This brings us to the special challenges that the South-East Asian Region poses to effective implementation of the CRC. The Region is marked by sharp social and economic diversity between and within countries due to their differing histories and political systems. And yet, most of the States in the Region share in almost two centuries of colonial experience. Thus, they provide a surprising pattern of differences and similarities.

The social fabric of the countries of the Region is multi-religious, multi-ethnic and multi-lingual. These diversities make for a range of responses by States and of citizens to their human rights duties and obligations. As is well known, health-seeking behaviour is conditioned strongly by how health is defined within a given culture, the services available to the people and resources at an individual's disposal to expend on health. On the higher level, this behaviour would be influenced by the policies of the State and budgetary allocations for the social sector. It is worth observing that the economic disparities that mark the Region, instead of being bridged, have increased over the years and national allocations for the social sector budgets have tended to shrink. The more vulnerable a group, the more the negative effect of these factors. In the case of tribals, the problem is further compounded by the fact that they usually inhabit geographically remote areas. This has caused States to neglect their developmental needs. In areas where the State has undertaken suitable programmes, it has often failed to take into account the social and cultural traditions of the targeted communities, undermining their unique way of life.

For children's rights advocates, some common issues of concern in South-East Asia are:

- **Gender Disparity**: Many cultures in South-East Asia value males more than females to the extent of indulging in sex-selective abortion and female infanticide. Early weaning of girl children, providing them with poor diet in comparison with male siblings, neglecting their health and education, involving them in care and household work from an early age are other consequences of such discrimination.

- Widespread practice of **early marriage** has led to high maternal and infant mortality rates, and to low birth weight babies. South Asia ranks the highest in the latter with 33 percent of its infants born with low birth weight.
between 1990-97. Taboos around sex education and lack of access to contraception are some issues that accentuate the problem. **Abuse and violence** continue to be hidden health burdens, borne largely by girls and women.

- The Region is also marked by **high dropout rates at school**, particularly in the case of girls. UNICEF statistics show that gross primary school enrolment ratio between 1990-97 for males stood at 105 compared to 81 for females in the South Asian region. For secondary school, the enrolment ratio had dropped to 52 for males and 33 for females for the period 1990-96.  

- These low school enrolment figures are easily explained when we take into account the widespread use of **child labour** in the Region. The workplaces for children range from their own homes as in the case of girls to domestic labour, overcrowded factories for carpets, fireworks and glass bangles, sex work and the like.

- The growing menace of **HIV/AIDS**: Recent research points to the increasing vulnerability of adolescents to HIV/AIDS. Young girls are perhaps the worst hit because of their inferior status in society. This puts them at a higher risk of HIV infection due to their inability to negotiate safe sex, whether in marriage or outside it. There is also the growing trend of mother- to- child infection – an area most visibly affected by resource constraints. The impact of HIV/AIDS, earlier confined largely to adults, is thus making increasing inroads among children. It is also important to remember...
that the earlier one is infected, the longer one carries the burden of ill health.

Prioritization of remedial and preventive work in this area has been seriously hampered not only by financial constraints, but also due to lack of accurate data. In fact, both these aspects have held out a serious challenge to sustainable policy and programme development in South-East Asia. This is not only true for HIV/AIDS, but also in relation to all issues of health and development.

Country-specific issues that affect children and adolescents range from high suicide rates in Sri Lanka amongst adolescents to increasing sex work among girls and substance abuse in Nepal, increase in sex tourism and a lack of tertiary level education facilities in Maldives, rising incidence of HIV/AIDS with women predominating among patients between 15-19 years old in Thailand and the growing disparity in the sex ratio in India.  

We have been speaking of the difficult challenges that face one of the most densely populated and impoverished parts of the world. The picture may not be an encouraging one. But we need to take a long-range view of the CRC. It is clearly based on humanity’s recognition that it can best secure its future by nurturing, protecting and enriching the growing point of life. In developing and promoting the Convention on the Rights of the Child, and by putting in place a monitoring process, the nations of the world have made what may prove to be most significant investment to date in human evolution and progress. At whatever stage of development a given society may be, the CRC leaves no room for pessimism. It seeks to motivate us to work towards the next higher level. The process continues, stage by stage, the horizons widening and becoming more inclusive with each step that we move forward.
What can YOU do?

