

# Chapter 11

## CHILDREN'S RIGHTS

Brian Gran and Rachel Bryant

It is futile to separate children and their rights from society.

—Martin Guggenheim (2005), *What's Wrong with Children's Rights*

### What Are Children's Rights?

What are children's rights? Are they a kind of human rights? In this chapter we deliberate on definitions and conceptualizations of children's rights and legal treaties articulating children's rights. We will examine types of rights, rights on paper, and rights in practice, and then examine what strengthens or hinders children's rights around the world. Finally, we will explore the status of children's rights in the United States.

A variety of definitions shape debates over children's rights. Michael Freeman (2007), a leading expert on children's rights, emphasizes entitlements: that a child's right is an entitlement. Yet what those entitlements are is complicated. Martha Minow (1995) notes that it is possible to

argue that children should have the same entitlements as adults, yet others can argue that children are entitled to “special legal protections” adults do not need. Martin Guggenheim (2005) cautions, however, that the complexity observed by Minow is compounded by failures to acknowledge individualization of children’s rights. As others (e.g., Williams 1987) have argued, rights do not exist in a social vacuum; rights are only relevant in the context of social interactions. This concern especially applies to children, a social group whose members often rely on others, especially adults.

The United Nations takes seriously this notion of social interaction in its definition of children’s rights. For the United Nations, a child is both a human being and a member of society and family. According to the United Nations, children’s rights are established so that a young person can reach his or her “full potential, free from hunger and want, neglect and abuse.” UNICEF’s conceptualization includes that children’s rights are age appropriate. UNICEF goes on to split rights into actions a young person may take, and protections from harm. The Council of Europe takes a similar approach, designating *entitlements to* and *freedoms from*. The African Charter on the Rights and Welfare of the Child (African Committee of Experts on the Rights and Welfare of the Child n.d.) makes clear that children hold a unique place in African societies, confirming Minow’s (1995) idea that children are different.

Important similarities and differences are found among these definitions. While some conceptualizations are of children as passive recipients of rights, other conceptualizations treat young people as active possessors who can act to enforce their rights. Guggenheim’s (2005) reminder that children’s rights are based in social interaction highlights a weakness of rights. Rights have limited utility without social interaction. This problem, further discussed below, especially is relevant to young people’s rights.

## Where Do We Find Children's Rights?

What are sources of ideas of young people's rights? Aristotle, whose concepts form the basis of western government, also contributes to contemporary ideas about family law. In his *Politics* (1885), Aristotle presents a conceptualization of the state and its organization. One component of Aristotle's conception is the family. In Aristotle's family, the father should govern his children as a king should rule his subjects. In turn, his children should expect to be treated as royal subjects. Only if the father does not govern his children as royal subjects can the state, consisting of male citizens, intervene into the father-children relationship. In many ways, Aristotle's conception is similar to family arrangements found in some contemporary societies, including that government will only intervene in the family when a child is improperly governed by parents.

More recent notions of children's rights are found in the work of Save the Children, currently known as the Save the Children International. With roots back to the First World War, the organization first focused on economic injustices and harms children experienced during war. Established in 1920, the International Save the Children Union initially concentrated on children's rights, with one of its founders drafting the first Declaration of the Rights of the Child, also known as the Declaration of Geneva. The League of Nations adopted this declaration in 1924. While the declaration does not use the term *rights*, except in its title, it declares that "mankind" owes duties to young people. The 1924 Geneva Declaration primarily focused on a child's development, relief from distress, protection from exploitation, and the opportunity to learn to serve other people.

The 1959 Declaration of the Rights of the Child clearly built upon the 1924 declaration. Adopted by the UN General Assembly, it notes that children need special care, including legal

protections. It declares 10 principles, which move beyond the 1924 declaration. These principles delineate various rights, such as the right to education and social security, and the right to nationality.

The next major international treaty on children's rights is the UN Convention on the Rights of the Child (UNCRC). While declarations are not binding, ratification of a convention indicates a government's commitment to implementing rights detailed in the treaty. The UNCRC is the most ratified of all human rights treaties. Only the national governments of Somalia and the United States have yet to ratify the convention. Adopted in 1989, with over 50 articles, the convention not only articulates children's rights, but identifies others who are responsible for implementation of children's rights, such as parents, governments, and the United Nations. The UNCRC permits a government to file a reservation to the convention, which indicates a government's unwillingness or inability to implement a specific article.

