

2. Children's rights and the right to education⁹

Children's rights are comprehensively protected by a wide-ranging set of international and regional instruments spanning human rights, humanitarian and refugee law. Children benefit from the rights contained in general treaties. In addition, a number of specialist instruments have been created to accord extra protection to children given their particular vulnerabilities and the importance to society as a whole in ensuring the healthy development and active participation of its young members.

The European Convention on Human Rights ("the Convention") contains many provisions to protect the rights of children, for instance Protocol 1, Article 2, the "right to education". However, the overarching framework for children's rights is the 1989 UN Convention on the Rights of the Child (CRC). This was the first treaty specifically concerned with the rights of children and marked an important shift in thinking towards a "rights-based approach" which held governments legally accountable for failing to meet the needs of children. The CRC created a new vision of children as bearers of rights and responsibilities appropriate to their age rather than viewing them as the property of their parents or the helpless recipients of charity.

Children's rights cover every aspect of the lives of children and adolescents and can be broken down into the following main categories:

- survival rights: the right to life and to have the most basic needs met (for example, adequate standard of living, shelter, nutrition, medical treatment);
- development rights: the rights enabling children to reach their fullest potential (for example education, play and leisure, cultural activities, access to information and freedom of thought, conscience and religion);
- participation rights: rights that allow children and adolescents to take an active role in their communities (for example, the freedom to express opinions, to have a say in matters affecting their own lives, to join associations);
- protection rights: rights that are essential for safeguarding children and adolescents from all forms of abuse, neglect and exploitation (for example, special care for refugee children and protection against involvement in armed conflict, child labour, sexual exploitation, torture and drug abuse).

Education is viewed both as a human right in itself and an indispensable means of realising other human rights. An educational system that embraces a rights-based approach will be better positioned to fulfil its fundamental mission to secure high-quality education for all.

Article 26 of the Universal Declaration of Human Rights (UDHR) stipulates:

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

9. Author: Felisa Tibbitts (2009). Remarks of Felisa Tibbitts, prepared for the Council of Europe's Evaluation Conference of the European Year of Citizenship through Education, 27-28 April 2006, Sinaia, Romania.

As an extension of some of the ideas first articulated in the UDHR, Article 28 of the CRC defines education as a right and Article 29 comments that education should assist the child in developing her or his “personality, talents and mental and physical abilities to their fullest potential”.¹⁰

Both the CRC and the UDHR recognise that one of the purposes of schooling is to develop respect for human rights and fundamental freedoms. Certainly, to truly understand and promote human rights, one has to live them out in relation to others. This involves not only learning about human rights, but also to live in and through human rights. Thus a human rights-based approach (HRBA) to schooling includes the opportunity to learn about and practise human rights values and framework in the classroom. Schools that are reflective of children’s rights are centred on the human dignity of children.

The right to education is intended to be implemented and enjoyed by all – regardless of ability, race, ethnicity, religion, gender, nationality, sexual preference, class, or any other identifying factor. In addition, such an education – as defined by the CRC – must be structured in a way that respects the dignity and fundamental human rights of students.

A key principle that is central both to human rights and the HRBA is non-discrimination. In the schooling sector the ramifications are manifold, including equal access to quality education with special attention to vulnerable or marginalised groups.

UNESCO’s Child Friendly Schools initiative and HRBAs to schooling want to implement the CRC in and through education. To be able to use an HRBA we need to know more about human rights and child rights, as well as the implications for educational thinking, planning, and evaluation. It forces us to ask questions such as:

- Who is not getting educated? Where are they, and why are they excluded?
- Who should do what to protect, promote and fulfil the right to education?
- Whose capacity, in what, needs to be developed to ensure the right to education?
- Who has to do what to ensure this right and how can partnerships assist in this process?

Principle 1. Express linkages to rights

Questions for us: Are our educational efforts linked expressly to human rights? Do these efforts include the full range of human rights? Do the human rights that are explored in depth have genuine relevance for needs and issues in our communities, or can these connections be made? Are we willing to move beyond our personal “zone of comfort” in linking our work to human rights values?

Principle 2. Accountability

Do those of us who are government representatives or are employed by the state see ourselves as accountable for ensuring education for human rights? In what ways are we accountable? How can children and their guardians ensure such accountability?

Principle 3. Empowerment and participation

Let us think for a moment about those we feel responsible towards in terms of guaranteeing education for human rights. Have we incorporated the ideas of all those who are affected by our policies and activities? Who is absent during our decision-making meetings who has a stake in our conversation? If they are not here, or not involved in conversations back home, how can we bring them to the table? How can we facilitate their points of view on the when, how, who and what of education for democracy and human rights?

10. The right to education is referenced in numerous United Nations and human rights documents including the International Covenant on Economic, Social and Cultural Rights (Article 14) and the Convention on the Rights of the Child (Articles 28 and 29). Other key declarations, general comments and documents have expanded on the right to education, including the World Declaration on Education for All (Articles I, III, IV, VI, VII), the Dakar Framework for Action, and Education for All.

Principle 4. Non-discrimination and attention to vulnerable groups

Finally, and in relation to the last point, who are the groups that are least likely at the present time to benefit from our educational programming, and how can we help to ensure their participation? The very groups that have their human rights denied on a daily basis – the marginalised, the vulnerable, the discriminated against – are the ones who will benefit most from our educational efforts. How can we identify them, reach out to them, and create educational programmes that are genuinely meaningful for them?