

# Children's right to be heard and effective child protection

**A guide for Governments and children's  
rights advocates on involving children and  
young people in ending all forms of violence**

**Carolyn Willow**



**Save the Children**

# Children's right to be heard and effective child protection

A guide for Governments and children rights  
advocates on involving children and young people  
in ending all forms of violence

Carolyn Willow

Save the Children fights for children's rights.  
We deliver immediate and lasting improvements to children's lives worldwide.

Save the Children works for:

- a world which respects and values each child
- a world which listens to children and learns
- a world where all children have hope and opportunity

ISBN: 978-616-90503-0-8

© Save the Children Sweden, 2010

Title: Children's right to be heard and effective child protection. A guide for Governments and children rights advocates on involving children and young people in ending all forms of violence

Project manager: Dominique Pierre Plateau  
Author: Carolyn Willow

Graphic design: Prachya Choompoo, Keen Media

Published by: Save the Children Sweden  
Regional Office for Southeast Asia and the Pacific  
14th Floor, Maneeya Center South Building,  
518/5 Ploenchit Road, Bangkok, 10330, Thailand  
Tel: +662 684 1046-7, Fax: +662 684 1048  
Email: [scs@seap.savethechildren.se](mailto:scs@seap.savethechildren.se)  
Website: <http://seap.savethechildren.se>

Production: Keen Media (Thailand) Co., Ltd  
22nd floor, Ocean Tower II  
75/42 Sukhumvit 19, Bangkok 10110, Thailand

Electronic version available for download at: <http://seap.savethechildren.se>

**I hate being a child. I hate being hit and I hate being taken for granted.  
I have feelings and emotions. I need love, care, protection and attention.**

*Child's testimony to the United Nations Secretary-General's  
Global Study on Violence against Children*



# Contents

<b>Foreword from Marta Santos Pais</b>	<b>vii</b>
<b>Acknowledgements</b>	<b>x</b>
<b>Traditional attitudes – all over the world</b>	<b>1</b>
<b>1. Introduction</b>	<b>5</b>
<b>2. Children’s status, capacities and influence</b>	<b>11</b>
International elevation of childhood	12
Still a long way to go	13
Harmful attitude 1: Children are dependent and cannot therefore qualify for human rights	17
Harmful attitude 2: Children are incomplete human beings	19
Harmful attitude 3: Family privacy is paramount	20
Harmful attitude 4: Parental authority should not be undermined	21
Harmful attitude 5: We must respect our elders	22
Harmful attitude 6: Traditional discipline works	24
Harmful attitude 7: Smacking, slapping and spanking is not violence	25
Harmful attitude 8: Child protection is about ending child abuse	26
<b>3. Human rights and child protection</b>	<b>29</b>
What is child protection?	29
Children at the centre	32
Abuse of power	32
Constraints on children’s right to be heard	34
Listening to children can be painful	36
Children invisible in formal decision-making	38
Silencing young children	39
How much weight should be given to children’s views?	40
Why involve children in violence prevention and protection?	41
Benefits to individual children	46

<b>4. Participation: choices, challenges and changes</b>	<b>49</b>
What <i>is</i> participation exactly?	50
Theme 1: Working within a human rights framework	57
Theme 2: Adult roles and power	71
Theme 3: Achieving lasting change	77
Participation case studies	86
 <b>5. ‘All appropriate measures’: children’s roles in implementing the UN Violence Study recommendations</b>	 <b>99</b>
Overarching recommendation 1: Strengthen national and local commitment and action	100
Overarching recommendation 2: Prohibit all violence against children	106
Overarching recommendation 3: Prioritise prevention	110
Overarching recommendation 4: Promote non-violent values and awareness-raising	118
Overarching recommendation 5: Enhance the capacity of all who work with and for children	125
Overarching recommendation 6: Provide recovery and social reintegration services	127
Overarching recommendation 8: Create accessible and child-friendly reporting systems and services	133
Overarching recommendation 9: Ensure accountability and impunity	141
Overarching recommendation 10: Address the gender dimension of violence against children	144
Overarching recommendation 11: Develop and implement systematic national data collection and research	146
Overarching recommendation 12: Strengthen international commitment	149
 <b>6. In conclusion</b>	 <b>153</b>
 <b>Annex: Relevant parts of international human rights instruments</b>	 <b>159</b>
 <b>References</b>	 <b>173</b>

# Foreword

Children's right to be heard and to be taken seriously is a crucial and also visionary provision of the Convention on the Rights of the Child. It has helped to see childhood through a new lens and gain a renewed understanding of citizenship and democracy. Differently from before, children can no longer be perceived as passive recipients of care and protection, or accidental beneficiaries of policy decisions; they cannot be envisaged as not yet persons or adults in the making. As the international community commemorates the twentieth anniversary of the Convention and takes stock of the experience gained over the past several years of its implementation, children's participation in decision-making stands as a critical dimension of this significant process of change.

The past 20 years have helped realise that child participation has a concrete meaning, it is relevant in all regions, in all settings and at all ages; and when pursued strategically, it can lead to positive change and tangible results – in times of peace, as well as in conflict related contexts. With the lessons learnt from so many significant initiatives promoted in this area, child participation can be meaningful, rather than tokenistic; relevant, rather than symbolic; genuine, rather than manipulative.

The development of the United Nations Study on Violence against Children stands as a very convincing illustration of how successful UN initiatives can become once they tap on the unique potential of young people.

The Study was the first UN official document to be developed with the collaboration of children and young people. Children participated actively in national, regional and international consultations, they contributed to the development of key advocacy messages, and they influenced the context of the report and the shaping of its recommendations.

To make the Study better known, and to promote the use of its key messages by young people, child friendly materials on the protection of children from all forms of violence were developed and widely disseminated. With clear and accessible messages, these materials have become equally useful for professionals working with and for children, and supportive of social mobilisation initiatives.



The UN Study itself was issued in a child friendly version. This version has been translated in a number of languages and, in some countries, is used in the education system as an innovative tool for the promotion of human rights education within the school curriculum.

Child participation was an essential component of the Study development and it constitutes one of its overarching recommendations; but it remains, in addition, a core and cross cutting dimension of the process of follow-up.

The Study calls on member states to 'actively engage with children and respect their views in all aspects of prevention, response and monitoring of violence against them'. Indeed, child participation is critical for the development of any child sensitive national strategy designed to prevent violence and ensure children's protection, recovery and reintegration. Child participation helps to widen the outreach of advocacy and awareness raising initiatives, and empowers children to gain confidence and trust and promote peer education towards violence elimination. Children's perspectives and experiences help to support efforts to consolidate effective child protection systems and uphold a culture of respect for children's rights in society. Children's views and recommendations enrich the design of policies and the enactment of legislation.

Joining hands with young people and listening to their views and experiences also provides a better understanding of the hidden face of violence and, more importantly, to become better equipped to prevent its occurrence, to develop child sensitive counselling, recovery and long lasting reintegration strategies, and to monitor progress and impact. Children express a strong sense of impatience when they voice their deep concern at the very high levels of violence affecting their lives and question the insufficient steps taken to address it. When they speak on behalf of the many victims who remain invisible in their experience of violence, stigma and exclusion; the many children who lose trust and hope, when abused in settings designed to protect them; the many who fear reporting and reprisals, and those who dare to speak up and yet see their suffering forgotten in a pact of silence, they ignite us with a call for urgent action.

This is why partnering with children as agents of change will remain a cornerstone of my agenda as Special Representative of the Secretary General on Violence against Children.

Protecting children from violence is a human rights imperative and needs to be envisaged in the framework of the implementation of the Convention on the Rights of the Child and other international human rights standards. This firm normative

foundation helps assess how genuine is the national commitment to respect the human dignity of the child at all times; to address risk factors that compromise children's development and citizenship; to invest in the social inclusion of the most vulnerable; and to promote actions that build upon children's best interests, perspectives and experiences.

These human rights standards create, in addition, a strategic opportunity to mainstream the protection of children from violence as a core component of the national policy agenda, helping to avoid fragmented, diluted or simply reactive solutions, and promoting progress informed by good practices and significant initiatives that have helped to achieve change in national implementation processes.

This publication strongly promotes children's engagement in all aspects of the implementation of the UN Study recommendations. It is an important tool for children's rights defenders and decision makers and constitutes a valuable contribution to the protection of children from all forms of violence.

Marta Santos Pais

Special Representative of the United Nations Secretary-General  
on Violence against Children

# Acknowledgements

Many people have contributed to this publication.

I am very grateful to everyone who participated in the regional workshop on 'Involving children in violence prevention and protection' in Bangkok in March 2009. Elinor Milne took more workshop notes than she was expecting on account of my fractured wrist – much appreciated.

Several people gave detailed comments on earlier drafts: thank you to the young children's rights advocates working with Kids Link Fiji and Junya Tanaka, Mai Namiki, Peter Newell, Phillip Noyes, Sharon Owen, Shige Tazawa and Tom Burke. I hope you can see your feedback and suggestions reflected in the pages that follow.

Dominique Pierre Plateau had the idea for this book and has been a perfect project manager – providing ideas and information, offering critical insights and being constantly encouraging. I have especially enjoyed working within our different time zones: ideal conditions for sending late night emails!

# Traditional attitudes – all over the world

It is often said that particular regions in the world find it more difficult to implement the child's right to be heard. Traditional attitudes are defended vigorously and people and places are resistant to change. Yet an examination of State Party reports to the Committee on the Rights of the Child, together with the Committee's concluding observations, shows common challenges and universal issues.

Match the statements below with the countries listed. Either the Committee on the Rights of the Child or a government made each statement. They were all made from 2004 onwards. Answers are on page 4.

AUSTRALIA  
KAZAKHSTAN  
SAMOA

CHINA  
MALAWI  
SWEDEN

ECUADOR  
NORWAY  
TIMOR LESTE

ETHIOPIA  
PHILIPPINES  
UNITED KINGDOM

The Committee notes with appreciation the plan to decentralize the National Child Parliament to District Assembly level ... However, the Committee remains concerned that traditional and societal attitudes appear to limit children in freely expressing their views in schools, communities and within the family.<sup>i</sup>

**COUNTRY:**

Beyond all these spaces and opportunities for child participation already in place, there is still the deeper challenge of challenging and changing society's values, attitudes and norms which still tend to promote conformity and therefore discourage independent and critical thinking and decision-making which are so essential in the functioning of a truly participative and democratic society. This is where massive awareness-raising on the meaning and implications of Article 12 of the CRC becomes urgent and important.<sup>ii</sup>

**COUNTRY:**

The Committee notes that the principle of the respect for the views of the child is secured in the Constitution and in some legislation and that the State party considers abolishing the law setting the age-limit for a child to express his/her views at 10 years. The Committee is concerned that traditional practices and cultural attitudes might limit the full implementation of article 12 of the Convention.<sup>iii</sup>

**COUNTRY:**

Many of the young people who took part in the project find that young people are wrongly represented in the media – often as “louts”. The stupid things young people do receive far more media attention than the good things. They also call for the media to allow children and young people to state their views more often on matters that concern them.<sup>iv</sup>

**COUNTRY:**

While noting with appreciation the efforts made by the State party to implement the principle of respect for the views of the child, the Committee is concerned that traditional societal attitudes appear to limit children’s right to freedom of expression in schools, courts or within the family.<sup>v</sup>

**COUNTRY:**

The Committee notes the efforts of the State party to implement fully article 12 of the Convention, but is concerned that the views of the child are not always sufficiently taken into account in judicial and administrative proceedings affecting the child. Furthermore, while the Committee notes the existence of the National Youth Roundtable, it expresses concern that participation by children in the Roundtable is limited in practice (the average age of participants in 2004 was 20) and that it does not always balance geographically.<sup>vi</sup>

**COUNTRY:**

The Committee is also concerned at the general climate of intolerance and negative public attitudes towards children, especially adolescents, which appears to exist in the State party, including in the media, and may be often the underlying cause of further infringements of their rights.<sup>vii</sup>

**COUNTRY:**

While noting with appreciation the efforts made by the State party to implement the principle of respect for the views of the child, such as the child forum, the Committee remains concerned that traditional societal attitudes appear to limit children in freely expressing their views in the community, the schools, the courts, or within the family.<sup>viii</sup>

**COUNTRY:**

The Committee notes the implementation of regular Children's Forum[s] ... and that schools, communities, churches and other organisations provide some opportunities for children to participate and express their views. It is nevertheless concerned at the fact that traditional attitudes may limit children's rights to freely express their views within the family, in schools and in the community.<sup>ix</sup>

**COUNTRY:**

While welcoming measures taken to increase the right of the child to be heard, the Committee is concerned that regional disparities and inadequacies remain regarding active participation of children within schools, institutions and the social child and youth care services. The Committee also remains concerned that some children do not feel that they have any real influence in matters concerning their life in society.<sup>x</sup>

**COUNTRY:**

The Committee notes with concern that in [name of country] children are not able to file complaints in court or be consulted directly by the courts without parental consent, except in the case of children 16 years or older who earn their own livelihood. It regrets the limited amount of information provided on the representation of students in schools and how their views are taken into account.<sup>xi</sup>

**COUNTRY:**

The concept of respect for the views of the child does not appear to be well understood or used during judicial proceedings and it appears that the views of the child are rarely sought in establishing what may be in its best interests when making decisions relevant to it.<sup>xii</sup>

**COUNTRY:**

- i Committee on the Rights of the Child's concluding observations on Malawi, March 2009, paragraph 34
- ii Philippines State Party Report, 2008, page 39, paragraph 99
- iii Committee on the Rights of the Child's concluding observations on Kazakhstan, June 2007, paragraph 30
- iv Norway State Party Report, 2004, page 39, paragraph 237
- v Committee on the Rights of the Child's concluding observations on Ecuador, September 2005, paragraph 33
- vi Committee on the Rights of the Child's concluding observations on Australia, October 2005, paragraph 29
- vii Committee on the Rights of the Child's concluding observations on the UK, October 2008, paragraph 24
- viii Committee on the Rights of the Child's concluding observations on Ethiopia, November 2006, paragraph 29
- ix Committee on the Rights of the Child's concluding observations on Samoa, October 2006, paragraph 33
- x Committee on the Rights of the Child's concluding observations on Sweden, June 2009, paragraph 29
- xi Committee on the Rights of the Child's concluding observations on China, November 2005, paragraph 37
- xii Timor Leste State Party Report, 2008, page 17, paragraph 39

# Introduction

*The involvement of children and young people in the Study has been fundamental and highly influential. I must confess that at the beginning of the process, I was not convinced that it would be possible to effectively involve children in this sort of UN and therefore quite bureaucratic process ... I have been fully converted.*

**Professor Paulo Sérgio Pinheiro, 2005**

Children's candid and graphic accounts of violence inflicted on them in every part of the world and in every setting had a major influence on the United Nations Study on Violence against Children ('the UN Violence Study'). Their testimonies show enormous bravery, wisdom and empathy. Of the children whose stories were told to Professor Pinheiro, the independent expert appointed to lead the UN Violence Study, the majority received little or no official assistance or protection. Many tried to help other children in similar circumstances, sometimes further endangering their own lives. We should not, therefore, begin this journey with the attitude of 'what can we do for children' as if they are all waiting for us, arms outstretched, to rescue them. Certain groups of children will be completely dependent upon adults to notice their suffering and to take action on their behalf – babies and some disabled children fall into this category. However, those children that do not die from violence – between 50,000 and 60,000 children worldwide are killed within their own families each year<sup>1</sup> – are likely to have views about the violence, the people that hurt them, and how their rights might be better protected. They will have important information to share about improving the protection of other children. No child should have to endure any form of violence, and in this respect human resilience cannot be celebrated easily. Furthermore, the scale of degradation and inhumane treatment against the world's youngest and smallest people demands urgent action. But what we do to end violence against children must be consistent with their fundamental rights to human dignity, physical integrity and self-respect. Some years ago a child in institutional care in Sri Lanka asked '*Does protection mean keeping us caged? This is a mental pain for us*' (Bilson and Cox, 2005, page 8). A human rights approach to child

---

<sup>1</sup> The World Health Organisation estimates that nearly 53,000 children died as a result of homicide in 2002; and 57,000 children died from violence in 2000.



protection acknowledges and nurtures the dignity of children; it is positive about their capacities and guards their freedom. It puts children's views and experiences at the heart of all actions.

The experience of being hit, humiliated, threatened, beaten and raped has at its core the denial of a person's human dignity and physical integrity; these are '*supreme acts of disrespect*' against children (Beazley et al, 2006, page 196). Being respected and having the right to free expression and genuine opportunities to influence and make decisions are powerful antidotes to violence against children. Notions that the child is unworthy and a legitimate receptacle for adult rage, distorted thinking and abuse of power are firmly rejected: the child is a person whose body and mind belong to no one else. For too long child protection has been concerned with rescuing and repairing the physical bodies of children and not enough attention has been paid to their inner feelings, thoughts and views: human rights protect the integrity and potential of the whole person.

Professor Pinheiro was appointed in February 2003 to lead the UN Violence Study. This was 55 years after the adoption of the Universal Declaration of Human Rights and nearly 14 years after the UN had agreed the Convention on the Rights of the Child. The Committee on the Rights of the Child had, by then, issued guidance on promoting and protecting children's rights in a range of circumstances ('general comments') and it had scrutinised the actions taken to implement the Convention in 161 separate States. Two world conferences on children had been held, both stressing the centrality of the Convention on the Rights of the Child in improving the status and well-being of children across every continent. Many countries had already made significant progress in reviewing and modernising laws, policy and practice, seeking to make them fit for an era where children have the right in international law to be acknowledged and taken seriously as people and to be fully protected from all forms of violence, including corporal punishment and other cruel or degrading forms of punishment. Despite the increased focus on children's rights by many governments and non-governmental organisations (NGOs), and the growing attention given to children's participation in a multitude of arenas, Professor Pinheiro found violence against children to be '*a very substantial and serious global problem [which occurs] in every country in the world in a variety of forms and settings and is often deeply rooted in cultural, economic, and social practices*' (2006a, page 6). Far from being a newly respected group in society, or the chief beneficiaries of human rights programmes and advocacy, the UN Violence Study concluded that '*children in almost all States are still waiting for full recognition of respect for their human dignity and physical integrity, and for adequate investment in actions to prevent all forms of violence against them*' (ibid, page 5). Professor Pinheiro found little evidence of the paradigm shift in the treatment of children that so many had

hoped for – both within and outside government – when the UN granted children their own comprehensive human rights treaty in 1989.