Since UNCRC adoption, regional authorities have introduced treaties on children's rights. A paramount example is the African Charter on the Rights and Welfare of the Child (African Committee of Experts on the Rights and Welfare of the Child n.d.). Adopted in 1990, the African charter has a parallel format and identifies similar rights to the UNCRC, such as the best interests of the child. Nevertheless, it has important differences, among which are that this charter pertains to African children, it identifies a child's welfare as predominant, and the monitoring committee of the African charter can receive communications from groups and individuals, including children. The UNCRC does not permit such communications.

## **Are Children's Rights Needed?**

The UNCRC (1989) declares, "Childhood is entitled to special care and assistance." Proponents of children's rights include the United Nations, Amnesty International, and nonprofit groups such as Child Watch and the Child Rights Information Network. Groups such as Child Watch focus on issues specifically affecting children, such as education and violence against children. Some experts such as Paulo Sérgio Pinheiro, as well as Peter Newell (2008), contend children are a vulnerable population in need of special protection around the world, with specific regard to violence against children. Children's rights are needed because as a vulnerable population, children are not able to advocate for their own needs and rights. For example, children across the world are recruited into armed forces. Often they are abducted or choose to enlist because they see few alternatives. Girls are at high risk of rape and sexual abuse (Amnesty International 2010).

Another concern for those who advocate for children's rights is empowerment of children. To some degree, children do not possess autonomy to make decisions for themselves. Instead, they rely on adults such as parents, guardians, teachers, or school administrators to make decisions on their behalf. Some advocates call for inclusion of children in decision making, political and otherwise, on issues affecting children.

Some groups, specifically parental rights groups in the United States, contend children's rights are unnecessary. Opponents of children's rights argue that childhood is a time of innocence and children should be protected from the adult world (Parental Rights 2011). They seek to preserve and protect a child-parent relationship in which the "parent knows best" and government should remain outside of the family home. In the United States, opponents of children's rights are concerned about specific articles of the UNCRC, such as Article 14, which articulates the rights

to freedom of thought, conscience, and religion. Opposition has been voiced against Article 19 and General Comment 8, which require protection from all forms of violence, including corporal punishment. This is not an uncommon reservation to have about the UNCRC; in fact, only around 30 states have outlawed corporal punishment in the home, in schools, and in prisons (Global Initiative to End All Corporal Punishment of Children n.d.).

The concept of the “best interests of the child”—which has been part of U.S. law for 100 years—is also challenged (Gran 2008). Parents who oppose children’s rights fear that it challenges their parental authority and that it could allow courts to override their parental decisions. The UNCRC does not give states or the United Nations the authority to police parenting.

Parental rights groups are also concerned that ratification of the treaty would challenge U.S. sovereignty and would overrule federal and state laws. This opposition has proposed a bill, SR 519, to block ratification of the UNCRC in the Senate. These groups are also petitioning for a parental rights amendment. Interestingly, the UNCRC is not a self-executing treaty; specific legislation would need to be enacted to execute the principles in the UNCRC.

## **Types of Children’s Rights**

In his seminal work *Class, Citizenship, and Social Development* T. H. Marshall (1964) defined citizenship as a status indicating an individual is a full member of society. For Marshall, citizenship consisted of three types of rights: civil, political, and social. Civil rights are based in the legal system and enable an individual to speak and think freely, to obtain due process when another person tries to restrict civil rights, and to defend one’s civil rights.

Political rights are rights to participate fully in a political system (Marshall 1964). Key political rights are the right to vote, the right to assemble, and the right to run for political office. Social

rights enable individuals to enjoy a level of socioeconomic well-being. Social rights include the right to an education and the right to social security. According to Marshall, social rights are key to citizenship as a status. Without an education, for instance, individuals will struggle to implement their right to vote.

Marshall's definition of political rights has been extended to include the ability to shape governing institutions through participation in other institutions, such as schools (Gran 2010). In many countries such as the United States, minors are excluded from voting in elections.

However, young people have representation in schools through student councils. In the United Kingdom, young people are represented through the United Kingdom Youth Parliament (UKYP). The UKYP is composed of 600 members ages 11–18 who are elected in annual youth elections throughout the United Kingdom. Any young person aged 11–18 can run for election or vote (UKYP 2011).

