



## Part 2: Background information

### 1. Frequently asked questions about the children's rights convention

#### What is it about?

The United Nations Convention on the Rights of the Child is an international treaty on human rights that regulates the rights of young people. It was adopted in 1989 by the General Assembly of the United Nations. The Convention consists of 41 articles on the rights of young people, one article on public awareness and education, and twelve articles on how the Convention is monitored, ratified and put into force. The Convention on the rights of the Child was adopted by more countries than any other international human rights treaty. By December 2008, 193 countries had signed and ratified the Convention.

#### What is a child according to the Convention on the Rights of the Child?

By "child", the UN means all young people under the age of 18 years, unless the age of majority (i.e. the age at which a person is legally recognized as an adult) is attained prior to this. This is noted in the first article of the Convention.

#### How does the Convention work?

The Convention is not a national law. However, the principles of the Convention must be reflected in the national legislation, in the political activity and programs of the various states. Governments must also submit regular reports to the United Nations about their progress in implementing the Convention. This system of reporting puts governments under pressure to really respect the rights of young people.

#### Does the UN Convention on the Rights of the Child really make a difference to our lives?

With the ratification of the Convention on the Rights of the Child, governments obligate themselves to respect the rights of people under 18 years of age, to allow them to participate in decisions that affect them, to secure their survival and to protect them from harm. Article 4 states that governments must advocate our economic, social and cultural rights "to the maximum extent of their available resources". Only if and when we know and understand what is written in the Convention can we work towards upholding it to guarantee that these rights determine how young people are treated.

### 2. Children's rights - part of the human rights process

The Convention on the Rights of the Child is historically the instrument of human rights which has found the greatest acceptance worldwide. It has been ratified by all countries (apart from two), thereby bringing children and their rights closer to the centre of the endeavour to establish a universal implementation of human rights. With the ratification of this instrument, national governments have committed themselves to protecting and ensuring children's rights. At the same time, they have declared themselves willing to hold themselves accountable for this responsibility *vis-à-vis* the international community.

The Convention on the Rights of the Child is based on various different cultural traditions and legal systems. It is a universally recognised collection of non-negotiable obligations and standards. It de-

termines - without any form of discrimination - the fundamental human rights for all children the world over.

- the right to survival
- the right to the development of one's full potential
- the right to protection from abuse, exploitation and harmful substances
- the right to participate fully in family, cultural or social life

Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care, education and legal, civil and social services. These standards are benchmarks against which



progress can be assessed. States that are party to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child.

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights - civil and political rights as well as economic, social and cultural rights. Two optional protocols (on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography) were adopted to strengthen the provisions of the Convention in these areas. They entered into force on 12 February and 18 January 2002 respectively.

The development of modern societies points to another question: The right to liberty supports a development of pluralist societies encouraging a high degree of secularisation and individualised lifestyles. How can these societies maintain a minimum consensus of basic values that are binding for all citizens?

Human rights and children's rights have contributed immensely to making the world a safer and more humane place to live in, and also to modernising the political, economic and cultural systems around the world. However, they must never be taken for granted, and each generation must contribute to their development, negotiate them anew and also fight for them to fulfil the pledge of human rights and children's rights in future.

Human rights, on which children's rights are based, have a long tradition. Forerunners and parallels can be found in great world religions and schools of philosophical thought. Modern human rights were first declared in the Age of Enlightenment, and were a source of inspiration for the American and French revolutions. Today, they form the basic constitutional principles in written and unwritten constitutions of modern democracies. Throughout their history, human rights have been of particular importance to protect the weak against the strong. This is why children's rights are so crucial: minors are among the groups whose legal status *vis-à-vis* the executive powers is weakest.

The human rights process, both revolutionary and evolutionary, has produced successive generations of human rights: the classic rights of liberty, social rights focusing on the value of equality, and - still under discussion - ecological and societal rights addressing issues of development and mutual dependence in an increasingly globalised

world, and, as a further implementation - children's rights.

The process of developing and expanding human rights and children's rights is still - and perhaps always will be - under way: the universal claim of human rights and children's rights have been questioned on numerous occasions, human rights and children's rights are withheld by dictatorships and autocratic regimes around the world, and the dynamic development of modern society and technology poses new questions and challenges. For example, how can the privacy of communication be protected in the era of the Internet?

Human rights have acquired increasing importance as a framework for secular ethics, as codified by the UN Charter and the Council of Europe Convention on Human Rights. They represent the only set of values that stand a chance of being universally accepted by the world community.

Time and again, there are states that misuse their rights of sovereignty under the pretext of protection while violating basic human rights and children's rights of its citizens. It is an open question how human rights and children's rights are to be enforced and protected in a world of sovereign states including democracies and dictatorships. In order to protect peace not only *between* - but also *within* - states, it would seem that further adaptation and development of the UN Charter is indispensable.





Human rights - and the children's rights connected to them - are universal. This is the pledge by which they either stand or fall. They are indivisible, cannot be negotiated, nor reduced to the status of mere political folklore of the Western world.

Human rights are natural rights - they are inalienable. Thus no state authority has the power to grant or withhold human rights, but is instead to recognise and protect them. Human rights imply that the state serves the individual, and not the other way around. They apply to every human, regardless of age, sex, ethnic background, nationality and so forth.

However, human rights also carry responsibilities. For example, an individual's rights of liberty need to be balanced with those of his or her fellow humans: my personal freedom cannot be extended at the expense of others. For example, freedom of expression does not include the right to insult other people. In some countries, the freedom to own property, concerning the ownership of factories or other means of production, is limited by law to control management decisions concerning the job security of employees. It is difficult to find the right balance between ensuring and restricting human rights. Time and again, these questions lead to discussions that have to be settled in political decision making processes and/or in laws that need to be implemented. This also explains why different strains of human rights, as it were, have emerged in democracies around the world.