The UN Violence Study used the framework of the Convention on the Rights of the Child in its definitions of children and of violence, but also in the way information was sought, gathered and presented. Professor Pinheiro explained in his report for the UN Secretary-General (2006b, page 5, paragraph 4):

*[This is] the first global study to engage directly and consistently with children. Children have participated in all regional consultations held in connection with the Study, eloquently describing both the violence they experience and their proposals for ending it.*

The Committee on the Rights of the Child set the stage for children's active engagement in the UN Violence Study. Child activists participated in its day of general discussion on violence against children in 2001. Following the event, Jaap Doek, the then Chair of the Committee wrote to the UN Secretary-General requesting a world study on violence against children. He hoped the study would be of equal stature to Graça Machel's 1994-1996 study on the impact of armed conflict on children.<sup>2</sup> The Committee's report from its discussion day stressed that *'the critical starting point and frame of reference [should] be the experience of children themselves. Therefore, children and young people must be meaningfully involved in promoting and strategizing action on violence against children'* (2001a, paragraph 704).

## Purpose of publication

In November 2009, commemorating the twentieth anniversary of the Convention, 139 UN member states sponsored a children's rights resolution that called for, among other things, *'the institutionalization of children's participation'* and action to *'address all the root causes impeding children from exercising their right to be heard and to be consulted on matters affecting them'* (UN General Assembly Third Committee, 2009, pages 8-9, paragraphs 29 and 33k). Nearly a third of the document focuses on the child's right to be heard: this powerfully demonstrates the centrality of children's voices and influence in the implementation of children's rights. Yet the resolution pessimistically concludes that, *'despite the recognition of children as rights holders entitled to be heard on all matters affecting them, children are seldom seriously consulted and involved in such matters owing to a variety of*

<sup>2</sup> Recommendation 7 of the Committee on the Rights of the Child's report from its 2001 day of general discussion on violence against children proposed: *'... that the Secretary-General be requested, through the General Assembly, to conduct an in-depth international study on violence against children. The study should be as thorough and influential as the report of the expert of the Secretary-General, Mrs. Graça Machel, on the impact of armed conflict on children...'*

From a human rights perspective, child protection is the mobilisation of laws, policies and interventions to ensure the maximum realisation of children's rights – for all children in all settings. While the enjoyment – or violation – of particular human rights has a direct and immediate impact on the child's survival and dignity, all of the rights in the Convention affect children's well being and positive development.

*constraints and impediments and that the full implementation of this right in many parts of the world has yet to be fully realised'* (ibid, page 8, paragraph 31).

This publication aims to rejuvenate the commitment and focus of governments and NGOs towards achieving the full implementation of the Convention on the Rights of the Child. It argues that respect for – and implementation of – the child's right to be heard must underpin everything we do to improve children's lives, because it is this right that categorically defines children as individual people with wishes, feelings and views. Not having the right to be heard is to be in a state of servitude. In adopting the broad agenda of the Convention, this publication warns against associating child protection *only* with interventions that aim to shield children from certain types or levels of violence and mistreatment in particular settings. Twenty years ago, the Convention set out the comprehensive framework for ensuring the dignity and worth of every child, and the Committee on the Rights of the Child has consistently stressed the indivisibility and inter-connectedness of the treaty's 40+ substantive rights. Indeed, many of the Committee's recommendations relating to the 'general measures' governments must take to implement the Convention are present in Professor Pinheiro's report.

From a human rights perspective, child protection is the mobilisation of laws, policies and interventions to ensure the maximum realisation of children's rights – for all children in all settings. While the enjoyment – or violation – of particular human rights has a direct and immediate impact on the child's survival and dignity, all of the rights in the Convention affect children's well being and positive development.

Ending violence against children and ensuring children's right to be heard and taken seriously are strongly related because both depend upon perceiving and respecting children as people and holders of fundamental human rights. A child who is subject to violence is not a respected child (at least not in that moment, but perhaps also not generally). Governments who refuse to give children the same protection from violence as adults are rejecting the very basis of the Universal Declaration of Human Rights – *the recognition of inherent dignity and of the equal and inalienable rights of all members of the human family*. Coherent and systematic approaches to children's rights address all parts of the Convention, embracing its progressive human rights-based vision of children and childhood as well as its detailed legal obligations.

Guidance and practical examples are offered throughout this document to show the varied roles children can play in implementing the overarching recommendations of the UN Violence Study. Article 12 of the Convention on the Rights of the Child gives children the right to express their views freely and to have influence on matters affecting them as individuals – in the family, in educational settings, in their local communities and whenever they are the subject of judicial or administrative proceedings. In addition, children have the right to influence public decision-making and spaces that affect them collectively – including the review and formulation of legislation and policies; the development of interventions, services and programmes; workplace rules and treatment; the portrayal of children in the media; and the design, undertaking and dissemination of research. The right to collectively organise, particularly as workers, is well established in international law for adults as well as children and the Committee on the Rights of the Child increasingly encourages States to support the formation and sustainability of children’s own groups and organisations. Building on the Committee on the Rights of the Child’s keenly awaited General Comment on the child’s right to be heard (2009a), the publication considers different conceptions and practical approaches to participation, as well as the choices and challenges facing adults engaged in (or preparing to be engaged in) the implementation of children’s rights.

## Scope and terminology

The focus of this book is ending violence against children. As Professor Pinheiro’s report shows, the task is to transform adult attitudes towards children; to reject all forms of violence against children; to acknowledge and appropriately respond to children’s feelings, views and experiences; and to take all appropriate measures to fully implement the Convention on the Rights of the Child and other international law. This book does not directly consider violence between children, which would have distracted from the strong focus on changing adult attitudes and behaviour. Such a topic requires a book itself. Relationships, environments and institutions founded on fear, intimidation and humiliation necessarily affect the relationships children have with each other. If we want children to reject and resist violence, we adults must show it can be done.

**Child** is used throughout this publication to refer to a person under the age of 18 years. This is the UN definition of a child.

The definition of **violence** is that used by the UN Violence Study: from Article 19 of the Convention on the Rights of the Child and the World Health Organisation (WHO).

**WHO definition of violence, 2002**

... the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child's health, survival, development or dignity.

**Article 19 of the Convention on the Rights of the Child, 1989**

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.

# Children's status, capacities and influence

# 2

*While the term “minor” is used as a technical term in law, it has a pejorative connotation when used in a social context, as it implies something incapable, small or of little importance.*

**Ecuador Government explaining why it replaced ‘minor’ with ‘child’ in its Children and Youth Code, 2004<sup>3</sup>**

## IN SUMMARY

---

This chapter explores the changing status of children and childhood. It contrasts the dominant attitudes of the pre-Convention era with beliefs informed by human rights principles and provisions: instead of being empty vessels or passive victims, children are increasingly respected as complete human beings who are actively constructing their own lives and influencing others. Too often governments and children's rights advocates launch themselves into participation projects and initiatives without ever considering why children are so marginalised and silenced to begin with. Children are the only group of people the UN has granted a wide-ranging right to be heard. Why? The broad political and philosophical debates in the pages ahead are preparation for later chapters that focus on the practical arrangements for children's effective participation in violence prevention and protection.

---

A third of the world's population is aged under 18: children are a constant and natural part of families, schools, workplaces, communities and wider society. In China, which has the world's largest number of children (352.7 million), almost 27 percent of the population is aged under 18. Children comprise nearly 50 percent of the population of Papua New Guinea, the Solomon Islands and Timor Leste.<sup>4</sup> But being present in large numbers is no guarantee of high status, good treatment or positive influence.

---

<sup>3</sup> Taken from Ecuador's State Party report to the Committee on the Rights of the Child, 2004.

<sup>4</sup> All population figures are taken from Coalition to Stop the Use of Child Soldiers (2008).

Children are the defining constituents of some social groupings – a school without children is unlikely; and it is difficult to imagine a family devoid of any children. Indeed, a social attitudes survey in Australia found that people's perceptions of what makes a family were governed by the presence of children, including in same sex couples (Evans and Gray, 2005). Disasters involving children feel particularly shattering – because of the impact on children themselves, but also the effects on the wider community. Aberfan, a small village in South Wales in the United Kingdom, suffered the loss of 116 children in a single day in 1966 as a result of a preventable coal-mining landslide: it then became known as “the village that lost its children”. The Indian Ocean Tsunami and other disasters have claimed innumerable young lives and it is often amid these horrific times that the significance of children – to parents, siblings, extended families, communities and wider society – shows itself most powerfully. The former executive director of UNICEF recounts her experience of visiting areas of Sri Lanka shortly after the 2004 Tsunami (Bellamy, 2005):

*One of the most haunting sights I witnessed was in the southeast of the country, where I met adults who were standing vigil on the beach in the narrow hope that the bodies of their children might wash ashore.*

## International elevation of childhood

The 1959 UN Declaration on the Rights of the Child stressed ‘*mankind owes to the child the best it has to give*’ and in a world conference held in Moscow to celebrate the document 20 years later, the Director-General of UNESCO<sup>5</sup> described children as the ‘better part’ of the human race (M’Bow, 1979, page 1). In that same year, as part of its celebrations of the 1979 International Year of the Child, the Vietnamese Government proclaimed: ‘*Children are the source of happiness to the family, the future of the country, those who will continue the work of our ancestors*’ (cited in Ennew and Plateau, 2005, page 61).

Article 77 of Protocol I to the Geneva Conventions,<sup>6</sup> adopted in June 1977, proclaims children as ‘*the object of special respect [who] shall be protected against any form of indecent assault*’. States must ‘*provide [children] with the care and aid they require, whether because of their age or for any other reason*’. A second Protocol, also adopted in June 1977, requires in Article 4(3) that children ‘*be provided with the care and aid they require*’, particularly education, family reunion and, where necessary, movement to a safer place within the country ‘*accompanied by persons responsible for their safety and well-being*’.

---

<sup>5</sup> The UN Educational, Scientific and Cultural Organisation.

<sup>6</sup> The four Geneva Conventions and their Protocols comprise international law relating to armed conflict.

The Convention on the Rights of the Child, adopted by the UN in November 1989, unambiguously confirmed children as rights holders and consolidated their international status. At the first global summit on children, held in 1990, world leaders gave their *'solemn commitment to give high priority to the rights of children'* and agreed: *'There can be no task nobler than giving every child a better future'* (UN, 1990, paragraphs 19 and 25).

The Vienna Declaration and Programme of Action, adopted in June 1993, states: *'the rights of the child should be a priority in the United Nations system-wide action on human rights'*. The 1996 UN conference on Human Settlements (Habitat II) pronounced: *'the well-being of children is a critical indicator of a healthy society'* (UN, 1996, paragraph 51).

Children's rights are considered throughout the UN General Assembly's 2005 World Summit outcome document as well as in two discrete paragraphs (2005, paragraphs 141 and 142). The Human Rights Council pledged in March 2008 to hold at least one full-day meeting on children's rights each year and condemned the *'horrific scale and impact of all forms of violence against children'* (paragraphs 7 and 14).

The pervading sentiment is that children have a special place in human consciousness, history and development, and they are entitled to the best of treatment. As the global submission to the UN Violence Study from the International Save the Children Alliance sums up (2005, page 42):

*Wherever you are in this world you will be told by policy makers, politicians, parliamentarians, the parents and randomly picked citizens that children are our future and that they deserve the best we have.*

### Still a long way to go

The "special place" adults often ascribe to childhood is not borne out by children's actual lives, as the UN Violence Study testifies. Even within the institutions of the family and school – where children are ever-present and supposedly the main beneficiaries – we have a very long way to go before all of their rights are realised.

Peter Newell has described the *'capacity of adults for hypocrisy and double standards'* (2009) in how we condemn violence against children but cling to special legal loopholes that allow us to hit children supposedly for their own good. Rejecting this hypocrisy is the starting point for ending violence against children: just as fine global declarations do not make decent childhoods, strategies to end violence against



children which accept some form of hitting and hurting fail to accord children the respect and protection to which they are entitled. Newell explains (ibid):

*No state can pretend it has an effective child protection system while its law still authorises violence.*

The majority of children in Southeast Asia and the Pacific do not enjoy full legal protection from all forms of violence, especially in the home and alternative care settings (Owen, 2009, page 14). This is because, in the vast majority of States, laws protecting the mental and physical integrity of human beings have been diluted for children. This is an international scandal, not confined to any particular region. The Global Initiative to End All Corporal Punishment of Children reports that the English common law defence of "reasonable chastisement" exists in over 70 countries worldwide, thus allowing parents, teachers and others to use corporal punishment and other cruel or degrading forms of punishment on children. The Criminal Codes in Singapore and Malaysia provide an extraordinarily wide defence for parents and others acting in lawful charge of children aged 12 and under: this is available for everything up to causing the death of the child. Newell explains: *'In other words, as long as you think you are benefiting the child, it is not a criminal offence to beat them right up to the point of killing them'* (Owen, 2009, page 8).

The Global Initiative to End All Corporal Punishment of Children advises: *'if the law does not clearly say that corporal punishment is prohibited, then it almost certainly is not'* (ibid, page 18). Of the 35 states in the region, only one – New Zealand – has prohibited corporal punishment in all settings.

**Box 1: The prohibition of corporal punishment in different settings in South East Asia and the Pacific, August 2009<sup>7</sup>**

Legal position	Number of countries	% of countries
Corporal punishment is prohibited as a penal sentence	25	76%
Corporal punishment is prohibited as a penal disciplinary measure	17	52%
Corporal punishment is prohibited in schools	15	45%
Corporal punishment is prohibited in alternative care	1	3%
Corporal punishment is prohibited in the home	1	3%

<sup>7</sup> Information supplied by the Global Initiative to End All Corporal Punishment of Children.

On 16 May 2007, the law allowing parents in New Zealand to use reasonable force to correct their children was overturned by 113 Members of Parliament (only 8 opposed the reform). In this single legislative change, which came into force on 21 June 2007, more than one million children – one in four of the total population – gained substantial new protection from inter-personal violence. The process for law reform in that country, like elsewhere, was not easy and the milestones can be traced back to the 1960s, when some parents running playcentres challenged the punitive treatment of children (Wood et al, 2008, page 33). Police had to investigate death threats issued to Sue Bradford, the Member of Parliament leading the Parliamentary campaign. Even after the law was changed, a non-binding referendum was held to test the (adult) public's opinion. Responding to concerns about parents being inappropriately criminalised, the Prime Minister established a review of police and child welfare procedures though positively stated there would be no return to unequal protection for children: *'As I have said repeatedly I believe the law is working'* (Key, 2009).

If States' obligations in international law to end violence against children *'are far from being fulfilled'* (Pinheiro, 2006a, paragraph 91), a more positive global picture possibly emerges with the implementation of children's right to be heard. The Committee on the Rights of the Child's General Comment on Article 12 of the Convention refers to *'considerable progress [in] the development of legislation, policies and methodologies'* (2009a, page 3, paragraph 3). Despite this optimistic overview, the Committee highlights the many obstacles to progress (ibid, pages 3-4, paragraph 4):

*... in most societies around the world, implementation of the child's right [to be heard] continues to be impeded by many long-standing practices and attitudes, as well as political and economic barriers.*

So what's getting in the way? Why are so many children's rights being violated and why are children still kept to the margins of so much decision-making? The following section explores eight sets of dominant ideas and attitudes that are used consistently to deny children's right to protection from all forms of violence and their right to be heard.

Not everyone sets out to deliberately deny children their rights. Indeed, this is part of the problem: so many ideas and attitudes are protected passively. We do not question, challenge or seek to change beliefs we have grown up with because we have internalised them. They have become our own. But the Convention demands new ways of thinking about children and adults. If we are working with (or for) children, we are required to actively confront and change belief systems that contradict the Convention's principles and provisions.

The Convention demands new ways of thinking about children and adults. If we are working with (or for) children, we are required to actively confront and change belief systems that contradict the Convention's principles and provisions.