Economic rights have been added to Marshall's (1964) conception of citizenship. Economic rights include freedoms from encroachments on individuals' lives and harms to their welfare (Gran 2010; Turner 1993). Key examples of economic rights are freedoms from economic exploitation and hazardous work. Participation rights have been incorporated into discussions of citizenship. Participation rights are rights to participate in decision-making processes and vary depending on the extent to which children share decision-making power with adults (Smith 2007; Thomas 2007).

## **Rights on Paper Versus Rights in Practice**

Children's rights are set out in a variety of treaties, constitutions, and laws. Sometimes rights are articulated as specifically belonging to children. Other times they are available to everyone, and children are not precluded from employing them.

In Norway, Article 2 of the Child Welfare Act stipulates that the Norwegian government will implement the UNCRC (Norwegian Forum on the Rights of the Child n.d.). On the other hand, despite the U.S. government not yet ratifying the UNCRC, some federal laws coincide with the UNCRC. For instance, imprisonment of children with adults is prohibited in Article 37(c) of the UNCRC, which states,

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.

The 1974 Juvenile Justice and Delinquency Prevention Act (JJDPA), a federal law, requires separation in prisons of juveniles from adults by sight and sound. This separation does not apply to juveniles to be tried as adults, an important distinction from the UNCRC.

Rights on paper do not necessarily mean rights work in practice. An important example again is imprisonment of children. A U.S. Department of Justice Bureau of Justice Assessment (2000) report finds that many U.S. states do not comply with the JJDPA law. Some states permit

imprisonment of children with adults for up to six hours, as well as provide exceptions for cleaning of cells and transport of prisoners. While this Department of Justice report is 12 years old, our research indicates that many states continue practices that conflict with the federal law (also see Act 4 n.d.).

Since children's rights in practice are difficult to measure, some scholars use proxies of rights, or indicators. These indicators may focus on structure, process, or outcome.

Structural indicators include the ratification and adoption of legal instruments as well as the existence of basic institutional mechanisms that facilitate human rights. Structural indicators capture commitments or the intent of states in undertaking measures for the implementation of human rights. This is particularly important since while providing an indication on the commitment of the state, structural indicators may also provide relevant benchmarks for holding the state accountable for its acts of commission or omission regarding human rights.

Process indicators include state policy instruments with milestones that cumulate into outcome indicators. Process indicators are more sensitive to changes than outcome indicators and hence are better at capturing progress toward implementation of human rights. Outcome indicators capture attainments, individual or collective, that reflect the status of the realization of a human right. It is a more direct measure of the realization of a human right that is actually experienced by individuals (United Nations International Human Rights Instruments 2008).

For example, when examining safe working conditions, some structural indicators would be the number of international human rights treaties relevant to the right to work ratified by the state, the maximum number of working hours per week allowed by law, and the minimum age for employment by occupation type. A process indicator would be the proportion of employed persons whose salary level is covered under legislation (e.g., minimum wage), and wage setting

procedures involving social partners such as unions. Outcome indicators would be the incidence of accidents at work, the incidence of occupational diseases, and the ratio of women's to men's wages, by sector and by other target groups (United Nations International Human Rights Instruments 2008).

Scholars have introduced innovative measures of children's rights. A new academic society, the International Society for Child Indicators, publishes a journal, *Child Indicators Research*, and holds an international conference. Individual scholars have introduced measures of children's rights. Elizabeth Heger Boyle (University of Minnesota 2010) and her team are constructing "Child Rights National Law Indexes," a systematic approach to defining and measuring national law that promotes children's rights. Brian Gran and his team (Case Western Reserve University 2004a) have developed the Children's Rights Index (CRI). The CRI is an international measure of children's formal rights for over 190 countries. Gran and Rachel Bryant (Case Western Reserve University 2004b) are developing a parallel measure for U.S. states and territories. Despite these contributions, great needs exist in systematically assessing children's rights. Both Boyle's and Gran's projects focus on rights on paper; research on rights in practice at the international level requires attention.

### **What Strengthens and What Hinders Children's Rights?**

Evidence of what factors promote and hinder children's rights is limited. At the international level, the UN Committee on the Rights of the Child has examined implementation of the UNCRC according to national laws. Once a state party ratifies the UNCRC, it is obligated to file an initial report within 2 years, and then every 5 subsequent years. The Committee on the Rights of the Child reviews the reports and issues concluding observations. It is not uncommon for

states parties to be tardy in filing these reports, especially initial reports, which may not be filed until 5 or 10 years after ratification. For example, Albania's initial report was filed in 2005, 13 years after its national government ratified the UNCRC.