The way to claim rights is by knowing and by knowing one can enable others to do the same. Whether you are a professional, a policy maker, an administrator, a legislator, a judicial expert, or a law enforcement officer, you can accelerate the realization of children’s rights by creating awareness about the Convention on the Rights of the Child and by using it as a foundation for your work.

Information sharing is an important way of creating awareness – ideally it should be based on evidence that can be used to advocate with policy makers. Methods of data collection and analysis need to be made sensitive to the various issues that impact on children’s lives. Such data would provide indicators that could be used to prioritize and design, implement and monitor policies and programmes in a more effective and child-centered way.

Are there ways that you could contribute your skills and time to generating such data in the area of health of/for children and adolescents? The Human Development Report 2000 (UNDP) provides a list of areas for which indicators could be used to hold States accountable for human rights. Some are given below:

- Identifying unintended impact of laws, policies and practices;
- Identifying which factors are having an impact on the realization of rights;
- Giving warning of potential violations, prompting preventive action;
- Enhancing social consensus on difficult trade-offs to be made in the face of resource constraints, and
- Exposing issues that had been neglected or silenced.

Some questions that you would need to ask are: In what way can you link to others – individuals, government agencies, international organizations – that would enable you to work on children’s rights in a multi-dimensional and holistic manner, to make the gains sustainable and universal? If adolescent health is your concern, who could be your potential partners in order to strengthen the relevant programmes? Could resource generation be a collaborative activity? Are adolescents involved in “needs” assessment? Is the programme design and delivery sensitive to the special needs of girls and boys? Are there any marginalized groups of adolescents that the programme fails to cover? In what way are parents and the community involved? What laws and policies strengthen or hinder your programme? What monitoring mechanisms are in place? Who is accountable and for what?

If you know of any innovative programmes and projects that have used the rights-based approach for work in the area of child and adolescent health, we would appreciate if you could share information with us. Write to us at:

Child and Adolescent Health and Development,
World Health Organization,
Regional Office for South East Asia,
I.P. Estate,
Further Reading


Websites of Interest

Some Websites of relevance to the Convention on the Rights of the Child are:

- [www.unhchr.ch](http://www.unhchr.ch): The website for the UN High Commissioner for Human Rights contains information about the CRC. The website offers documents that include the State Party reports submitted to the Committee on the CRC, comments and concluding observations of the Committee, as also a timetable for the sessions of the Committee. It offers similar documents for other five human rights treaties.

- [www.unicef.org](http://www.unicef.org): The website for UNICEF contains information on the way the Convention works as also information on UNICEF’s programmes for which the CRC is used as a framework. It provides a link to resources and organizations of relevance to children’s rights.

- [www.unifem.org](http://www.unifem.org): The website for UNIFEM provides information on programmes on women and children, especially those that focus on the girl child.

- [www.who.int](http://www.who.int): This site provides information on WHO’s programmes and initiatives.

- [www.crin.org/childrights](http://www.crin.org/childrights): The Child Rights International Network contains a number of documents of relevance to CRC. It contains links to over 1,000 organizations working on child rights worldwide.

- [www.dei.ch](http://www.dei.ch): The website of Defence for Children International provides data available on the CRC, from nongovernmental organizations as also information on the CRC Committee and its work.

- [www.focalpointngo.org/focalpoint.html](http://www.focalpointngo.org/focalpoint.html): Focal Point against Sexual Exploitation of children set up to facilitate information sharing, collaborative initiatives and Support Group members inputs into international monitoring mechanisms. Provides relevant documents, action plans, resources and links.
Glossary

Accession

Similar to the process of ratification, accession to a convention is done by a country that was not part of the process of negotiation of the treaty in question, but was invited to sign it subsequently. Both accession and ratification make the obligations laid down by the convention legally binding upon the State.

Concluding Observations

A set of conclusions by a UN committee at the end of the committee's review of a country's report on its implementation of a covenant or convention. The emitting of “Concluding Observations” is a relatively recent innovation but appears to be becoming standard practice. The “Concluding Observations” may include critical comments and suggestions and recommendations for future action by the country in question.

Convention

Synonymous with covenant or treaty. An international agreement, whether bilateral or multilateral. A convention (covenant, treaty) differs from a declaration in that a convention is an agreement whereby countries agree to bind themselves under international law to conform to its provisions. Countries bind themselves in this way through a process of ratification of or adhesion to the convention.