## Box 2: Convention on the Rights of the Child and changing attitudes towards children and childhood

Pre-Convention ideas	Post-Convention ideas
Children are dependent and cannot therefore qualify for human rights	<ul style="list-style-type: none"> <li>• Being human is the only legitimate qualification for holding human rights</li> <li>• Children acquire capacities at different times and in accordance with social expectations and norms</li> <li>• Adults often underestimate the capacities of children</li> <li>• Dwindling capacities and lack of autonomy do not automatically disqualify adults from holding rights</li> </ul>
Children are incomplete human beings	<ul style="list-style-type: none"> <li>• The human life span can no longer be seen as a neat divide between change (childhood) and stability (adulthood)</li> <li>• Children's differing needs require more human rights protection, not less</li> <li>• Everyone personally and directly benefits from children's rights</li> </ul>
Family privacy is paramount	<ul style="list-style-type: none"> <li>• The State is duty-bound to protect the rights of everyone – including children in families</li> <li>• The family has privileged status: as part of this, parents have particular responsibilities to promote and protect children's rights</li> </ul>
Parental authority should not be undermined	<ul style="list-style-type: none"> <li>• Many adults require State assistance to carry out their parental role</li> <li>• Human rights set broad minimum standards for living in society with others</li> <li>• Parents must discharge their responsibilities towards children in ways that are conducive to their human rights</li> </ul>
We must respect our elders	<ul style="list-style-type: none"> <li>• Mutual respect is the foundation of all human rights</li> <li>• Forced respect relies on notions of superiority and inferiority: this puts children at risk</li> <li>• Forced respect teaches children to be inauthentic</li> </ul>
Traditional child discipline works	<ul style="list-style-type: none"> <li>• Controlling and overpowering children is not a legitimate approach to parenting or education</li> <li>• We can assist children to deal with strong emotion and conflict in positive ways</li> <li>• Violent discipline has been rejected for other groups of people in society</li> <li>• Research and our daily experiences show the harm caused by violent discipline</li> <li>• Non-violent parenting is happening in every community and every continent: it is achievable</li> </ul>

Pre-Convention ideas	Post-Convention ideas
Smacking, slapping and spanking are not violence	<ul style="list-style-type: none"> <li>• This is a denial of our own painful experiences in childhood, and children's present suffering</li> <li>• Young children are clear: smacking is violence and it hurts</li> <li>• It is not for adults to decide what is and is not violence, just as men are not allowed to define violence against women</li> </ul>
Child protection is about ending child abuse	<ul style="list-style-type: none"> <li>• States are required to prevent and respond to all forms of violence against children</li> <li>• No violence against children is justifiable</li> <li>• We can learn from the women's movement which has an all-embracing approach to ending gender-based violence</li> </ul>

## Harmful attitude 1: Children are dependent and cannot therefore qualify for human rights

Autonomy is very important concept in human rights. It is commonly used to describe the free thoughts and actions of rational beings. The word itself does not appear in the Universal Declaration of Human Rights (UDHR), though there are 30 separate references to 'free' or 'freedom'. 'Individual autonomy including the freedom to make one's own choices' is one of eight general principles of the newest UN treaty – the Convention on the Rights of Persons with Disabilities – which protects children as well as adults. This is not to say that human rights construct the ideal state of men, women and children as separate unconnected individuals. Article 29 of the UDHR asserts: *'Everyone has duties to the community in which alone the free and full development of his personality is possible.'* The preamble to the Convention on the Rights of the Child requires that children *'be fully prepared to live an individual life in society and brought up in the spirit and ideals [of the] Charter of the United Nations and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.'*

Many believe that children cannot act independently and therefore cannot exercise civil rights – in populist terms, they are not to be trusted. This view can be challenged with the following information:

- The "evolving capacities" concept in the Convention, and present in many legal systems worldwide, confirms that children's thinking and actions evolve over time. The concept does not incorporate the ability to feel, including pain, which is now widely accepted as being fully developed from birth.<sup>8</sup> The meanings people give

<sup>8</sup> Until the 1980s, it was common for doctors to carry out surgical procedures on babies and children who had been given paralysing agent but no anaesthesia, reinforced by a now discredited experiment conducted in the 1940s which concluded that the capacity to feel pain was not present in newborns and evolved with age – see Yaffa, 2003.

to their feelings will be affected by their age and maturity. Capacities are plural, encompassing physical and mental abilities, and they do not evolve altogether at the same time (neither do we keep them forever, once acquired). Western child development theories that depicted "child development" as following a rigid and predictable pattern have been widely discredited: there is now broad acceptance that children are developing all of the time and cannot be neatly compartmentalised according to age. Article 12 of the Convention on the Rights of the Child's critical reference to 'age and maturity' in determining the weight that children's views should be given in matters affecting them is confirmation in international law that each child is an individual. The Committee on the Rights of the Child summarises (2009a, page 8, paragraph 29):

*Research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child's capacities to form a view. For this reason, the views of the child have to be assessed on a case-by-case examination.*

- We are not born totally lacking in capacities and we do not end our lives in a state of absolute independence. Human life is changeable and unpredictable. Research increasingly shows the capacities of babies – to communicate their needs and feelings, to socially interact and to use memory and prediction in their relationships with others, especially with parents. Furthermore, adults have different degrees of mental and physical capacity and the assistance many of us seek routinely – from car mechanics to electricians to doctors – is not used to deny our basic human rights (Harris cited in Graham, 1982, page 43). The emphasis on individual autonomy is not, in any case, compatible with the broader social aims of human rights. Priscilla Alderson challenges the individualism inherent in these debates and suggests (cited in Beers, Invernizzi and Milne, 2006, page 67):

*One way to expand concepts of autonomy to suit more sharing, giving and traditional communities is to see that many people prefer to share serious decisions with their relatives or, for example, their doctors or leave others to decide for them ... and this can be their expression of autonomy... In many ways autonomy is enriched by personal and altruistic relationships, and by interdependence; it does not have to be lonely or selfish.*

- Conceptions of capacity are socially constructed – what is seen to be normal and natural behaviour for a 7 or 16 year-old differs according to time (mass school systems were only developed in the 19th century) as well as geography (from the age of 10 years, Tonga boys in Zimbabwe are seen to be capable of building their

own houses and girls are viewed competent to run households – see Lansdown, 2005, page 27). Children are not the only people to have been denied civil rights because of so-called “natural” deficiencies: similar arguments have been used to exclude women and ethnic minorities from democratic participation for example. Let's also remember that adults respond in different ways to similar conceptions about capacity. For example, that infants have much less understanding of the consequences of their behaviour than older children is a reason given by parents both for smacking *and* for not smacking.

- There are people – of all ages – that lack decision-making capacity. But the wholesale denial of civil (and other) rights to adults lacking decision-making capacity is seen as morally repugnant in the 21st century: the equal worth and dignity of human beings overrides judgments about what we can or cannot do. Indeed, if independence is equated with being a rights holder, there is questionable logic in excluding children when their capacities are, at least, growing – in sharp contrast to the dwindling capacities of adults over a certain age, particularly those living with illness or impairment.

### Harmful attitude 2: Children are incomplete human beings

Closely tied to views about autonomy, agency and the exercise of civil rights are those beliefs that place children in a separate category of human being to adults. The vast changes in growth and development that occur during childhood place children in the category of human ‘becomings’, rather than human beings: different treatment is, therefore, seen to be justified. The rules – or social norms – governing adult interaction and behaviour – do not apply to children. This view can be challenged with the following information:

- Lee (2001) has refuted the deficit model of childhood as belonging to a past era when adulthood, compared to childhood, was characterised by stability. Longer life spans, changing social attitudes and the impact of globalisation – at least in Western societies where a partner, job or home “for life” are no longer taken for granted – means that adulthood is increasingly a time of change and unpredictability.
- We have to distinguish between the dignity and worth we ascribe to all human life and the ways in which we respond to people's different needs. International law affirms the equal worth and dignity of all but the very existence of the Convention on the Rights of the Child sets childhood apart from adulthood. The treaty marks childhood as a time of vast potential but also extreme vulnerability. The majority of children are smaller and weaker than adults so they need increased protection

of their physical and mental integrity. What happens in childhood affects the whole life span, including life expectancy itself. Although the Convention on the Rights of the Child prioritises the rights of a particular group in the population at a given moment in time, *every* human being benefits from its protection (adults, by definition, will all have been children).

### Harmful attitude 3: Family privacy is paramount

The notion that children are rights holders deeply disturbs the combined forces of patriarchy and family privacy. There is a huge amount of human history to get through in challenging the idea that the State should not intrude in the private relationships between children and parents. In Roman times, fathers had absolute control over their wives and children. They decided whether newborns should live or die, be sold or exposed to the elements (a common fate for disabled babies). In 1881, an English reverend wrote to a local newspaper publicising the plight of mistreated children. He urged the creation of a national society to prevent cruelty to children, similar to the one protecting animals since 1824. The reverend's letter brought a response from the prominent social reformer Lord Shaftesbury, who explained: *'The evils you state are enormous and indisputable, but they are of so private, internal and domestic a nature as to be beyond the reach of legislation'* (NSPCC, 2004, page 4). The NSPCC<sup>9</sup> in the UK, established two years after the reverend's letter, continues today to seek adequate protection for children, including from corporal punishment. A spokesperson recently described the UK's "reasonable punishment" legal defence as *'a national embarrassment'*, following the courts' belief that a three-year old child who had been kicked and slapped by her parents had not suffered significant harm<sup>10</sup> (Noyes, 2009). One of the judges observed: *Reasonable physical chastisement of children by parents is not yet unlawful in this country* (MA (Children) [2009] EWCA Civ 853, paragraph 39).

The view that the State should not interfere in family life can be challenged with the following information:

- Human rights protect everyone from unnecessary State interference. We are all protected from the *'arbitrary or unlawful interference [of our] privacy, family, or correspondence'* (Article 17, International Covenant on Civil and Political Rights).

---

<sup>9</sup> National Society for the Prevention of Cruelty to Children.

<sup>10</sup> Section 31(9) of the Children Act 1989 defines harm as 'ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another'. Section 31(10) further requires that: 'Where the question of whether harm suffered by a child is significant turns on the child's health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.'

At the same time, the State is duty-bound to protect each one of us from rights violations. Article 2 of the International Covenant on Civil and Political Rights requires:

*Each State Party to the present Covenant undertakes to respect and to ensure to **all individuals** within its territory and subject to its jurisdiction the rights recognized in the present Covenant, 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 (my emphasis).*

- The Convention on the Rights of the Child gives the family privileged status, describing it as *'the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children'* (see also Article 23 of the International Covenant on Civil and Political Rights). But this does not give family members free license to ignore, undermine or actively violate human rights. All family members – whether they are women or men, young or old, disabled or non-disabled, blood relatives or adopted or fostered – are fully protected by international human rights law. In relation to children, the Human Rights Committee in its General Comment no.17 explains (1989, paragraph 6):

*Responsibility for guaranteeing children the necessary [civil rights] protection lies with the family, society and the State. Although the Covenant does not indicate how such responsibility is to be apportioned, **it is primarily incumbent on the family, which is interpreted broadly to include all persons composing it in the society of the State party concerned, and particularly on the parents**, to create conditions to promote the harmonious development of the child's personality and his enjoyment of the rights recognized in the Covenant (my emphasis).*

## Harmful attitude 4: Parental authority should not be undermined

Parents have unique responsibilities towards children and some argue that this means we should be left to make our own judgments. Many consider being a parent to be the most fulfilling and enjoyable part of their life. The sheer intimacy and responsibility involved in bringing a child into the world and facilitating their happiness and growth, as well as protecting them from harm, shows itself in few other relationships. The challenges can be enormous, particularly for those parents struggling to overcome adversity in their own childhoods or present-day poverty, lack of health care, displacement and other rights violations. The physical and mental demands – and pleasures – are constant. When a BBC journalist asked the first black President of the United States what he does to relax, he replied as a father.



**BBC interview with President Obama, 6 June 2009**

*Justin Webb:* We're almost out of time, Mr. President. I wanted to finish by asking you a sort of personal question. We've been through all these issues, and they must weigh on your mind constantly. How do you relax? What do you read? What does President Obama do?

*President Obama:* Well nothing is better at pulling you out of your world than having a couple of children. So I've got a ten-year-old and a seven-year-old. And they're planning, you know, pool parties, and talking about homework, and trying to figure out how to get the dog back on the leash.<sup>11</sup>

The view that parents should be free to make all our own judgments about child-rearing can be challenged with the following information:

- The Convention on the Rights of the Child grants parents the right to assistance in carrying out our responsibilities (Article 18). Many parents would be unable to look after their children were it not for the positive intervention of the State.
- International law sets broad minimum standards for human behaviour leaving a vast degree of autonomy within relationships, including those between parents and children. Human rights do not stifle creativity; they simply set a benchmark for acceptable treatment – for everyone.
- In some aspects of children's lives, for example relating to education, international law explicitly supports parental choice. Article 26(3) of the UDHR gives parents '*a prior right to choose the kind of education that shall be given to their children*'. Still, European human rights law has clarified that the philosophical convictions of parents protected by human rights are those beliefs that '*are worthy of respect in a "democratic society" ... and are not incompatible with human dignity*' (Campbell and Cosans v UK, paragraph 36).

## Harmful attitude 5: We must respect our elders

The commonly held belief that children should respect their elders acknowledges the experience and wisdom of older people. This is positive. However, the concept becomes harmful when it is unconditional and manifests itself in the denigration of the feelings, experiences and capacities of children. Elizabeth Protacio-De Castro explains (2003, page 1):

<sup>11</sup> [http://www.bbc.co.uk/worldservice/news/2009/06/090602\\_obama\\_transcript.shtml](http://www.bbc.co.uk/worldservice/news/2009/06/090602_obama_transcript.shtml) Accessed 7 June 2009.

*Children are assumed to be incomplete human beings without a mind of their own. They are thought to be weak and vulnerable with little competence to manage on their own. Childhood is also not appreciated and is considered to simply be a preparation for adulthood, which is the final destination. The ideas that the family is inviolate and adults know best dominate the notion of family in Asian societies. Children are mistreated not only because they are physically smaller, but also because they are given a low status by society due to age, gender, birth status and birth order.*

### **Singapore Government leaflet on healthy relationships\***

While abuse is about controlling and having power over the other person, love is about caring for and supporting each other. These are indicators of a healthy relationship:

- Able to find healthy ways to work through differences and disagreements.
- Able to make decisions together.
- Able to trust each other and share honest feelings freely.
- Feel comfortable, respected and at ease.
- Feel loved by being listened to and supported.
- Feel safe and secure.
- Respect each other's feelings and opinions, even if one may disagree.

*\*The leaflet is aimed at teenagers and is part of the Government's Family Violence Public Education Programme.*

Researchers at Mahidol University in Thailand analysed the concluding observations of the Committee on the Rights of the Children in relation to the ASEAN countries<sup>12</sup> examined between 1996 and 2004. The researchers found that *'traditional attitudes vis-à-vis the respect of the views of the child was, in fact, brought up in all its concluding observations ... without exception'* (Petcharamesree et al, 2008, page 73).

This is not a cultural problem evident only in Asian societies; the concluding observations for the UK in 2008 refer to *'the general climate of intolerance and negative public attitudes towards children, especially adolescents'* (Committee on the Rights of the Child, 2008, page 6, paragraph 24; see also introductory exercise on pages 1-4). Professor Pinheiro has explained (2006a, xviii):

*The belief that adults have unlimited rights in the upbringing of a child compromises any approach to stop and prevent violence committed within the home, school or*

<sup>12</sup> These are: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.

*state institution. For lasting change, attitudes that condone or normalise violence against children, including stereotypical gender roles, need to be challenged.*

The view that children should unconditionally respect their elders can be challenged with the following information:

- Unconditional and unreciprocated respect is not conducive to basic human rights values where each person's dignity and worth is of equal weight. The promotion of mutual respect is a basic tenet of international human rights law.
- The seeds of exploitation are sown when one category of person is seen to be inherently superior to another. Dominance based on age (and size) hierarchy puts children at risk – in the family, at school, in institutional settings as well as in the wider community.
- The active silencing, intimidation and physical punishment used to enforce respect confuse and frustrate children. They are compelled to treat their elders with consideration and kindness whilst their own personhood is denied. This encourages inauthentic relationships, where children “perform” respect but do not necessarily feel it.

## Harmful attitude 6: Traditional child discipline works

Adults often claim that corporal punishment and other cruel or degrading forms of punishment work because “bad” behaviour stops or the child is protected from an immediate danger. These methods have been passed down from generation to generation and, apparently, never did us any harm. This view can be challenged with the following information:

- Since the 1940s, debates about what works in our relationships with children have had to be framed within constantly evolving international human rights norms, in relation to both what we are setting out to achieve and how we conduct ourselves. From a human rights perspective, it is not legitimate to aim to control children or to deny and suppress their feelings. This approach to parenting or education is from the pre-Convention era, and it is slowly, though consistently, being rejected in law and practice across the world.
- In accepting that children are people with equal dignity and worth to adults, a human rights approach emphasises the positive role of parents or educators in helping children to learn how to respond appropriately to strong emotion (excitement, anger, frustration, fear, jealousy for example) and conflict. Much

importance is given to modelling positive behaviour – showing in our words and deeds how human beings can be sensitive to the needs of others whilst also having our own needs met.

- Similar ideas about disciplining women, prisoners, workers and servants have now been largely rejected by the international community as uncivilised.
- There is plenty of academic research to show the negative impact of violence against children (see Bunting et al, 2008, for a review of the international literature). In addition to numerous studies conducted in different parts of the world, we can see in our daily lives that violence is damaging and counter-productive: children feel hurt, angry and confused and parents feel upset and regretful; the same children are hit over and over again; it is overwhelmingly the mood and circumstances of the parent that influence the choice of violent or non-violent response; and children exposed to violence often exhibit violence with younger and smaller siblings or friends.
- There is now plenty of human history to draw upon where children have grown up in societies and communities where inter-personal violence is rare or totally absent. Non-violent parenting and education is not a dream or a fantasy – it is happening in every continent, country and community.
- For those who choose to reject human rights arguments, the findings of academic research and the human evidence around them – in their local communities, families and (probably) their own childhoods – there is one challenging question: what proof have *you* that using violence against children, and not seeking out or respecting their wishes and feelings, helps to create peaceful and just societies?

### Harmful attitude 7: Smacking, slapping and spanking children is not violence

Many adults, and some children, claim that smacking, slapping and spanking children are not forms of violence. How can we respond to this?

- We have been socialised to think that routine violence against children is normal and safe: *the odd smack never did me any harm*. It is very painful to have to admit that our parents or others we loved and trusted in childhood have hurt us. Rather than face up to our own pain and suffering in childhood, we choose to

deny what is happening to children today. Alice Miller, a psychologist who has written widely on the mistreatment of children, says we build '*high walls to screen ourselves from painful facts*' (1991, page 2).

- The views and experiences of young children should be driving these debates. They are less likely to bend to dominant social opinion and research undertaken with them in different continents has evoked similarly powerful testimonies. The strong messages from young children are that smacking, slapping and spanking are forms of violence and they hurt.
- In discussions about gender-based violence men are never asked to set the perimeters of what is and is not violence against women. Men who have used violence against women are not asked to decide how much legal protection we are offered and neither are they asked to comment on whether our testimony should be taken seriously. Yet adults set the whole agenda for children and we do this with a staggering lack of humility. Unless children have visible and significant injuries, we routinely dismiss physical assaults on them as taps, strokes or simply brushing against them; we say the upset or anger expressed by children is short-term and unimportant; and we argue that the law should not be applied to parents because we will probably break it.

## Harmful attitude 8: Child protection is about ending child abuse

It is often argued that governments should focus their attention, resources and legal protection on the most extreme forms of violence against children: what most people understand to be child abuse. This is problematic for the following reasons:

- The Convention on the Rights of the Child protects children from all forms of violence and the Committee on the Rights of the Child has made it clear that States must have a national strategy and legal and policy framework for ending all violence against children. This is not to say the Convention fails to recognise or urge action to end severe forms of violence – like other human rights treaties, it establishes the right to life, provides absolute protection from torture or other cruel, inhuman or degrading treatment or punishment and it protects children from armed conflict and sexual and economic exploitation. A human rights approach acknowledges the impact of poverty, lack of education and limited health care on children's exposure to violence, and the opportunities they have to escape it. States must have strategies to prevent and respond to all of these rights violations – but these must sit within an overall national plan for rejecting and seeking to end all violence against children. As Professor

Pinheiro explains (2006a, page 41):

*International law thus provides a powerful, overarching legal framework which demands a multifaceted response. Required responses will vary according to the type of violence and the setting in which it occurs...*

- Government and NGO-led campaigns to end violence against women do not distinguish between different forms of violence though of course they highlight the different consequences – on women's physical and mental integrity as well as daily functioning. There are many initiatives to challenge and protect women from severe forms of violence, and much emphasis is given to protecting women's right to life, though the constant and overriding message is that no violence is justifiable. The language of gender-based violence used within the international women's movement is all-embracing and leaves no doubt that all violence against women is unacceptable.
- Where States have well developed child protection systems they would have been established in the pre-Convention era where the emphasis was on rescuing children from life-threatening situations. International law has now made it legitimate – and obligatory – for States to take action to promote and protect all aspects of children's well-being (consistent with the child's civil rights and the unique role of the family).