In its general comments, which the committee publishes to guide states parties in their implementation of the UNCRC, the committee has focused on the rights to education, to adolescent health, and to be heard, as well as issues facing unaccompanied children and children who have disabilities. General Comment 5, "General measures of implementation of the Convention on the Rights of the Child," identifies steps the committee considers essential to implementation. Systematic evidence on whether these steps have been fulfilled is lacking. The committee calls for different efforts at implementation. The committee wants to see states parties make the UNCRC part of national legislation. The committee wants states parties to establish governmental and independent bodies that will coordinate and monitor children's rights. The committee wants to see states parties undertake data collection, "awareness-raising and training," and establishment of policies, services, and programs that will implement the UNCRC. The authors of this chapter are not aware of systematic research on all components, but are aware of studies, described above, on different aspects of this call from the committee.

Other research indicates the importance of some factors to children's rights advancement. One is economic resources. General Comment 5 does acknowledge challenges states parties face in UNCRC implementation. The committee calls for progressive realization of the UNCRC; that is, states parties should demonstrate that they have implemented the UNCRC "to the maximum extent of their available resources" (para. 7). Another is independent children's rights institutions. Through its General Comment 2, the UN committee calls on states parties to establish independent children's rights institutions—for instance, children's ombudspersons and

children's commissioners. The UN committee asserts that these institutions are essential to implementing and advancing children's rights in each country. Ongoing research conducted by Gran and Alberti 2003; Thomas et al. 2010; and UNICEF Innocenti Research Centre 2011 examines the impacts these independent children's rights institutions have for children's rights. In addition to the work of the UN committee, research on factors critical to implementation of children's rights has tended to focus on specific types of rights, such as freedom from violence. These studies have tackled questions about why young people's right to bodily control depends on where they live. In her book, *Female Genital Cutting*, Elizabeth Heger Boyle (2002) studies why, despite international treaties, national policies vary on the right a young woman possesses to control her body.

### **Children's Rights in the United States: An Ideal Type?**

An important variable to discussions of children's rights in the United States is the U.S. federal system of government. State-level differences in children's rights are significant in the United States. While some federal laws govern children's rights across states, state laws may strengthen, weaken, or even preclude implementation of a children's right. The right may not be addressed in the state law at all, or the state law may implement a weaker right than federal law. As noted above, the Juvenile Justice and Delinquency Prevention Act is a federal law that prevents incarcerating juveniles with adults. Some state laws allow prison administrators to hold juveniles with adults for up to six hours in some situations, or in the same facility as long as they are separated by sight and sound.

Ratification of the UNCRC by the United States does not look especially favorable in the immediate future. The Campaign for U.S. Ratification of the Convention of the Rights of the

Child is a national coalition led by the leadership of the Child Welfare League of America and composed of supporters from over 200 organizations and academic institutions. The campaign has led lobbying and advocacy efforts to ratify the UNCRC since 2003 and has been hopeful that ratification would be on the table during the Obama administration.

The campaign's efforts have sparked opposition from small groups that oppose ratification of the UNCRC because that ratification would endanger national and state sovereignty, undermine parental authority by allowing the UN to dictate how parents raise and teach their children, and enable children the right to do as they please (Gran 2010). While these are misconceptions about the UNCRC, the opposition has nevertheless proposed SR 519, the bill to block ratification of the UNCRC, and a parental rights amendment, which would guarantee parents' supreme authority over their children. These bills in conjunction with the declining approval rating of the Obama administration make ratification unlikely in the immediate future especially since proposing ratification may be a risky political move. If the UNCRC is not ratified during the Obama administration, it is not likely to be ratified in the near future especially if the next administration is conservative.

### **An Overview**

Two views of children's rights seem to predominate. One view sees children as a vulnerable population in need of special protection who deserve a set of specifically articulated human rights to protect them. Advocates of this view point toward children in difficult circumstances such as children in armed conflict, children denied education, street children, and orphans and unaccompanied children.

Another view of children's rights understands children as active, potentially empowered users of rights. This view sees children as members of a social group who can advocate for their own needs and goals. Supporters of this view argue for lowering the voting age, establishing youth parliaments, and giving young people a stronger voice in their educations.