Covenant

See convention.

Declaration

In UN usage, a declaration is a statement recognizing a universally valid principle. Unlike a convention, a declaration is a statement of principle rather than an agreement by which countries bind themselves under international law. Declarations also differ from conventions in that declarations are not subject to ratification by countries, and do not require countries to submit reports on their compliance. Though not legally binding, declarations - and in particular the Universal Declaration of Human Rights - are considered to have an authoritative moral force, and the Universal Declaration is considered to be the clearest and most forceful expression in the international arena of universally recognized human rights principles.

Instrument, International

A loose, general term encompassing conventions, covenants, treaties, declarations, protocols, etc.

Member State

A State which is a member of the United Nations.

Obligation

To respect requires the States to refrain from interfering with the enjoyment of rights;
To protect requires States to take measures to prevent third parties from interfering with the relevant human rights guarantees and
To fulfil requires that States take the necessary legislative, administrative, budgetary, judicial, promotional and other measures for the full realization of the rights.
**Optional protocol**

In UN usage, an international agreement complementing or supplementing a convention or covenant by adding new elements or requirements. The term “optional” emphasizes that the States which ratified the original convention are not under any formal obligation to agree to the protocol as well, though they are encouraged to do so.

**Ratification**

It is the process by which States that agree to abide by the convention formally deposit an instrument of ratification with the relevant body, therefore, signifying their commitment to abide by the convention in their own countries. This includes the final approval of an international agreement by the highest authority of a given country, e.g. the Head of State, Cabinet, or Parliament.

**Signature**

An act by which an authorized representative of a country will sign a convention or covenant to indicate that country’s intent to proceed to ratification.

**State Party (plural “states party”)**

A country which has ratified a given covenant or convention.

**Treaty**

An international agreement concluded between states in written form and governed by international law; see convention.
Footnotes

1 Article 22

2 An optional protocol is a means by which modifications/additions to any Convention are made. However, as the term suggests, it is not binding on any State party to the Convention unless it opts to be bound to it.

3 This Protocol has been ratified by Bangladesh and Sri Lanka among others.

4 Article 37: b, c, d

5 Article 37:a

6 Article 33

7 Article 36. See also Article 19.

8 Article 32

9 Article 34. See also Article 19.

10 Article 35. See also Article 11.

11 Article 39

12 Article 30

13 Annual Report, 2000. CHILDLINE

14 See also GC 17, paragraph 5 on Article 24 of the ICCPR.


16 UN Doc. A/47/38

17 See inside back cover


24 Sri Lanka is a case in point. There are disparities in minimum ages for marriage under the three different laws: Sri Lankan (general law), Kandyan and Muslim.

25 See Women of South-East Asia: A Health Profile, WHO (SEARO), 2000

26 The State of the World’s Children 2000 (UNICEF), Summary. Pg. 31

27 Ibid, pg. 39.

The Convention on the Rights of the Child

The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force from 2 September 1990, in accordance with article 49.

Preamble

The States parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, 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,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that 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,

Considering that the child should be fully prepared to live an individual life in society and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for
the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, 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

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, 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.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the
right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

**Article 9**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contacts with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

**Article 10**

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (order public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

**Article 11**

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

**Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate
body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

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

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

**Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child 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 parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

**Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

**Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether
unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize 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. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding,
hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

**Article 25**

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

**Article 26**

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

**Article 27**

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

**Article 28**

1. States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

   (a) Make primary education compulsory and available free to all;

   (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

   (c) Make higher education accessible to all on the basis of capacity by every appropriate means;

   (d) Make educational and vocational information and guidance available and accessible to all children;

   (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is
administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

   (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

   (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

   (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

   (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

   (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

   (a) Provide for a minimum age or minimum ages for admission to employment;

   (b) Provide for appropriate regulation of the hours and conditions of employment;

   (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative,
social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.

**Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

**Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

**Article 37**

**States Parties shall ensure that:**

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

**Article 38**

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

**Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment;
or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

**Article 40**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

   (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

   (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

      (i) To be presumed innocent until proven guilty according to law;

      (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

      (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

      (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

      (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

      (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

      (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

   (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

   (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

**Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.
Part II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.
Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

   (a) Within two years of the entry into force of the Convention for the State Party concerned;

   (b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

Part III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.
**Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

**Article 50**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

**Article 51**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

**Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

**Article 53**

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

**Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.