# Human rights and child protection

# 3

*In our village the teacher molested a [13 year-old] girl. We organised a rally and took a petition to the police station. They arrested the teacher.*

**Schoolboy (Plan, 2008, page 32)**

## IN SUMMARY

---

The Convention on the Rights of the Child is all about protecting children – from inter-personal violence, harmful environments, negative influences as well as structural inequalities. Yet child protection continues to be defined narrowly as protection of children from abuse or neglect. This chapter proposes the widest definition of child protection, consistent with a broader human rights framework and the provisions of the Convention. It considers why children’s voices occupy such a minor place in traditional child protection approaches and challenges the silencing of young children. Building on the Committee on the Rights of the Child’s General Comment on the right to be heard, the chapter explores the factors that should be taken into account when determining the weight given to children’s individual views. Four headline reasons are given for engaging children in violence prevention and protection: to improve protection; to demonstrate respect; to support children in exercising their rights; and to meet our human rights obligations. The chapter ends with a cautionary note about making the case for children’s participation through emphasising the benefits to children’s individual development. Children’s rights advocates do not seek to similarly prove other fundamental rights – to food, shelter or protection from war for example – as these are accepted without question. Moreover, women’s rights advocates and disability equality campaigners do not demand increased civil rights and social inclusion by demonstrating how this would make women or disabled people more intelligent, co-operative or skilful.

---

## What is child protection?

In January 2007, a decree came into force in the Lao People’s Democratic Republic to protect the rights and interests of children. This gives the definition of child protection as (2006, Article 2(16)):



*Child protection means the activities performed by individuals or organisations to ensure that children live, grow up, have access to development of good attitudes, knowledge and abilities, receive protection of rights and interests, and are able to efficiently participate in social activities.*

This is not a universal definition of child protection which is typically understood as action taken to prevent or stop child abuse – significant (and measurable) harm caused to children on purpose or through neglect. The most common categories of abuse are physical, sexual, emotional and neglect.

The Convention on the Rights of the Child, ratified by all UN member states in Southeast Asia and the Pacific, is much broader in its recognition of the harm that can be done to children. The child is entitled to full protection from all forms of violence in inter-personal relationships as well as from damaging aspects of wider society – harmful work, media and school discipline for example.

A human rights approach to child protection has three overriding concerns – to promote and protect the child's human dignity, physical integrity and self-respect. The most relevant provisions in the Convention are:

- The child's right to survival and maximum development (Article 6)
- The prohibition on capital punishment and life imprisonment without possibility of release (Article 37)
- The right to protection from torture or other cruel, inhuman or degrading treatment or punishment (Article 37)
- The child's right to be protected from all forms of violence, abuse, neglect and exploitation (Article 19)
- The right to protection from sexual exploitation and sexual abuse (Article 34)
- The right to protection from abduction, sale and trafficking (Article 35)
- The right to protection from traditional practices prejudicial to the child's health (Article 24(3))
- The obligation on States Parties to ensure the recovery and reintegration of children who have been subject to violence,<sup>13</sup> with priority given to the child's health, self respect and dignity (Article 39)
- The child's right to express their views and to have these views given due weight in accordance with their age and maturity in all matters affecting them (Article 12)

---

<sup>13</sup> The article does not use the term violence but refers to child victims of 'any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts'.

- The child's right to an education that develops his or her personality, talents and mental and physical abilities to their fullest potential (Article 29)
- The child's right to protection from unlawful interferences with his or her privacy, family, home or correspondence, as well as with unlawful attacks on his or her honour or reputation (Article 16)
- The obligation on States Parties to take action to protect the child from information and material injurious to his or her well being (Article 17)
- The obligation on States Parties to ensure school discipline is administered in a manner consistent with the child's human dignity (Article 28(2))
- The obligation on States Parties to ensure children in contact with the criminal justice system are treated in a manner consistent with the child's dignity and worth
- The child's right to protection from work that is harmful to his or her health or development (Article 32).

Other rights in the Convention greatly affect the realisation of the child's right to human dignity, physical integrity and self-respect, including the right to an adequate standard of living (Article 27), the right to the highest attainable standard of health and health care services (Article 24) and the right to information (Article 17). The availability and quality of assistance offered to parents (see, for example, Articles 18 and 23) and arrangements for determining separation from parents, as well as the provision and review of alternative care are also critical (see Articles 9, 20, 21 and 25).

The Committee on the Rights of the Child has provided detailed guidance for States on the necessary and *minimum* foundations for effective rights promotion and protection (2003). These include:

- The incorporation of the Convention into domestic law
- A national implementation plan or strategy
- A well-resourced and high profile focal point within government for co-ordinating the implementation of the Convention
- Routine impact assessments analysing the likely effect of legislative, policy and budget proposals on the realisation of children's rights
- Monitoring the amount of resources spent on the implementation of children's rights at a local, national and international level
- Establishing a national independent human rights institution (for example Children's Commissioner) to promote and protect children's rights, consistent with the Paris Principles and the Committee's own minimum standards (2002).

Children's rights generate obligations and responsibilities that must be honoured. They need to be perceived as an expression of solidarity and partnership, empowering children to participate actively in the improvement of their situation and in the broader process of social change.

These structural changes are vital in ensuring governments can work effectively for children. Without these foundation stones, advances in children's rights – including in relation to violence and participation – will be short-term, fragile and incoherent.

## Children at the centre

The UN Violence Study relied upon human rights instruments in considering the obligations and necessary actions of UN member states as well as other actors, including NGOs. Of 12 overarching recommendations, the seventh urges States to '*actively engage with children and respect their views in all aspects of prevention, response and monitoring of violence against them...*'. Although it stands as a separate recommendation, the requirement to 'actively engage' children is relevant to the other 11 broad recommendations, as well as to all of the other actions urged by Professor Pinheiro relating to the home and family, schools and other educational settings, care and justice systems, the workplace and wider community.

In November 2007, the UN General Assembly adopted a resolution agreeing the appointment of a Special Representative on violence against children, whose role would be to, among other things, '*work to promote the increased involvement of children and young people in initiatives to prevent and respond to violence against children*' (UNGA, 2007, paragraph 59f). Marta Santos Pais was appointed in May 2009 and is based in New York. A former member of the Committee on the Rights of the Child, Santos Pais is a longstanding children's rights advocate. In 1999, she wrote (page 5):

*Respect for children's rights cannot be perceived as an option, as a question of favour or kindness to children, or as an expression of charity. Children's rights generate obligations and responsibilities that must be honoured. They need to be perceived as an expression of solidarity and partnership, empowering children to participate actively in the improvement of their situation and in the broader process of social change.*

## Abuse of power

The international movement to end violence against children rests upon a critique of adult power over children and the validation of children as rights holders with inherent dignity.

There are parallels to be drawn with the conceptual frameworks adopted by those working to end violence against women (and girls), both within and outside government. It is commonly accepted that violence against women is an abuse of power by individual men supported by social and legal systems that treat women as second-class citizens. Gender-based violence will not, therefore, be ended without increasing the legal and social status of women and rejecting traditional attitudes that denigrate and harm us.

Cultural relativism has been widely and strongly invoked in debates about violence against women. The narrative is extremely similar to that deployed by those seeking to justify certain forms of violence against children. In her first thematic report to the UN Human Rights Council Yakin Ertürk, the Special Rapporteur on violence against women, considered the 'Intersections between culture and violence against women' and concluded (2007, paragraph 53):

*Contrary to what some may claim or fear, [human rights] engagement with culture does not erode or deform local culture but rather challenges its discriminatory and oppressive aspects. This of course may provoke resistance from those who have a vested interest in preserving the status quo. Negotiating culture with human rights concerns inherently questions, delegitimizes, destabilizes, ruptures and, in the long run, destroys oppressive hierarchies. It also contributes to harnessing the positive elements of local culture to advance human rights and gender equality, a process that also revalidates the culture itself.*

Ertürk describes how women's organisations have successfully 'appropriated' human rights to challenge all forms of violence against women. She reminds States of their unequivocal legal obligations to refute (that is, actively reject) all appeals to culture, tradition and religion that legitimise violence against women (2007, page 2):

*Building on the Universal Declaration of Human Rights, women's movements appropriated the universally agreed language of human rights and transformed the international human rights framework to address their concerns ... These norms establish the primacy of women's right to live a life free of gender-based violence and provide that States cannot invoke any cultural discourses, including notions of custom, tradition or religion, to justify or condone any act of violence. This also means that they may not deny, trivialize or otherwise play down the harm caused by such violence by referring to these notions. Instead, States are expressly required to condemn such violence, which entails denouncing any cultural discourse put forward to justify it.*

### **'Beating is not from heaven'**

A survey of 1,200 8 to 13 year-olds in Romania found the most common method of "education" in families was corporal punishment; and 82 per cent of children believed that corporal punishment should be prohibited by law.

Save the Children Romania then launched a comprehensive campaign called 'Beating is not from heaven', based on a well-known Romanian proverb that claims beating is from heaven. The following year, in August 2004, the Law on the Protection and Promotion of the Rights of the Child was passed. Article 28 states: *'The child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishments or to other humiliating or degrading treatment'* (UNICEF, 2009, page 45).

There is nothing culturally specific or "special" about adults lashing out at children, just as no single country or culture can claim to have invented partner abuse or the denigration of disabled people. Indeed, in relation to children Peter Newell has explained that: *'England bears a heavy responsibility for spreading the habit of corporal punishment of children during the colonial period, institutionalising it in schools and penal systems and encouraging it in the home, including through some missionary teaching'* (cited in Barnardo's New Zealand, 2008). Those who seek to defend corporal punishment are aligning themselves to beliefs and practices steeped in persecution, domination and power.

## **Constraints on children's right to be heard**

The vast majority of children's participation occurs far from the gaze of governments, NGOs and those working with children. Observing, communicating, listening, empathising, socialising, questioning, challenging, and influencing – these are fundamental expressions of being human and children reveal them every day. Children share their views and make decisions alone and with each other all of the time. Insofar as we accept that children are agents of their own lives, and are consciously and continually shaping matters affecting them (see for example, James and Prout, 1997 and Blanchet-Cohen, 2009), participation is everywhere.

But there are many constraints on children fully exercising their right to be heard. Adults play a pivotal role – what we do or don't do encourages children to develop and express their views or, alternatively, suppresses and drowns out children's voices. Once children have expressed their views, it is our duty under the Convention on the Rights of the Child to take them seriously, having regard to the child's age and maturity. Adults continue to breach this aspect of children's rights on a phenomenal scale. Indeed, 20 years after the UN adopted the Convention many in

the adult community are still debating whether children are competent to hold rights, let alone exercise them. There are some notable exceptions: the Filipino National Plan of Action for Children 2005-2010 includes as one of its goals: that every child will be assertive of his/her rights as well as those of others (page 14).

The failure to fully implement Article 12 is not the result of immutable characteristics of children, though a person's age and mental and physical abilities *at a particular time* will, broadly, affect how they express themselves, and the types of matters they seek to influence. Most limitations on children's participation arise from inter-related *external* factors such as:

- Social attitudes about the role and capacities of "the young"
- The extent to which those close to children have encouraged them to express themselves freely
- The opportunities children have to influence matters affecting them
- The extent to which legislation supports or denies children's right to be heard
- Children's access to information about their rights
- Poverty and other rights violations.

Violence, and the threat of violence, can silence children and thwart their free expression and human development. For their part, adults who work with and for children, including those charged with making life-changing decisions, spend only a small amount of their working life trying to understand and respond appropriately to the views of children. If we were to line up a group of professionals whose work directly or indirectly affects children – a teacher, social worker, lawyer, early years worker, police officer, town planner, development worker, paediatrician, judge, government official, children's rights advocate, health promoter and journalist for example – how many would say their job is principally about seeking, understanding and responding to the views of children? Child protection itself is characterised by strong adults rescuing weak children from bad people or awful circumstances. In developed countries, child protection has become highly technocratic and has its own theories, systems, language and "experts" – very little of this features children's voices, experiences and solutions. Indeed, a new profession has emerged – the child participation worker – focused on promoting children's voices and influence, with the inbuilt risk that existing workers can carry on as usual. In preparing this publication, I ran a workshop for children's rights advocates working in NGOs and governments across Southeast Asia and the Pacific. The workshop opened with participants dividing into small groups and being asked to identify five words they most associate with the terms "child protection", "participation" and "children's rights". Each table had only one of the terms and they were asked to either be themselves or to try to answer from the perspective of children.

**Box 3: Words associated with child protection, participation and children’s rights**

	Adult descriptions	“Child” descriptions
<b>Child protection</b>	Abuse, system, prevention, empowerment, response	Safe, love, respect, belonging, care
<b>Participation</b>	Boys, interactive, engaged, respect, well informed	Hearing, play, friend, authority, knowledge, housework
<b>Children’s rights</b>	Entitlement, needs, access to services, freedom, voice	What?! Power, food, playtime, privacy, safety

There were clear differences in the emotional content and language used by adults imagining themselves as children and those speaking for themselves. The starkest differences were in the words associated with child protection: all five words put forward by the adults were professional process words, whereas the words put forward by the “children” were all feeling words. Some years ago an English radio programme broadcast the views of 11 year-olds about whether the law should be changed to give children equal protection from assault as adults. Like the workshop participants pretending to be children, these real children prioritised feelings over systems (Willow in Cawson, Gorin, Cleaver and Walker, 2009, page 27):

*The children were asked what they would do if their friend came to school with bruises on their body. Their instant remarks all focused on their friend’s feelings: ‘try to cheer him up’, ‘tell some jokes’, ‘I would show her she’s got friends’.*

**Listening to children can be painful**

Why do so many people that work with children spend so much time building structures and systems and methodologies and seemingly clever phrases, yet show little interest in finding out what children actually feel, think and want to happen? That training courses for teachers, social workers, lawyers and government officials give little consideration to communicating with children suggests this skill comes easy. National and international conferences on child abuse or children’s well-being are very rarely devoted to responding to the views of children, though many now build “participation” into the programme. After children have given their presentations, the event invariably resumes its professional agenda and the jargon and the long, formal speeches return.

Of course, it could be that communicating directly and authentically with children is the biggest challenge of all. Consider your different reactions to reading a technical child abuse manual, compared with a research report on children’s experiences of violence or a transcript of a child’s interview with police or social workers. Which is the easier read?

Brandon and others observe that the risk of 'taking on children's pain' is a familiar reason given by workers who avoid contact with children. They quote Kroll who explains (Brandon, Schofield and Trinder, 1998, page 72):

*Working with children is painful. It is often about loss, anger, rejection, neglect and sadness; it is also often about limited options and second rate solutions. It touches private life in tender places, it is unbearable and makes us feel helpless, sad and angry. Many workers admit to keeping children at a distance in an attempt to avoid feeling these feelings, to protect themselves from the pain, and to preserve a sense of competence.*

In addition to avoiding the reality of children's lives, there are other common reasons for adult decision-makers not seeking and taking account of children's views:

- They do not consider children to have any worthwhile or compelling views
- They do not know how to ascertain children's views
- They do not want or feel able to give any influence to children or
- They consider participation to be risky, time-consuming and a diversion from "real" work.

Even children's rights advocates can have shaky foundations to their apparently progressive practice. As Uma Segal observes in relation to child advocates in India: '*[They] are themselves products of the culture that expects children to be obedient, docile, vulnerable and voiceless. Although the champions of the cause of children may urge policy changes, the implementation of child protection laws, and responsiveness to the needs of children, they may not truly believe that children can have a hand in significantly affecting their own futures*' (cited in Bottoms and Goodman 1996, page 279).

A 2001 Save the Children document on ending corporal punishment describes the tremendous force of cultural programming, which affects those that work with children, as well as the general population: '*The internalising process makes the challenge of changing public attitudes all the greater. When people claim that corporal punishment is traditional, cultural or backed by religious doctrine, this often masks the roots of its justification in their own personal history – the process through which it was legitimised during their childhood*' (2001, pages 7-8).

Children not only endure disrespect and violence as a consequence of their age; they suffer many other forms of discrimination and prejudice. As new UK guidance on protecting disabled children from abuse explains (Murray and Osborne, 2009, page 48):



*A failure to acknowledge and promote disabled children's human rights can lead to abusive practices being seen as acceptable. For example tying up or locking a child in a room would be recognised as abusive for a non-disabled child but may be seen as acceptable for a disabled child.*

The World Report on Violence Against Children highlighted the especially abusive treatment of children in conflict with the law (2006a, pages 190-191):

*... the institutional treatment of children regarded as being anti-social or criminal is likely to be more physically and psychologically punitive than that of other groups or in other environments. All the prejudices and discriminations attached to unwanted or family-less children are reinforced where the child is seen as a social nuisance, or worse.*

## Children invisible in formal decision-making

UNICEF's Innocenti Research Centre has reviewed the application of Article 12 in the laws and practices of 52 different countries. Where studies have been undertaken on children's right to be heard in judicial and administrative processes – and it is notable that most are European examples – they show that children are, on the whole, an invisible party in decision-making (O'Donnell, 2009, pages 38-39):

- In Denmark in 2003, only about 20 percent of children were heard in divorce contact cases. A study of complex divorce cases in 2004 found that only about a quarter of children were given the opportunity to express their views. Just 52 percent of 7 to 11 year-olds were offered an interview as part of case processing: the main reasons given for this were social workers' heavy caseload and, remarkably, their 'lack of confidence' in interviewing children
- A survey in Iceland in 1998 found that less than a third of children were asked to give their views to child welfare committees. A representative for the child was appointed in just 0.01 percent of cases
- Research in Sweden between 1999 and 2001 shows that, although children's views were elicited much more than in the past, documentation of their views only occurred in about half the cases and there was little record of children's views affecting the outcome of decisions.