International treaties on children's rights do not choose one view over another. Instead, these treaties, as well as other texts, including general comments published by the UN Committee on the Rights of the Child, seem to accept both views.

As these views are debated all over the world, the importance of social interaction to children's rights becomes clear. No matter the child, rights do not operate in a social vacuum. Rights frequently are important to people in precarious situations. Indeed, rights can be used to change social structures that produce inequality and other harms. Implementing rights not only requires social interaction; rights only matter if people are doing things together.

As a social group, young people living in contemporary societies must often rely on adults to articulate, advance, and implement their rights. How these societies respond to children's rights may indicate their willingness to change social structures that foster growth, or limit the potential, of their young people.

### **Useful Resources and Websites**

Amnesty International: <http://www.amnesty.org/en/children>

Campaign for U.S. Ratification of the Convention on the Rights of the Child:

<http://childrightscampaign.org/>

Child Watch: <http://www.hrw.org/en/category/topic/children's-rights>

Children's Rights Index: <http://www.case.edu/artsci/soci/Gran/childrights.html>

Child Rights Information Network: <http://www.crin.org/>

Global Initiative to End All Corporal Punishment of Children:

[www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)

International Society for Child Indicators: <http://www.childindicators.org/>

Parental Rights: [www.parentalrights.org](http://www.parentalrights.org)

Save the Children: <http://www.savethechildren.net/alliance/index.html>

UNICEF: <http://www.unicefusa.org>

UNICEF Innocenti Research Centre: [www.unicef-irc.org](http://www.unicef-irc.org)

United Kingdom Youth Parliament:

<http://www.ukyouthparliament.org.uk/4655/index.html>

United Nations Documents: [www.un-documents.net](http://www.un-documents.net)

University of Minnesota Human Rights Library, Rights of the Child:

[www1.umn.edu/humanrts/instree/auok.htm](http://www1.umn.edu/humanrts/instree/auok.htm)

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## **Discussion Questions**

1. Since 1924, when the Geneva Declaration of the Rights of the Child was adopted, the conception of the child has changed, and it even has changed since 1989 when the Convention on the Rights of the Child was approved by the General Assembly. Part of this relates to changes in families. For example, there are fewer stay-at-home moms these days, and LGBTQ couples can legally adopt children in many states. There is also evidence that children are more autonomous and independent now compared with, say, 1924. How would you "tweak" the following documents to take these changes into account?
2. Globalization has been accompanied by a dramatic rise in child trafficking and reliance on child soldiers. The following declarations and treaty might not fully reflect contemporary levels of such horrific child abuse. Again, are there any ways you would strengthen the language in any of these documents?
3. Do the language and perspective of these documents reflect the biases of one part of the world over others? For example, are they western?

4. How do these documents balance protection of children and opportunities for children?

## **Geneva Declaration of the Rights of the Child**

Adopted 26 September, 1924, League of Nations

By the present Declaration of the Rights of the Child, commonly known as “Declaration of Geneva,” men and women of all nations, recognizing that mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

1. The child must be given the means requisite for its normal development, both materially and spiritually;
2. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;
3. The child must be the first to receive relief in times of distress;
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation;
5. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

Source: [www.un-documents.net/gdrc1924.htm](http://www.un-documents.net/gdrc1924.htm)

## **Declaration of the Rights of the Child**

*Whereas* 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,

⇒ *Whereas* the United Nations has, in the Universal Declaration of Human Rights, proclaimed 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,

⇒ *Whereas* 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,

⇒ *Whereas* the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

⇒ *Whereas* mankind owes to the child the best it has to give,

⇒ *Now therefore,*

⇒ *The General Assembly*

⇒ *Proclaims* this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles.

Source: [www.un-documents.net/a14r1386.htm](http://www.un-documents.net/a14r1386.htm)

## **Convention on the Rights of the Child**

**General Assembly Resolution 44/25 of 20 November 1989**

**<http://www2.ohchr.org/english/law/crc.htm>**

### **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,

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,”

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 3**

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.

### **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 9**

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.

## **Article 12**

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.

## **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, in the form of art, 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**

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

### **Article 16**

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

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

### **Article 18**

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.

#### **Article 19**

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.

#### **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.

#### **Article 24**

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.

#### **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**

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.

## **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.

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.

## **Article 32**

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.

## **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.

[Part II lays out a system for state party compliance and monitoring of adherence to the treaty.]