The majority of children in alternative care in England have been subject to violence.<sup>14</sup> Research in England between November 2007 and December 2008 shows that direct contact with "looked after"<sup>15</sup> children and their families

---

<sup>14</sup> Official statistics show 62 percent of children in care in 2007/08 were there primarily as a result of abuse and neglect (Department for Children, Schools and Families, 2008).

accounted for just 29 percent of social workers' time (Holmes, McDermid, Jones and Ward, 2009, page 7). Social workers themselves were not happy with the high level of administrative demands on their time and valued direct contact with children. More positively, there has been a significant fall in the percentage of children not attending their care review meeting<sup>16</sup> and not having their views represented, from 14 percent in 2005 to 3 percent in 2008. The use of independent advocates has risen, though the increase in advocates attending without children is potentially alarming: are they replacing children who would be able to speak for themselves in a more supportive environment? In 2005, advocates attended 11 percent of reviews without the child being present; by 2008, this had increased to 16 percent. The proportion of advocates attending with children halved. Notably, the statistics do not record the participation or representation of children aged four and under.

## Silencing young children

Denying younger children the right to express their views, directly or indirectly, is a common breach of Article 12 and many States have imposed minimum age requirements for children to be able simply to express their views in judicial and administrative proceedings (see O'Donnell, 2009, pages 10-33). Not paying attention to the views and feelings of young children demonstrates a fundamental failure to grasp what human rights are, and selective understanding of the Convention. Nowhere in the Convention does it say that only children of a certain age can or should be able to express views. The Committee on the Rights of the Child's General Comment on the right to be heard stresses (2009a, paragraph 21):

*... that article 12 imposes no age limit on the right of the child to express her or his views, and discourages States parties from introducing age limits either in law or in practice which would restrict the child's right to be heard in all matters affecting her or him.*

An earlier General Comment on implementing child rights in early childhood explains (Committee on the Rights of the Child, 2005b, page 6, paragraph 14):

*Respect for the young child's agency – as a participant in family, community and society – is frequently overlooked, or rejected as inappropriate on the grounds of age and immaturity. In many countries and regions, traditional beliefs have emphasized young children's need for training and socialization. They have been*

<sup>15</sup> This is the legal term used to describe children in the care of the State in England.

<sup>16</sup> The law in England and Wales requires a periodic review of the well-being of each child who is looked after by the State. The review process culminates in a formal review meeting where plans are made for the child's short and long-term future. The independent person chairing the review has a legal duty to ensure the child's views are understood and taken into account as far as reasonably practicable.

*regarded as undeveloped, lacking even basic capacities for understanding, communicating and making choices. They have been powerless within their families, and often voiceless and invisible within society ... Young children are acutely sensitive to their surroundings and very rapidly acquire understanding of the people, places and routines in their lives, along with awareness of their own unique identity. They make choices and communicate their feelings, ideas and wishes in numerous ways, long before they are able to communicate through the conventions of spoken or written language.*

## How much weight should be given to children's views?

We must distinguish between the process and outcomes of decision-making. Children's expressed views must be taken into account in all decision-making affecting them (the process). The outcomes of decision-making will run along a spectrum with at one end the child's views being the determining factor and at the other the decision not reflecting the child's views.

Besides the child's combined age and maturity, the Convention itself does not set out the factors to be considered in determining the extent to which children's views should be followed. However, broader human rights standards point to the following relevant factors:

- The extent to which the decision will impact on the individual child
- The extent to which other children (and adults) will be affected by the decision
- The strength of the child's views and, correspondingly, the harm to the child that may be caused by acting against these views
- If the child's views are followed completely, what impact this would have on their rights generally, including their ongoing right to be heard
- If the child's views are followed completely, what impact this would have on the rights of others also affected by the decision
- If the child's views are not followed, what impact this would have on their rights generally, including their ongoing right to be heard
- If the child's views cannot be followed fully, to what extent can they be followed in part?

Decision-makers must be coherent, consistent and accountable in showing how they have taken children's views into account.

## Why involve children in violence prevention and protection?

There are four primary reasons for ensuring children's views and experiences are central to all actions to end violence against children:

- To considerably improve protection and rehabilitation
- To demonstrate respect to children
- To support children in exercising their rights
- To meet our human rights obligations.

### *Improving protection and rehabilitation*

Ninety per cent of government officials and adults working in children's NGOs in the Philippines (n=28) agreed that 'when individual children express their views, they are more likely to be protected from harm and abuse' (Bessell, 2009, page 310). Only children can tell us about their lives – who and what is important to them, their hopes and fears, whether they feel safe and who or what might help them. Once intervention has occurred, children are usually the only ones who can say whether the intervention has worked.<sup>17</sup> Research on children's own views and experiences of child protection is becoming more common – see page 147 – and there is plenty of documentary evidence showing the positive impact of being responsive to children's perspectives and solutions.

#### **Responding to children's views on how they can be protected**

A local NGO had supported a primary school outside a brothel in Bangladesh. Children attended the school during the day then returned to their mothers in the brothel in the evening. Several girls approached the NGO to say they did not want to return home because they feared being initiated into prostitution. The staff and girls discussed the matter with the mothers and for two years the girls slept in the offices of the NGO. Eventually the NGO raised enough funds to build a safe home for the children and their mothers contribute financially to the children's education and upkeep. There is no equivalent safe home for boys and some girls do return to the brothel but the receptiveness of the NGO to children's own solutions undoubtedly improved their protection and life chances (Heissler, 2001, pages 67-68).

Children's testimonies and analysis help us to better understand the causes and consequences of violence. The imperative is to make ending violence against children an utmost priority in all countries. The voices and experiences of children,

<sup>17</sup> Babies and some young disabled people will rely on others to observe and communicate the impact of interventions.

rather than those advocating on their behalf, can bring this clarity and urgency. Children are less likely to speak in euphemisms that conceal what really happens to them; they are less likely to show patience when their short childhoods demand action now; they probably won't waste time theorising about what could go wrong; and there may be less chance of adults in power trying to dilute their hopes and demands by using techniques such as flattery and co-option. Above all, they are speaking from their *own* experiences and position in society and the dialogue they have with decision-makers is inevitably more human and authentic. One of the points made by children making a keynote address in the East Asia and Pacific regional consultation for the UN Violence Study was that (UNICEF, 2005, page 78):

*We are pure! We just say what we think without filtering.*

The Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, remarked in a book to celebrate the Convention's eighteenth birthday (Connors, Zermatten, and Panayotidis, 2007, page 116):

*When young people are invited to take part in official meetings, the reaction is often that this made the discussion more real, relevant and rich.*

The title of Kofi Annan's report to UN member states ahead of the 2002 UN Special Session on Children – 'We the children' – and Professor Pinheiro's invocation that '*None of us can look children in the eye, if we continue to approve or condone any form of violence against them*' cleverly bring adult readers closer to children (2006b, page 24, paragraph 91). They encourage us to imagine children we know and even remember the children we once were. But children are capable of speaking and communicating for themselves and the effects can be extremely powerful – for all concerned. As Mayerly Sanchez, a 14 year-old girl active in the Children's Movement for Peace in Colombia, explains:<sup>18</sup>

*... when children talk about pain and sorrow we make adults feel the pain as if it was their own.*

This is not to underestimate the immense difficulties so many children have in expressing themselves freely. Indeed, UK research shows that the vast majority of children subject to violence and mistreatment do not feel they have anyone they can turn to. They may confide in friends or siblings, and even turn to their pets for comfort, but avoid seeking out adults because they fear the consequences (Featherstone and Evans, 2004; Cawson et al, 2000; Butler and Williamson, 1994). Embarrassment, shame and stigma also stop children seeking help – see page 145. Despite strong socialization that trains us to believe that adults have superior

---

<sup>18</sup> Taken from [http://www.saracameron.org/index\\_files/page0012.htm](http://www.saracameron.org/index_files/page0012.htm) Accessed 28 June 2009.

knowledge and wisdom, and that children are unfinished human beings that have little themselves to contribute to decision-making, adults do not have all the answers and we do get things wrong. In the area of child protection, adults have made cataclysmic mistakes in not seeking, or giving weight to, the views of children – we have doubted their testimony and left them in abusive situations; we have created interventions that they cannot access or which make them feel even more unsafe; and we have compounded their feelings of powerlessness and invisibility. Liam Cairns and Maria Brannen refer to the ‘lethal consequences’ of not allowing children to speak for themselves (2005, page 78):

*... the dominant discourse on childhood is not generally benign and based upon common sense, as it is often presented, but exposes children to the risk of a peculiar vulnerability, with disastrous and in some cases lethal consequences for some children and young people. The history of child welfare services is littered with examples where our refusal to acknowledge the ability of children and young people to speak for themselves has left them at the mercy of unscrupulous or uncaring adults.*

Public inquiries into child abuse in children’s homes in the UK show a consistent failure by adults to listen to or believe children (Lansdown, 1995, page 10).

### **Demonstrating respect to children**

#### **The child is a person and not an object of concern**

In the late 1980s, over a period of months, 121 children living in a particular region in England were removed from their families on suspicion of sexual abuse. The courts later dismissed 96 cases and a judicial enquiry was ordered into the arrangements for dealing with sex abuse cases in that particular area. Lord Justice Elizabeth Butler-Sloss famously remarked in her report: ‘*There is a danger that in looking to the welfare of children believed to be victims of sexual abuse the children themselves may be overlooked. The child is a person and not an object of concern*’ (Butler-Sloss, 1988, page 245).

Putting children at the centre of all interventions conveys respect for their human dignity and worth. It also contributes to wider social change. For many children, this will be the first encounter they have had with adults that show respect to them by rejecting all forms of violence and being genuinely interested in their views. When Tina Hyder (Save the Children UK) and I conducted research with young children about smacking, children often rose from their seats to show us how they had been hit by parents and carers. But by far the most moving moment for me was when a group of children living in a very poor neighbourhood could not name any adults they

knew who did not agree with smacking. These children's faces lit up when, after the focus group was finished, we told them there were many adults all over the country – the world even – who support children's right not to be hit.

Two decades ago such research with children would have been unthinkable – the age of the children would have excluded them, and the subject matter would have been considered too controversial. Now social research increasingly engages children as active subjects on a wide range of matters affecting them. The process of seeking out the genuine experiences and views of children not only leads to “truer” representations of children's lives; it also builds their public identity and status. Adults are not simply collecting cold facts and data; we are having dialogues with children – asking for their views, perspectives, feelings and solutions. It is not that children need adults to give them a voice; it is that we have a responsibility to actively undo generations of silencing by:

- First, acknowledging children's subjectivity
- Second, actively seeking to understand children's views and experiences and
- Third, responding appropriately, including by bringing children's voices into the public domain.

### *Supporting children to exercise their rights*

Violence against children is culturally acceptable in the vast majority of societies (some societies are characterised by peaceful childrearing – see Ennew and Pierre Plateau, 2005). This reflects the low status of children. Ensuring full legal protection from all forms of violence, including corporal punishment, and involving children in violence prevention and protection are the strongest ways of asserting children's equal status as human beings with the right to human dignity, physical integrity and self respect. Children's self-advocacy helps raise awareness of children's rights – among children and adults alike; it gets information into family homes, schools, communities and the media. Children speaking for themselves can help break the culture of silence around violence against children, just as women and other groups have spoken out about their mistreatment and demanded radical change.

There is a great deal that adults in the children's rights movement can do to

Children speaking for themselves can help break the culture of silence around violence against children, just as women and other groups have spoken out about their mistreatment and demanded radical change.

support children in bringing about change. The emphasis upon children's own activism should serve to strengthen our resolve and commitment, not make us feel redundant: children themselves consistently call for partnerships and solidarity. Through being involved in children's rights advocacy, children are exposed to new ways of thinking and they too can begin to reject harmful attitudes and behaviour.

#### **Perceptions of violence**

A Save the Children researcher asked children in West Bengal who had been violent towards them. Most answered 'no one'. When they were asked 'Who hits you as a form of discipline' children listed their parents, teachers, siblings, neighbours and employers (Beazley et al, 2006, pages 74-5).

Child-led research in Indonesia, conducted by 32 children aged between 8 and 12 years, aimed to seek children's perspectives of how safe their schools are. Despite frequent reports of teacher violence, children more often ranked the poor physical condition of school buildings and peer violence as "bad things". Save the Children described this as: *'a surprising result [which could] be explained by recognising that [violence from teachers] is widely accepted as normal practice in teaching and disciplining children, both at school and in the home'* (Save the Children UK – Indonesia, n.d., page 30).

Moreover, there are many children for whom speaking out is too dangerous or not possible. In the UK, for example, about a third (28 percent) of children who contacted ChildLine in 2004/05 about physical abuse had not told anyone else about it. Boys were less likely than girls to tell others. Of those that had told someone, only 5 percent had spoken to the police (ChildLine, 2006, page 5). Adults working in or close to government and the legislature are in privileged positions to progress the rights of children: we need to seize these possibilities whilst at the same time supporting children's own citizenship and influence.

#### **Meeting our human rights obligations**

There are many compelling practical reasons for listening to and taking children seriously. But let's stop seeing this as a choice. States, NGOs and all those working with children must uphold the Convention on the Rights of the Child, and supporting children's free expression is central to this. It is often said that adults do not like being told what to do, least of all adults in official positions. There is plenty in children's rights to encourage, inspire and positively engage adults, civil servants included. This should never, however, hide the fact that as a signatory to the Convention on the Rights of the Child our governments are legally bound to follow it. As UNICEF's State of the World's Children publication in 2003 (which was on the theme of participation) explained (Bellamy, page 69):

*There is no turning back to an era when children suffered in silence, when they*



*waited on the world's protection and charity. The Convention on the Rights of the Child has transformed the landscape irreversibly.*

## Benefits to individual children

It is impossible to fully quantify the benefits to individual children of being respected, understood and taken seriously. Indeed, social research often focuses on what goes wrong in children's lives rather than on what happens when things go right. We do not yet know what a society – or the world – would look like if all human beings were accorded maximum respect from the moment of birth, as we are only at the beginning stages of major social change for children. However, there is growing research evidence that routinely taking children's views and experiences into account – within the family, at school and in other settings – helps develop children's self-esteem, cognitive abilities, social skills and respect for others (see Kirby and Bryson, 2002, pages 24-27; Covell and Howe, 2005; Burke, 2008, pages 19-20; and Kränzl-Nagl and Zartler, 2009, pages 171-171). Children themselves have reported that being involved in children's rights advocacy has brought them new friendships, knowledge, understanding, and a wide range of positive experiences. It has built their confidence and given them access to people and situations previously out of reach to them (ibid and Linda, 2007, pages 47-50; Children's Forum Network, Sierra Leone, 2007, pages 55-58; and White and Choudhury, 2009, pages 39-50).

Ultimately, though, the debate about benefits to individual children is a dubious one, as it suggests that we have to prove the right to be heard makes "better" children. It is overwhelmingly adults setting the parameters of "success": the focus, particularly in government circles, is frequently upon improved school performance, deterring anti-social behaviour and encouraging children to have allegiance with traditional political processes. Children are, once again, viewed as incomplete human beings and the dominant discourse is what adults can do to educate and socialise them. Human rights advocates do not have to justify in similar terms the rights to dignity or self-expression or social inclusion of marginalised or oppressed adults. A guide about women's or disabled people's right to be heard would not argue that participation makes women or disabled people more intelligent, sociable or compliant – such an approach would be seen as patronising and insulting. In a similar vein, we do not have to legitimise other fundamental human rights – food, shelter, protection from torture, the right to a name or nationality for example – with research findings showing how these rights positively contribute to a person's well being and development. The time for this kind of debate was during the drafting of the Convention on the Rights of the Child three decades ago: the international community decided then that children have an inalienable right to be heard and the highest body on children's rights – the Committee on the Rights of the Child –

subsequently selected Article 12 as one of four general principles. Of course we need to be clear about our goals, to be rigorous in measuring the impact of participation and to celebrate changes when they occur. But the framework we use to assess change must always sit within the Convention's progressive conceptions of children and childhood, as discussed in chapter 2.



# Participation: choices, challenges and changes

# 4

*A true story. I was driving into work one day in May 2002 listening to a discussion on the radio. The participants were discussing servant/master relationships. One contributor from India said that he had seen a servant tied to a post and whipped. Another said she had seen a similar thing in South Africa in the last decade. A third said he had seen a similar thing – only at school. All the participants burst out laughing. Why was this funny?*

**Clive Harber, 2004**

## IN SUMMARY

---

This chapter firmly locates child participation within a human rights framework, demonstrating that many different provisions in the Convention on the Rights of the Child reject the punitive treatment of children and explicitly promote the child's human dignity, physical and mental integrity, free expression, influence in decision-making and status as an independent legal subject. It includes a detailed examination of three overriding themes in the participation literature and in practice: having a children's rights framework; adult roles and power; and being strategic and systematic. A typology of seven different adult roles is offered to encourage critical reflection of behaviours which help or hinder children's right to be heard. The disproportionate amount of time and energy given to "saboteurs" and "innovators" is challenged because these roles are not key to mainstreaming children's rights and participation. The chapter ends with five fictional case studies representing real and common challenges in participation.

---

Child participation has streamed into the vocabulary, mindsets and practices of international bodies, governments, public bodies, NGOs and professional groups over the past 20 years. This is not to claim that listening to, respecting and taking seriously the views and perspectives of children is a unique feature of modern society, or that children's activism is a new phenomenon. In England, child workers gave evidence to a Parliamentary select committee on child labour in 1831 (Hopkins, 1994, page 78; Cunningham, 2006, page 157) and 193 episodes of student protest in Britain and elsewhere have been documented between 1212 and 1990 (Adams,

1990). In New York, newspaper boys successfully organised in 1899 to oppose wage cuts and the child led 'Newsboys and Bootblacks Union' was established in Cleveland in 1902 (Van Horn and Schaffner, 2003, page 79). A review of youth policies, programmes and participation in the Philippines conducted by ESCAP<sup>19</sup> (2000) reports that youth political parties were established in the 1930s and 1940s. Many young people's groups formed in the 1960s, including those campaigning for 'a Magna Carta of Students' Rights'. The campaign persists to this day and demands democratic rights for school students as well as those attending university. The Peruvian child-led organisation MANTHOC (Movement of Adolescents and Children of Christian Workers) was formed in 1976 and is still campaigning for the rights of child workers. In August 1949, an international conference was held in London to establish the World Assembly of Youth, a coordinating body of national youth councils and organisations using the Universal Declaration of Human Rights as the basis for all its work. The organisation now has 120 member organisations and its headquarters are in Malaysia. Children first attended a UN conference on violence against children in 1996 (Feinstein and O'Kane, 2009, page 10), the same year they began attending the Committee on the Rights of the Child's days of general discussion. They got their first Children's Ombudsperson in 1981, in Norway, and an evaluation of the role in the 1990s concluded it had been instrumental in increasing the political profile of children and creating a general acceptance of children's right to be heard (Befring et al, 1995).

## What is participation exactly?

The clarion calls surrounding children's right to be heard have shifted from 'listening' and 'taking part' to demands for children's participation which is effective, authentic, meaningful, creative, ethical and high quality. The words to describe children are changing too: as well as being actors, they are now activists, advocates and protagonists (Reddy and Ratna, 2002). Some now argue for moving participation beyond Article 12 (Beers, Invernizzi and Milne, 2006) and even the Convention itself (Percy-Smith and Thomas, 2009, page 366).

## Performance is not participation

Children's rights advocates in China have critiqued popular conceptions of participation as 'mere performance' or leisure-time activity. They observe the comments of a children's home manager who said: *'We organize children singing, dancing, playing musical instruments – that is children's participation'* (West, Chen Xue Mei, Zhang Chun Na, 2007).

---

<sup>19</sup> United Nations Economic and Social Commission for Asia and the Pacific.

This limited understanding was observed in the first World Conference on Children where children's main role was to show adult dignitaries to their seats. Until very recently, international conferences were not complete without a children's choir or a display of children's photographs or artwork. Politicians have for a long time visited schools, paediatric hospital wards and early years settings with photographers and camera crews as if mere association with children proves they are decent human beings. Now a wider group of adult decision makers – inside and outside of government – has contact with children, attending consultation events, sitting on question and answer panels and holding meetings with them. But we need to be vigilant about the purpose and practice of these interactions: are they an extension of the politician kissing baby photo opportunity or, worse, relished as fresh terrain to socialise and control children? Have adults created a new object of attention – “the participatory child” – that leaves intact the unequal allocation of power, knowledge and resources and allows us to colonise even more of children's time, thoughts and space? Key questions to be answered in these situations are (Willow, 2002, page 54):

- Who benefits most from the contact – the child participants, adult workers, policy makers or the organisation generally?
- What is the impact on decision-making of children's attendance; were decisions even being made at the event?
- Who learns and develops as a person – is all the attention on children's growth and development or are adults learning too?
- Are adults in these situations seen as the sole and legitimate holders of power, knowledge and wisdom, or are these occasions for genuine dialogue between equals, where each party can share information, perspectives and proposals?

### *Rights definition of participation*

There should be little doubt about what children's participation is, given the rights and freedoms in the Convention on the Rights of the Child and the Committee on the Rights of the Child's interpretation and guidance. The Committee in 2009 issued a comprehensive General Comment on children's right to be heard, and each of its other 11 interpretive documents issued since 2001 gives advice about children's participation.

The Convention on the Rights of the Child sets the following perimeters for children's participation – see also page 78:

- The right to be heard is one of four general principles of the Convention – it is a fundamental right in itself and it also affects the enjoyment of all other rights

- Child participation must be located within a broader commitment and strategy to fully implement the Convention
- All children, from birth onwards, have the right to be heard in all matters affecting them
- There are absolutely no "age or stage" conditions on the right to express a view
- No decisions or situations are excluded: the child has the right to express his or her views in *all matters* affecting him or her
- Adults must take seriously the views of all children
- Whenever a child expresses a view on a matter affecting him or her, these views must be given due weight in accordance with the age and maturity of the child
- The weight accorded to the child's views is affected by his or her understanding of the particular matter in question
- Every judicial or administrative proceeding affecting a child must give the child the opportunity to express his or her views, either directly or indirectly: this right belongs to every child who is the subject of child protection programmes and interventions
- Children's rights to information and education are crucial to their enjoyment of their right to be heard.

Participation in the context of the Convention means all children being able to express their views freely; these views being taken seriously; and all decision-making processes being informed by children's views. These are the minimum standards of international law for children's participation; there are other features of the Convention that replicate (with some adjustment) the civil rights and freedoms provided by other treaties, for adults and children alike, such as the right to information, the right to freedom of expression and the right to freedom of thought, conscience and belief.

Liam Cairns and Maria Brannen in the UK warn that the focus on representative rather than participative democracy has restrained children's voices and influence. They explain why they have avoided the representative approach in their work (2005, page 86):

*We have largely avoided a structural approach, where young people are required to demonstrate their representative credentials and act as spokespersons for a wider group, for instance by joining youth forums or school councils. In general, with a few honourable exceptions, such structural approaches tend to promote participation as an end rather than a means to an end.*

Many have fallen into the trap of treating children's membership of a group or attendance at an event as an end in itself. We can now tick that box! But just as

the right to education is not fully realised by the erection of buildings or purchase of books and chairs, States obligations relating to children's participation are not discharged simply by inviting children into a process or event hitherto dominated by adults or ascribing them official roles or even by changing the law.

### *Ladder of participation*

Soon after the Convention came into force, Roger Hart adapted Sherry Arnstein's ladder of citizen participation (1969) to depict different levels of participation, with child-initiated and shared decision-making at the top and forms of manipulation, decoration and tokenism at the bottom (which he said were not actually forms of participation).

The ladder metaphor was useful in setting some benchmarks for children's participation and it offered a potent reminder about the misuse of adult power. It has been widely criticised and revised, including by Hart himself who now prefers the image of a scaffold. Several conceptual frameworks for understanding participation now exist; these are summarised below. What is striking is the similarity of message: the visual cues may be different but, by and large, all of the frameworks repeat Hart's caution about adult power.

#### **Box 4: A selection of participation frameworks, 1992-2007**

<p>Ladder of participation – Roger Hart</p> <p>1992</p>	<p>Hart assigned eight rungs of a ladder as different levels of child participation. The top rung was 'child-initiated, shared decisions with adults'; the bottom three rungs were not participatory at all (tokenism, decoration and manipulation at the bottom).</p> <p>Despite its widespread use, Hart now sees the ladder metaphor as unnecessary: <i>'I see the ladder lying in the long grass of an orchard at the end of the season. It has served its purpose'</i> (cited in Reid et al, 2008, page 29). In a 2006 article, Harry Shier confronts those who have critiqued the hierarchical nature of his own model as well as Hart's ladder – see below – urging a flexible approach: <i>'... the way that people use ladders in real life provides a useful analogy. Sometimes we use a ladder to climb to the top and move on, but very often we just want to get to a rung some way up so as to work at the correct height for the job we are doing...'</i> (page 18).</p>
<p>Circles of participation – Phil Treseder</p> <p>1997</p>	<p>Treseder uses Hart's five descriptions of participation but arranges them in circles in order to remove the emphasis on hierarchy.</p>



#### Box 4: A selection of participation frameworks, 1992-2007 (continued)

Clarity model of participation – Clare Lardner  2001	Lardner's model asks us to chart the 'degrees of empowerment' with six measurements: who initiates the participation; who decides the agenda; who makes decisions; who has most of the information; who implements action; is it an adult (formal) structure or informal structure.
Pathways – Harry Shier  2001	This model has five levels of children's participation, from children being listened to, being supported to express their views, to having their views taken into account, to being involved in decision-making processes, to sharing power and responsibility for decision-making. For each of these levels adults are asked questions grouped under openings, opportunities and obligations.
Concentric circles – Nandana Reddy and Kavita Ratna  2002	Reddy and Ratna use 13 circles to illustrate different levels of adult-child engagement. Five of these circles are adapted from Hart's ladder; the remaining extend some of Hart's themes. For example, Reddy and Ratna include 'active resistance' and 'hindrance' as well as 'child initiated and directed'. Their top circle (actually placed at the bottom) is 'jointly initiated and directed by children and adults'. The authors stress: <i>'These roles neither are watertight nor are they purely black or white scenarios'</i> (page 30).
Dimensions of young people's participation – David Driskell  2002	Driskell's focus is on urban planning and he transfers Hart's framework to a chart with the vertical axis depicting the amount of power young people have and the horizontal axis the amount of interaction and collaboration with the community. 'Shared decision-making' is the optimum arrangement.
Assessing children's participation – Save the Children Cuba  2007	Save the Children Cuba's grid has four levels of participation – not involved; receive information and services; provide input; and responsible for planning and action. There are seven types of children's involvement – planning the service or project; recruiting staff; selecting leaders and volunteers; delivering the service; reviewing and evaluating the service; training and peer education; and policy advocacy work (cited in O'Neill, 2007, page 67).

#### Whose lives are we talking about?

It is often said that children have the right to participate in their own lives. This is a peculiar idea as it is impossible for human beings *not* to live their own lives. It is similarly impossible to live the lives of others, though this does not stop adults from trying. Parents and others with responsibility for children – teachers and social workers for example – frequently treat children as if they are shadow human beings

being controlled by adults. The child's testimony below is an extreme, though not uncommon, depiction of this viewpoint (Willow, 1999, page 39):

*I have a problem with my step-dad ... he comes up to me, like, I'll go into my bedroom and I'll back off and I'll shut the door, and he goes "don't shut the door" and I'm like "oh God, he's going to hit me or something"...many times before he's hit me round the head, and like [I'll say] "you've got no right to hit me, you have no right to have a go at me", and then he says, he keeps telling me "I have every right to ... I'm an adult, I can do whatever I want ... you're only a kid. Sorry you can't do nothing: you're only a kid. You have no right to do anything".*

A child in West Timor describes the hurt caused by the common practice of "making fun" of children and calling them names – further symbols of their unequal status to adults (Beazley et al, 2006, page 194):

*Emotional punishment is some action which does not directly impact to one's body [physically] but hurts one's feelings – mocking, being shouted at by teachers, made to feel scared, embarrassed, or being called "a dog".*

### **The search for a blueprint**

A strong commitment to participation, coupled with the desire not to make mistakes, often leads us to wishful thinking for a perfect blueprint: if only we could find or create it! Our search for the infallible toolkit is understandable: we want to distinguish ourselves from the adults that have manipulated or mistreated children. We are aware that simply pledging to act in children's best interests will not prevent us getting things wrong. Gerison Lansdown catalogues some of the past abuses of children '*in the name of their best interests*' (1995, pages 37-38):

*... we have placed [children] in large long-term institutions, refused to hear accusations of physical or sexual abuse, allowed high levels of physical punishment, separated them from family members, denied them the knowledge of their identity or origins, tolerated bullying, locked them up for running away from children's homes, segregated children with disabilities, withdrawn entitlement to benefit – the list is endless.*

Roger Hart has described participation as '*the process of sharing decisions which affect one's life and the life of the community in which one lives. It is the means by which a democracy is built and it is a standard against which democracies should be measured. Participation is the fundamental right of citizenship*' (1992, page 5).

The search for answers in children's participation is, fundamentally, about three matters:

- How should individuals with different levels of personal, social and institutional power relate to one another?
- How should groups of people manage difference and operate decision-making in the interests of everyone affected by these decisions?
- How can we ensure that individuals affected by the actions and decisions of others, including those acting in official roles (teachers, social workers, judges for example), have the opportunity to genuinely contribute to those actions and decisions?

In other words, we want to know how inter-personal relationships and democracy should work. The possibilities and challenges of each are massive, and every person has a contribution to make. We can never, therefore, have all the answers, or even construct an exhaustive list of questions. New ways of realising children's right to be heard are emerging all of the time, and more and more children are beginning to publicly voice their views.

- Twenty years ago it was rare for disabled children to contribute to policy-making; this is now starting to happen.
- Ten years ago young children were considered too fragile to ask about parental violence; we now know this to be false.
- Five years ago the adult composition of the Committee on the Rights of the Child had not been challenged; in 2006 a meeting of 33 young people from around the world asked Committee members 'Why are there no children on the Committee?' (CRIN, 2006).
- The international community has only recently begun to seriously consider children's right to an effective remedy, a crucial aspect of being heard and taken seriously: this includes questioning why the Convention is the only major human rights instrument with no complaints mechanism attached to it.
- Who knows what questions we will be asking in the run up to the Convention's thirtieth anniversary in 2019?

### **Lessons learnt**

Ken Rigby, in writing about school bullying in Australia, explains:

*There is now a great deal of instructive material on how to reach the desired goal of no bullying. Unfortunately, it is less of a road map and more like a chart used by the early voyagers, with some areas labelled terra incognita (2003, page 2).*

This is a useful starting point for discussing children's right to be heard. Notwithstanding the constantly changing face of children's participation, there is an enormous and growing body of literature describing and reflecting on participatory initiatives, programmes and campaigns and the UN Violence Study itself generated many documents about children's views and actions. We can also draw on the struggles of other groups who have endured appalling levels of violence and silencing.

There are three overriding themes in the literature: the importance of a human rights framework; understanding and challenging adult roles and power; and having a strategic and systematic approach to participation.

### Theme 1: Working within a human rights framework

Everyone's right to participate was established in Articles 19 to 23 of the Universal Declaration of Human Rights, adopted by the UN General Assembly in December 1948 – see Annex on page 159. Advocacy organisations have therefore been able to invoke the language and force of human rights to support children's participation for over 60 years. However, it is only in the past two decades that children's participation has been strongly championed as a human rights issue.

The principles of the 1924 and 1959 declarations on the rights of the child (there were five in the first and 10 in the second) focused on the child's material and social needs: the child's views, feelings and self-expression were absent (Van Bueren, 1998). Notably, though, the 1959 Declaration contained for the first time '*a reference to a right which is civil rather than predominantly protective in character*' – the right to a name and nationality (Marshall, 1997, page 7). The emphasis on welfare may account for the slowness of children's NGOs to prioritise the civil rights of the child – for themselves and in their work with others – and the contemporary feel of children's participation. (It could also, of course, be just because adults lead NGOs and we too often focus on what gives us most satisfaction). The draft Convention on the Rights of the Child put forward by the Polish Government in 1978 did not contain any references to the child's views; it was not until 1980 that the international community debated the protection of the child's right to be heard; and the final text was agreed by the Working Group in 1989 (Detrick, ed., 1992, pages 224-229). The French delegation proposed in December 1978 that (ibid, page 80):

*It would be desirable for the Convention to include a provision affirming the right of the child at least to be consulted when certain events affecting his personal situation are to take place.*

The following year, the Government of Colombia argued that the Convention should '*consider the child as an active and participating member of society in general and of a family in particular*' (ibid, page 81).

The Colombian Government's hopes were achieved in the final treaty with many provisions directly supporting the concept of the child as an active and participating member of society – see box 5 below.

Child participation is commonly associated just with Article 12. This is an incomplete reading of the Convention – Articles 9, 21 and 37 explicitly require that children's views are known when parents are separating and during adoption and criminal justice proceedings. Disabled children are given the right to 'active participation in the community' in Article 23; a right that cannot be realised without listening to and taking account of their views and experiences. Article 17, the right to information, is often seen as crucial to effective child participation, but why not also the education rights provided in Articles 28 and 29? As the UN General Assembly's Third Committee in its children's rights resolution of November 2009 explains, '*literacy and universal access to free and compulsory primary education of a good quality for all children is a key element in promoting the right of the child to be heard*' (page 8, paragraph 27).

Despite the other strong obligations relating to participation, Article 12 is the epitome of the Convention – as the Canadian Department of Justice explains: '*This recognition of the child's right to express his or her views represents the most famous, if not the most important accomplishment of the CRC*'.<sup>20</sup>

The Convention on the Rights of the Child is the most powerful mechanism to improve children's lives because it demands that adults take children seriously as people. The treaty tells us what children need and what they are entitled to throughout their childhoods but, crucially, it also demands change in the way adults see children and how we behave towards them. We must '*avoid the perseverance of the charity mentality and paternalistic approaches to children's issues*' (Committee on the Rights of the Child, 1999, page 12). This is not a treaty we can read, digest and attempt to implement on behalf of or separately from children. The integrity of the Convention means that we must actively seek out and hear from children: we must allow them influence and work with them to bring about change. Marta Santos Pais, the UN Secretary-General's Special Representative on violence against children, said the inclusion of Article 12 in the Convention made children into

---

<sup>20</sup> <http://www.justice.gc.ca/eng/pi/pad-rpad/res/topic-theme/conv2a.html> Accessed 29 June 2009.

*'principals'* (1992, page 76). Peter Newell, Co-ordinator of the Global Initiative to End All Corporal Punishment of Children, summed up Article 12 as *'the cornerstone of the Convention's insistence that children must not be treated as silent objects of concern, but as people with their own views and feelings which must be taken seriously'* (1993, page 44).

The Convention has the force of international law and, besides the Geneva Conventions dealing with war, is the most ratified of all human rights treaties. It is the focal point of children's rights advocates across the globe – just as we can all look to the sun, moon and stars, we are all using the Convention to bring about change with and for children. Every government department should be using the Convention to help determine actions and decisions that affect children; and every person working in children's services and NGOs should understand and demand the full implementation of the rights of children. For children everywhere have the same claims on society, as Thomas Hammerberg, former Vice-Chair of the Committee on the Rights of the Child, explained soon after the treaty came into force (Hammarberg, 1996, page 21):

*The Convention has given us a universal definition of the concept of the rights of the child. It is a definition which cuts through all social systems as well as all cultural and religious views. This is significant; it should no longer be possible to defend the oppression of children on the grounds that it is the custom within that particular culture.*

The Convention specifically and deliberately ascribes personhood to children. Children's right to express their views freely; the right to have these views given due weight in accordance with age and maturity; and the right to be heard, directly or indirectly in any judicial or administrative proceeding – the broad scope of these human rights do not appear in any other human rights treaty. They apply to all children in all circumstances.

The right to vote freely is included in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Racial Discrimination (CERD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) but not the right to express *views freely on any matter*. Nowhere in the UDHR, the ICCPR, CERD or CEDAW is there a far-reaching right to have one's views given due weight; and, although participation rights exist for workers and those in contact with the criminal justice system, and they are inherent in the right to an effective remedy, there is no equivalent provision in any other treaty for individuals to be heard in any judicial or administrative proceeding affecting them. CEDAW gives girls and women

the right to be involved in the formulation of government policy and to be active in NGOs – but even these two broad rights are more tightly drawn than the Article 12 Convention right relating to any matter affecting children.

The Convention on the Rights of Persons with Disabilities (CRDP), which protects children as well as adults, expands traditional participation rights with its emphasis on making information and processes accessible and its broad right for disabled people to be engaged in public affairs. It includes a specific right to participate in NGOs and to establish representative organisations. Uniquely, the CRDP places an obligation on States Parties to consult disabled people about possible nominations for the treaty monitoring body and there is a wide-ranging general obligation to seek advice from representative organisations of disabled people in implementing the Convention (Article 4(3)).

Hilary Lim and Jeremy Roche describe the participation rights in the Convention on the Rights of the Child as the '*dangerous centre*' of the treaty, because they '*hold out the threat of fundamentally disrupting adult-child relations*', including within the family (cited in Fottrell, 2000, pages 51-72). Traditionally, Articles 12 to 16 are categorised as participation rights, though there are many other provisions in the Convention that either grant the child the right to be heard or explicitly challenge constructions of children as voiceless, passive beings held, at best, under the wings of benevolent adults or, at worst, in servitude. Over half of the substantive rights in the Convention emphasise, to a greater or lesser extent, the child's mental and physical integrity, freedom of expression, influence and individual status. Those who resist change are often cognisant of what full implementation of the Convention entails. As the UN Economic and Social Commission for Asia and the Pacific recently explained in relation to the commercial sexual exploitation and sexual abuse of children (2009, page 84):

*Even though the Convention on the Rights of the Child has been ratified by Pacific Island countries, its implementation has been slow and there are many dissenters who argue that the Convention undermines – and has a negative impact on – culture because it allegedly teaches children to be disrespectful to their elders and to speak out. As children are expected to be seen and not heard, speaking out is therefore considered disrespectful.*

It should be remembered that adults all over the world appeal to tradition and culture to keep children "in their place" (O'Kane, 2007, page 223). Beazley and colleagues have exposed the repulsive claim that forms of punishment connected with electricity – hitting children with cable, deliberately subjecting them to an electric shock or hanging them from an electric pole – are part of some nations' cultural heritage (2006, page 125):

*The installation of electricity in homes is only a little more than a century old in developed countries, and even more recent in developing nations ... Thus it can hardly be argued that using electric shocks is a traditional form of discipline.*

### Box 5: A new construction of children and childhood

Provisions in the Convention on the Rights of the Child that reject the punitive treatment of children and explicitly promote the child's:

- Human dignity
- Physical and mental integrity
- Free expression
- Influence in decision-making
- Status as an independent legal subject.

*NOTE: The implications for government sections below are not an exhaustive summary of the obligations placed on States Parties under each Article of the Convention. For a comprehensive review of the Convention's obligations under each Article see Hodgkin and Newell, 2007. The text under each selected Article is a summary of key points.*

#### ARTICLE 5

States recognise the primary role of parents, legal guardians, extended family members or the community where this is recognised by local custom

The direction and guidance given by parents and others to children about the exercise of their rights should be consistent with the child's evolving capacities

#### ARTICLE 18

The best interests of the child will be the basic concern of parents and legal guardians. In order to guarantee the rights in the Convention, States are required to assist parents and legal guardians in meeting their responsibilities

#### Key messages

- The primary role of parents and legal guardians is to assist the child in enjoying his or her rights
- The child is not the property of parents; he / she is a separate individual
- The assistance given by parents to children will change as the child's capacities evolve
- Children's capacities evolve from the moment they are born
- There is no universal pattern of growth or development in children – each child is unique.

#### Implications for Government

- Legislation and policy should clearly establish the overriding role of parents as being to promote and protect the rights of children
- Any parental rights, duties and responsibilities defined in legislation should be consistent with the Convention; there should be no special provisions in law or custom which allow parents to infringe the rights of children
- The evolving capacities of children should be reflected in legislation and policy; fixed minimum ages for the exercise of rights should be avoided.



## ARTICLES 7 AND 8

The child's right to identity, including name, nationality, the right to know and be cared for by both parents and to preserve family relations

### Key messages

- Every child is a unique individual
- Children are citizens
- Children have self-awareness and give meaning to their own lives through their relationships with others.

### Implications for Government

- Legislation should require compulsory birth registration and permit children to acquire the nationality of both parents
- All children should have the legal right to know the identity of their parents, including adopted children, those born as a result of assisted conception and children living in alternative care. This information should be available to children in a manner consistent with their evolving capacities
- Legislation and policy affecting children separated from one or both of their parents should establish the right of children to maintain relationships with both parents and other family members, including siblings.

## ARTICLE 9

When a child is separated from his or her parents, including for reasons of abuse or neglect, the child has the right to participate in proceedings and to make his or her views known

### Key messages

- The child is not the property of parents or the State
- Children have views about with whom and where they live
- Children are able to express their views and participate in formal decision-making processes
- Abuse and neglect do not cancel out the child's right to express their views.

### Implications for Government

- Legislation and policy should clearly establish the right of all children separated from their parents to participate in proceedings and make their views known
- Legal advice and representation should be freely available for all children separated from their parents
- There should be no minimum age requirements for children to be able to participate in proceedings and make their views known.

## ARTICLE 10

The child has the right to apply themselves to enter or leave a State

### Key messages

- The child is not the property of parents or the State
- The child is able to initiate and participate in administrative proceedings.

### Implications for Government

- There should be separate asylum and immigration legislation and procedures for children, consistent with the Convention and other international law.

**ARTICLE 12**

The child has the right to express his or her views freely in all matters affecting him or her; and to have these views given due weight according to his or her age and maturity. The child shall in particular be heard in any judicial and administrative proceeding affecting him or her, directly or indirectly

**Key messages**

- All children have the right to express their views freely
- There should be no compulsion on children to express views
- Children should not be restricted in which matters they can express their views on, and how they express those views
- Children's expressed views must be considered in all decision-making affecting them
- The combination of a child's age and maturity will affect how much weight is given to his or her views
- Age and maturity refer to the level of understanding a particular child has about a particular matter or decision; it is not a fixed or general, permanent state (see page 39)
- Age and maturity are the only conditions imposed on the extent to which a child's views influence a particular matter. It follows that in some situations children will have very little influence and in other situations they will have considerable influence (see page 40)
- All children have the right to be heard in any judicial or administrative proceeding affecting them, either directly or through a representative.

**Implications for Government**

- Legislation and policy must ensure children can express their views freely in all matters affecting them – in general terms as well as in particular settings such as within the family, schools, alternative care, health care, custody and in all judicial and administrative proceedings affecting them
- Legislation and policy must require decision-makers to give due weight to the child's expressed views in all matters affecting them
- In all judicial and administrative proceedings, legislation and policy must require the child's views to be heard, either directly or through a representative
- There should be no minimum age requirements in law for children being able to express their views in matters affecting them, including in judicial and administrative proceedings.

**ARTICLE 13**

The child has the right to freedom of expression

**Key messages**

- Children have ideas, thoughts and knowledge which they may want to communicate to others
- Children have the right to communicate their ideas, thoughts and knowledge in ways that they choose.

**Implications for Government**

- Legislation and policy should clearly establish the child's right to freedom of expression – in general terms as well as in particular settings such as within the family, schools, alternative care, health care and custody and in all judicial and administrative proceedings affecting them.

#### ARTICLE 14

The child has the right to freedom of thought, conscience and religion. Parents and legal guardians can provide direction to the child in the exercise of this right in a manner consistent with the child's evolving capacities

##### Key messages

- Children are in charge of their own thoughts and beliefs
- The child's right to freedom of thought, conscience and religion belongs to the child, not the parent
- The direction given by parents about the child's exercise of this right will change as the child's capacities evolve
- Children's capacities evolve from the moment they are born
- There is no universal pattern of growth or development in children – each child is unique.

##### Implications for Government

- Legislation and policy should clearly establish the child's independent right to freedom of thought, conscience and religion – in general terms as well as in particular settings such as within the family, schools, alternative care and custody and in all judicial and administrative proceedings affecting them
- Legislation and policy should clearly establish the power of parents to give direction (*not to make decisions*) to children about the exercise of this right, consistent with the child's evolving capacities.

#### ARTICLE 15

Children have the right to associate and meet with others

##### Key messages

- Unless there are legitimate legal restrictions, children have the right to meet with others in public.

##### Implications for Government

- Legislation and policy should clearly establish the child's right to associate and meet with others – in general terms as well as in particular settings such as within the family, schools, alternative care and custody
- Any legal restrictions on children's independent mobility by parents or others (teachers for example) should be consistent with all of the rights in the Convention.

**ARTICLE 16**

Every child has the right to privacy and to be protected from unlawful attacks on his or her honour and reputation

**Key messages**

- Children possess human dignity
- Children are aware of and affected by how others perceive them and their social status.

**Implications for Government**

- Legislation and policy should clearly establish the child's right to privacy – in general terms as well as in particular settings such as within the family, schools, alternative care and custody and in all judicial and administrative proceedings affecting them (see also Article 40).

**ARTICLE 17**

The child's right to access information from 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. Children should be protected from harmful information and material

**Key Messages**

- The media has a responsibility to inform and engage directly with children through, for example, children's radio, television programmes, newspapers and magazines.

**Implications for Government**

- Regulation and resources should make explicit provision for children as media consumers and producers
- Legislation and policy should protect children from harmful media, including the negative portrayal of children in the media.

**ARTICLE 19**

Children have the right to be protected from all forms of violence and mistreatment

**Key Messages**

- All children have the right to physical and mental integrity
- The traditional belief, evident in the majority of societies, that parents, legal guardians and others with responsibility for children (teachers and care workers for example) have a special right or duty to inflict violence on children should be strongly challenged and rejected
- Violence has no legitimate place in parenting or education.

**Implications for Government**

- Legislation and policy should ensure the child's right to be protected from all forms of violence and mistreatment, including corporal punishment and other cruel or degrading forms of punishment – in general terms as well as in particular settings such as within the family, schools, alternative care and custody (see below)
- Special "reasonable chastisement" legal defences that permit parents or others to inflict violence on children should be removed from law
- The infliction of violence on children, including in its most extreme form as capital punishment, should be strictly prohibited in all parts of the criminal justice system (see also Articles 37 and 40).

#### **ARTICLE 20**

When a child is deprived of his or her family environment, 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

##### **Key messages**

- Children have their own personal histories and attachments – to people, traditions and beliefs – that should wherever possible be preserved if their circumstances change.

##### **Implications for Government**

- Legislation and policy should clearly establish the importance of seeking to preserve the child's family environment and giving due regard in judicial and administrative proceedings to the child's ethnic, religious, cultural and linguistic background.

#### **ARTICLE 21**

Adoption should proceed only if it is in the child's best interests and the informed consent of all concerned persons has, wherever possible, been sought

##### **Key messages**

- Adoption is a legal process whose sole purpose is to best protect the rights of children: it is not a service for prospective parents
- Children affected by adoption – including the child being considered for adoption and any siblings or other directly affected children in the family of origin or prospective adoptive families – should be offered appropriate information and counselling to assist them in making an informed view as to whether the adoption should proceed
- Children are independent legal subjects.

##### **Implications for Government**

- Legislation and policy should clearly establish the primacy of the best interests of the child in adoption
- Legislation and policy should ensure affected children are offered appropriate information and counselling in order to be able to make an informed view and to be able to express these views freely (see also Articles 12 and 9)
- Separate legal representation should be provided for all children subject to adoption proceedings.

#### **ARTICLE 23**

The rights of disabled children to social integration and active participation in the community

##### **Key messages**

- Every child is an equal member of society irrespective of his or her capacities – actual or assumed.

##### **Implications for Government**

- Legislation and policy should clearly establish the rights of disabled children to be treated as equal members of society – in general terms and in relation to family life, education, health and welfare services and programmes (see also the Convention on the Rights of Persons with Disabilities).

#### **ARTICLE 24**

Children have the right to be informed about health matters

##### **Key messages**

- Children can make informed decisions about their own health.

##### **Implications for Government**

- Children of all ages must be provided with appropriate health information; there should be no legal restrictions on children's right to education about health matters.

#### **ARTICLE 26**

Children have the right to social security, including social insurance

##### **Key messages**

- Children can be financially independent from their parents.

##### **Implications for Government**

- Legislation and policy should recognise and make provision for children as direct recipients of social security, including social welfare.

#### **ARTICLE 28**

School discipline should be administered in a manner consistent with the child's human dignity

##### **Key messages**

- Violence, including corporal punishment and other cruel or degrading forms of punishment, is not a legitimate form of discipline
- Children retain all of their human rights whilst in school.

##### **Implications for Government**

- Legislation and policy should ensure the child's right to be protected from all forms of violence and mistreatment, including corporal punishment and other cruel or degrading forms of punishment, in all schools (State-funded and private, independent establishments, including those run by faith-based organisations)
- Special "reasonable chastisement" legal defences that permit teachers to inflict violence on children should be removed from law
- Legislation and policy should require teachers to act in a manner consistent with the child's dignity (see also Article 29).

### ARTICLE 29

The aims of education should be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential, as well as to respect for human rights and the rights of others

#### Key messages

- Children are people before they enter the education system
- The primary purpose of educational institutions and systems is to assist the maximum development of children as individuals
- Closely connected with this is the broader role of educational institutions and systems to promote values, relationships and behaviour consistent with internationally agreed human rights norms (see page 121).

#### Implications for Government

- Legislation and policy should clearly establish the aims of education consistent with the principles and provisions of the Convention
- Policy and practice in schools and other educational settings should recognise and actively nurture the child's dignity, personality, talents and abilities.

### ARTICLE 30

Children have the right to join with others to enjoy their own culture, religion and language

#### Key messages

- Children have their own identities; they have the need, like adults, to enjoy their culture, religion and language with others.

#### Implications for Government

- Legislation and policy should clearly establish the child's right to join with others to enjoy their own culture, religion and language – in general terms as well as in particular settings such as within the family, schools, alternative care, health care and custody.

### ARTICLE 37

Every child deprived of his or her liberty has the right to prompt legal advice and other appropriate assistance

#### Key messages

- The deprivation of a child's liberty is a grave measure which must have judicial oversight
- Children deprived of their liberty must receive information about their rights and legal assistance to express themselves (see also Article 12)
- Custodial settings for children must offer all other appropriate assistance consistent with the rights in the Convention.

#### Implications for Government

- Legislation and policy must provide for free legal advice and representation for all children deprived of their liberty
- Legislation and policy must ensure the culture and practices within custodial settings are consistent with the rights in the Convention (see also Article 40).

**ARTICLE 39**

States must promote the recovery and social reintegration of children who have been neglected, exploited, abused or tortured or subject to any other cruel, inhuman or degrading treatment or punishment. Such measures should encourage the health, self-respect and dignity of the child

**Key messages**

- All children who have endured rights violations have the right to additional protection
- All children who have endured rights violations can recover
- The focus of recovery and rehabilitation services and programmes should be on enhancing the child's physical and mental health and encouraging them to feel positive about themselves.

**Implications for Government**

- Legislation and policy should clearly establish the right of all children who have endured rights violations to recovery and rehabilitation services and programmes. This includes children in contact with the criminal justice system and the immigration and asylum systems, and children affected by armed conflict
- Interventions and services for children who have endured rights violations, including those subject to violence, should be focused on enhancing the child's physical and mental health and encouraging them to feel positive about themselves, in addition to protecting all the other rights in the Convention.

**ARTICLE 40**

Children in contact with the criminal justice system should be treated in a manner consistent with their dignity and worth at all times.

The child's right to have legal or other appropriate assistance, including an interpreter, when he or she has been accused of committing, or has been found to have committed, a criminal offence. Parents are sometimes the most appropriate people to tell children they have been charged of a criminal offence; and their presence in the child's hearing will usually be beneficial. The child's right to privacy should be protected at all times

**Key messages**

- Children in contact with the criminal justice system retain their fundamental rights to human dignity and worth
- Punishment has no place in human-rights based juvenile justice systems
- Children are entitled to directly instruct legal advocates
- Children are entitled to communicate through an interpreter
- Parents can be important allies for children in conflict with the law
- The child's right to privacy in all criminal justice proceedings is absolute.

**Implications for Government**

- Legislation and policy should ensure children in conflict with the law (including military law) are treated at all times in accordance with their fundamental rights, human dignity and worth (see also Article 37)
- The aims of sentencing, as prescribed by law, should be focused on positive rehabilitation and must not include any reference to punishment (see also Article 19)



- Legislation and policy must provide for free legal advice and representation for all children who have been accused or charged of committing a criminal offence
- Legislation and policy must provide for the free use of interpreters for all children who have been accused or charged of committing a criminal offence (see also Article 12)
- Legislation and policy should enable the positive involvement of parents in offering guidance and direction to children in conflict with the law, consistent with the child's evolving capacities, their expressed views and other rights in the Convention
- Legislation and policy must ensure the right to privacy of every child in conflict with the law is fully protected.

## ARTICLE 42

The child's right to know about the principles and provisions of the Convention on the Rights of the Child

### Key messages

- Knowledge about children's rights is a basic entitlement
- The State should communicate directly with children about their rights
- Information about the Convention should communicate human rights values and principles as well as the detailed provisions in the Convention.

### Implications for Government

- Legislation and policy should clearly establish the child's right to receive information about the Convention, including through the school curriculum
- Information about the Convention should be available to children at key transition points (e.g. when starting and leaving school, entering and leaving employment) as well as in particular circumstances (e.g. when children are the subject of judicial and administrative proceedings or when they require medical treatment)
- Information about the Convention should be accurate and accessible (see pages 113-114).

All other provisions in the Convention have an effect upon children's right to be heard. This is why the Committee on the Rights of the Child selected Article 12 as one of its four general principles (the others are Articles 2, 3 and 6). The Committee's General Comment on the right to be heard explains (2009a, paragraph 2):

*... article 12 [is] one of the four general principles of the Convention, the others being the right to non-discrimination, the right to life and development, and the primary consideration of the child's best interests, which highlights the fact that this article establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights.*

**Imagine the Convention without any civil rights. What would children's rights implementation and advocacy have looked like over the past 20 years?**

The right to adequate nutrition, shelter, education and cultural life, whilst absolutely essential and still disgracefully denied to millions of children, are not enough to sustain human life and fulfilment. This is because material goods and welfare can be dispensed to children without ever acknowledging them as individuals with their own feelings, ideas and consciousness. Civil and political rights demand a different way of relating to children, where we break out of the mould of viewing them as '*human becomings*' (Lee, 2001), '*proto-adults*' (John, 2003, page 43), '*social problems, burdens or [the] pretty play-things*' of adults (Freeman, 1997, page 64).

## Theme 2: Adult roles and power

If you are working in government or a children's NGO, international law, and hopefully national legislation and policy, requires you to promote and respect children's right to be heard and taken seriously. This is not somebody else's job.

Think about the myriad of ways your organisation supports children's participation, and your unique contribution. There are many different roles and, remember, the ones in the forefront are not necessarily the most critical in bringing about lasting change in children's lives. Bill Badham, a children's rights advocate in the UK, explains (cited in Willow, 2002, preface):

*Participation is like dancing the Macarena.<sup>21</sup> Many love it – it's electric. But some hate it and don't like the group pressure. Others just feel a bit silly and self-conscious. Many of us need a bit of encouragement to get up and get started. Of course no one has to join in, but you may feel you ought to. Probably no one is judging anyone else, but you feel they might be. There is something to join in and others to join in with, but you can also do your own thing or sit and watch from the sides. Some come to it with a natural flair, others will need a bit more practice. Someone else may have put the music on, but you could always make other requests, or even take over the decks.*

Badham's analogy is most helpful in considering group processes and children enjoying their right to be heard and taken seriously when rules, policies, programmes, laws and budgets are being considered. But children's participation is, crucially, also about individual children's right to be heard – in court proceedings, in matters

<sup>21</sup> The Macarena is a Spanish song that was a chart hit in Europe, Australia, New Zealand and the US during the 1990s. The dance to it is very lively, involving vigorous arm, leg and hip movements.

affecting their health or education, and within the family. Not everyone in your organisation will be setting up children's rights projects, but every person in contact with children should be doing everything possible to ensure they can express their views freely. They should all respond appropriately to these views. Moreover, if your job has anything to do with a judicial or administrative process affecting an individual child you must give the child the opportunity to be heard, either directly or indirectly.

Nandana Reddy and Kavita Ratna have critiqued Roger Hart's ladder of participation – see page 54 – and suggested it is not really about children's actions but more indicative of the different roles adults play in supporting or blocking participation. They usefully revise Hart's ladder, giving explicit examples of adult behaviour. Hart welcomes these '*valuable schemas for thinking about the varying roles adults play*' (cited in Reid et al, 2008, page 28).

Building on Reddy and Ratna's idea of characterising adults' behaviour and functions, I suggest there are seven main groups of behaviour and role types within organisations:

- Saboteur
- Fire-raiser
- Opportunist
- Entertainer
- Pillar
- Advocate
- Innovator.

Each of these role types has dominant characteristics that ultimately stop or support progress – see pages 74-77. These are crude classifications that do not account for every adult role and, of course, none of us will fit into only one category and our roles change over time.

Most attention in children's participation has, hitherto, been focused on challenging the saboteurs – those that actively reject children's rights – and supporting the innovators. Both of these belong to relatively small pools of people, however they can cause immense damage or bring about great changes. It is important to continue to identify and confront the saboteurs though at some point decisions have to be made about their suitability to work with children. We would not question whether a doctor should continue to practise if she does not accept the Hippocratic Oath; or whether a police officer that refuses to follow the law should be retained. Those that

work in public positions that affect children are, similarly, obliged to follow the law and modern norms. Peter Newell has referred to the '*horrific ingenuity of adults in devising new ways of exploiting children sexually*' (2008, page 29). Adults can also show sickening cleverness in silencing children, and they need to be challenged outright (Willow, 2002, pages 50-51):

*Some adults blankly refuse to change, preferring to carry around second-hand beliefs that they are superior, and that there is no place for children in decision-making. They hold onto their power, and feel no shame for the terrible way that they treat children ... organisations that employ adults who have out-of-date attitudes towards children have a responsibility to help them change or, ultimately, they must assist them to seek more appropriate employment.*

At the same time, an excessive focus on the innovators – on making sure they have the right amount of resources, status and opportunities – can maintain participation in its marginal state, where it is viewed as something only a few people can do really well. The full implementation of children's participation rights requires the active engagement of the majority in the organisation: in this respect the task is to encourage and support more participation pillars. Innovators will always be important, not least because they can inspire and show others how change is possible. But they are not the full story of children's participation.

Organisations have to be also aware of the disproportionate amount of attention and delaying power often given to fire-raisers – those who take on the role of warning of the risks of participation. Adults who spend their time identifying and broadcasting problems but do not offer any solutions can be a major impediment to progress. This is not to deny the inherent challenges in children's participation. It is to remind ourselves that we have no choice: children can and must be offered the opportunity to influence all matters affecting them.

## Box 6: Groups of behaviour and role types within organisations

### Participation saboteur

These are adults who persistently block actions and interventions that support children's right to be heard in violence prevention and protection. They do not tell children, colleagues or managers about participation opportunities. They withhold funding and refuse to make adjustments to decision-making processes. There can be many underlying reasons, including:

- They enjoy their individual power and status and do not want this disturbed by democratic structures and decision-making
- They believe children's rights are a threat to the family, school discipline, community values or wider culture. They do not see anything wrong in adults being in charge and view children as unformed human beings lacking legitimate views
- They do not believe they can learn anything from children
- They refuse to hear children's views about violence because they do not want to confront their own beliefs, behaviour or childhood experiences
- They are fatalistic about the influence children can have on decision-making
- They feel confident in their existing role and do not want to risk failure.

### Participation fire-raiser

These are adults that constantly warn of the dangers of participation. They do not suggest possible solutions because they expect others to convince them that everything will be OK. They can have a very demoralising effect on children and adults alike and may:

- Present well constructed reasons for children not to participate, which seem to have children's best interests at heart – children are too young; there are child protection risks; childhood should be free of responsibility; we do not have the resources to do this well; there is not enough time. Where expressed anxieties are accompanied by a regular pattern of inactivity and missed opportunities, this person may be hiding fundamental objections to children's rights and participation: privately, he or she may be a participation saboteur
- Have genuine fears and worries about the practicalities and impact of children's participation: they want to be sure they and their organisation can do everything (or most things) right before they give it a try. They are not prepared to embark on different ways of doing things unless they can be assured of success.

### **Participation opportunist**

These are adults that can see the benefits in children participating in certain forms of decision-making at particular moments. They invest time and effort into one-off initiatives and interventions but there is no consistent pattern of commitment or action. They make few adjustments to their regular work patterns. If they are a manager, they do not expect or support staff to demonstrate respect for children's right to be heard as a matter of routine. These adults:

- Use participation as a means of improving a particular child's life, or achieving a one-off change in legislation or policy or influencing an international conference or event
- Do not necessarily operate within a human rights framework: they pursue participation because it elicits different views and ideas, because it is educational or because it improves personal and organisational reputation, status and remuneration / funding.

### **Participation entertainer**

These are adults that see participation being predominantly about children having fun. They are concerned mostly about the process of participation; indeed, they are happy to run events and initiatives that have no agreed advocacy goals. These adults:

- Can be very popular with government officials and public agencies because their engagement with children rarely results in specific recommendations for legal, policy or practice changes: broad demands for adults to listen more to children, or to include them in decision-making, are relatively easy for policy makers to agree to
- May be very skilful in direct work with children but are not necessarily effective children's rights advocates; they may actually see a children's rights agenda as being inappropriate because they want children to make up their own minds about issues (this wrongly presupposes that children are not subject to other influences).

### **Participation pillar**

These are adults who can be relied on to respect the child's right to be heard. They have the right combination of attitudes, knowledge and skills and listen to and take children seriously as a matter of routine. They do not perceive themselves as participation specialists or experts but see their job as being fundamentally about listening to, understanding and responding to children's feelings, thoughts and views. If they are a manager, they probe and encourage staff to improve their communication skills and empathy with children. They want to see evidence of children being heard and taken seriously. These adults:

- Usually work with children in one-to-one settings – they are teachers, social workers, psychologists, early years workers, police officers, researchers, lawyers
- Show respect to children in their everyday actions and practice
- Implicitly and strongly support children's rights
- Are interested in achieving change for individual children on an ongoing basis
- Rarely themselves establish or facilitate participation projects or programmes
- Will support children to engage in social activism and children's rights advocacy.

### **Participation advocate**

These are adults who actively promote participation and do all they can to encourage and support others, especially children. They strongly support children's rights and see participation as pivotal to their organisation's implementation of the Convention on the Rights of the Child. If they are a manager, they prioritise children's right to be heard and taken seriously and ask for evidence of children's influence and positive change in the realisation of children's rights. They are prepared to take risks and have realistic dialogue with funders and donors about the prerequisites of effective participation. They lobby for adequate resources for children's participation – in individual decision-making as well as group or community decision-making. These adults:

- Actively support children to form and manage their own campaigns and programmes
- Establish and run campaigns and programmes in partnership with children
- Integrate children's voices and experiences into everything they do
- Seek examples of change in a wide range of settings in order to inspire and educate others
- Use a variety of communication techniques to promote participation, including media interventions, published writing, training and public speaking.

### Participation innovator

These adults are always looking for new approaches and ways of realising children's rights. They are flexible and open to new ideas, especially from children. They see no limit to children's participation and are vigilant about making sure children of all ages and circumstances get the opportunity to be heard and taken seriously. These adults:

- Have a broad advocacy framework for achieving change with, and for, children, including establishing adequate legal frameworks, making government structures and systems child-friendly, media campaigns, legal casework and public protest.

## Theme 3: Achieving lasting change

The proliferation of children's participation projects has not brought about substantial change in how governments and NGOs work with, and for, children. In many respects children remain the outsiders in public decision-making and traditional attitudes about their status and capacities prevail. Fundamentally, too many participation initiatives have been established to meet the interests of adults – enhancing the reputation of our governments or workplaces or being part of a traditional education or public order agenda – rather than seeking to fulfil obligations under the Convention.

### Organisational and cultural change

Sharon Bessell has used the work of Goldstein and Keohane to consider how three categories of belief systems affect approaches to children's participation. In their analysis of decision-making in foreign policy, Goldstein and Keohane described three main belief systems: world view, principled and causal. The first set of ideas has the '*broadest impact on human action*' (Goldstein and Keohane, 1993, page 8).

World views '*are entwined with people's conceptions of their identities, evoking deep emotions and loyalties*' whereas principled beliefs are '*normative ideas that specify criteria for distinguishing right from wrong and just from unjust*'. Causal beliefs '*are beliefs about cause-effect relationships which derive authority from the shared consensus of recognized elites or scientists at elite institutions*' (ibid, pages 8-10). Applying this typology to children's participation, Bessell concludes (2007, page 2):

*Ideas supporting children's participation stem from a world view based on the importance and universality of human rights, whereby citizen participation is a fundamental right. The United Nations on the Convention on the Rights of the Child*



*reflects and has reinforced significantly this world view. Principled beliefs about children's participation are based on the idea that social justice is predicated on the equality and respect for all citizens, regardless of age. Children's participation is a matter of entitlement or human rights and justice. Causal beliefs about children's participation identify a cause and effect between children's participation and the protection of children and/or better policy outcomes.*

The Committee on the Rights of the Child has set out the core obligations of States Parties in implementing Article 12. Strategic and systematic action by government helps to ensure the widest adoption of the Convention's world view that all children have the right to be heard and taken seriously in all matters affecting them. The aim is to ensure everyone working with, and for, children understands that our responsibilities to implement children's rights are non-negotiable, permanent and wide-ranging (Committee on the Rights of the Child, 2009a, page 14, paragraph 49):

- Review and withdraw restrictive declarations and reservations to Article 12
- Establish independent human rights institutions with a broad children's rights mandate
- Provide training on article 12, and its application in practice, for all professionals working with, and for, children
- Ensure Article 12 is '*firmly anchored in laws and institutional codes*', and translated into the regulations and arrangements of all those working with, and for, children
- Regularly evaluate the extent to which Article 12 is being implemented
- Run public campaigns which aim to '*combat negative attitudes [and] change widespread customary conceptions of the child*'.

#### **Democratic decision-making**

The Child, Youth and Families Act 2005 in Victoria, Australia, requires that decisions affecting children '*be reached by collaboration and consensus, wherever practicable*'. Everyone involved in the decision-making process must be '*provided with sufficient information, in a language and by a method that they can understand, and through an interpreter if necessary, to allow them to participate fully in the process [and they should be] provided with the opportunity to involve other persons to assist them to participate fully in the process*'.

### *Change in relationships and work with children*

For those working directly with children, the Convention requires constant rigour and reflection. The 12 questions below offer a framework for approaching each opportunity – or demand – for children to influence matters affecting them. The checklist focuses on decision-making affecting the individual child, to counterbalance the prominence often given to group participation. However, the questions can be applied equally to collective participation. The first question is an overarching one, probing your own conduct and openness to children's views.

- Question 1**      How do your actions or decisions affect children?
- Question 2**      What is the purpose of participation in this scenario?
- Question 3**      Where does this action fit within **your** broader responsibilities to promote and protect children's rights?
- Question 4**      Where does this action fit within **your organisation's** broader strategy to promote and protect children's rights?
- Question 5**      What information does the child need in order to be able to form a view?
- Question 6**      How will the child express his or her views and will anyone else's views be considered?
- Question 7**      What will you do to make sure children's rights generally are protected in this scenario?
- Question 8**      What will happen to the child's views?
- Question 9**      How will the child know his or her views have been given due weight?
- Question 10**     What can the child do if he or she believes his or her right to be heard has been breached?
- Question 11**     What opportunities exist for the child in this scenario to become involved in children's rights advocacy on a longer-term basis?
- Question 12**     What will you do next to support children's right to be heard?

### Question 1: How do your actions or decisions affect children?

- What are your own moral or legal obligations to seek and respond to children's views?
- What opportunities exist for children to influence your actions and decisions?
- How easy or difficult is it for children to influence your actions and decisions?
- How often do you review the extent to which you seek and give due weight to children's views about your actions and decisions?
- How do you describe your role to children; what perceptions do they have of your commitment to children's rights?

#### Why these questions are important

These questions encourage you to examine your own attitudes and approachability. If participation is to be more than a temporary experience, and if it is to bring about sustained change for children, we all need to be open to challenge and change. There should be no fenced off matters: if what we do or decide affects children, they should be given the opportunity to contribute, question and challenge. Crucially, children should be able to see from our actions and general demeanour that we personally respect them as rights holders, and that this support is active rather than passive.

### Question 2: What is the purpose of participation in this scenario?

#### *The child*

- What does the child want to achieve through expressing his or her views? What is the minimum acceptable outcome from his or her perspective?

#### *You and your organisation*

- Is the child seeking to influence you or your organisation? If so, how will you discharge your responsibility to seek the child's views in this scenario; how will you discharge your responsibility to consider the child's views; and how will you discharge your responsibility to respond to the child's views?
- Are you supporting the child to express his or her views to others? If so, how will you seek to ensure the child is able to express his or her views freely; the child's views are given due weight; and the child is able to challenge the outcome if necessary?
- In addition to meeting your obligations under the Convention, do you have any other aims for supporting the child's right to be heard?

#### Why these questions are important

Assisting children to exercise their right to be heard and taken seriously requires preparation and reflection. It is not a small part of your work with children, to be squeezed in among other more important responsibilities. If you are making decisions that affect children, you must give substantial time and energy to seeking out the child's views, giving these views due weight, reporting back to the child and then ensuring the child has the opportunity to challenge your action or decision. If an action or decision cannot be reversed, the child should at least have the opportunity to hear why you acted in the way you did; in some circumstances they may choose to legally challenge your action or decision in order to have it overturned and / or receive compensation.

You will only be able to judge whether you have implemented this right if you are clear about the child's aims, what assistance they need to express their views, and you have sought their response to how their views have been received and acted upon. Part of this process will be you (or someone independent of the action or decision) informing the child of how he or she can challenge the action or decision.

Too often children's participation in group events and processes are about activities rather than outcomes – children are invited (sometimes coaxed by payment or other material rewards) to turn up at an event, to express their views, then they go home. They may receive a report some weeks or months later but this rarely describes the variety of views expressed; how these views were considered; and the reasons why certain actions were subsequently taken or decisions made as a result. The child – and what might change for him or her – must always be at the forefront of your thinking.

### **Question 3: Where does this action fit within your broader responsibilities to promote and protect children's rights?**

- What rights in the Convention will you be seeking to promote or protect through supporting the child's right to be heard?
- What have you done to inform the child of their rights within the Convention?

### **Why these questions are important**

Article 12 gives children the right to influence all matters affecting them. This incorporates views about being heard generally but also views about specific matters in particular situations – in the family, the classroom, the workplace, the local community and the courtroom. The Convention provides a set of principles and detailed provisions for all these situations and settings.

This question encourages you to think strategically about children's participation: to be clear about the rights you and the child are seeking to promote or protect. It reminds you that, to be an effective advocate of children's participation, you need to understand – and help others to understand – the principles and provisions of the entire Convention. The common failure to locate children's participation within a broader children's rights agenda can lead to "empty placard syndrome" whereby children (and their advocates) are apparently seeking change but have no specific demands – see page 75. These questions discourage us from investing in participation simply as a process, event or structure.

### **Question 4: Where does this action fit within your organisation's broader strategy to promote and protect children's rights?**

- What is the particular role of your organisation in promoting and protecting children's rights?
- How will your action or intervention in this scenario support your organisation's broader participation strategy?
- If your action or intervention does not fit within your organisation's strategy,<sup>22</sup> what are the reasons for this – an exceptional opportunity or threat, or a response to children's demands for example?

<sup>22</sup> An organisation's children's rights strategy could, of course, include an ongoing commitment and capacity to respond to unexpected opportunities and threats and children's own proposals.

### Why these questions are important

These questions encourage a strategic and systematic approach to participation, discouraging one-off initiatives that are not part of any wider commitment or strategy. They remind us that action to promote and protect children's right to be heard should be part of a broader strategy to implement children's rights and that this agenda should be the organisation's driving force.

### Question 5: What information does the child need in order to be able to form a view?

- What information would help the child form his or her views? In addition to information about the Convention on the Rights of the Child and other human rights instruments, does the child need information about: domestic law and policy; social or medical research findings; how decisions are made; the roles and responsibilities of decision-makers; the law and policy in other countries?
- What is the most appropriate way of presenting this information – written materials, website, audio recording, film, training or workshops for example?

### Why these questions are important

Children have a vast amount of knowledge about their own lives. Many children acquire specialised medical, legal and other expert knowledge over time – because they have had particular experiences (illness, separation from parents, employment or involvement in armed conflict for example) or they are interested in specific areas of law or policy. However, the range of matters that children could potentially influence is so wide that it is unrealistic to ask for views without also offering them access to appropriate information. Indeed, this is patronising to children – adults would not be asked or expected to offer our views on complex ethical, legal, financial or social issues without information and dialogue with (other) experts. Including children on an uninformed basis is denying their capacity to engage intelligently with competing information and interests and it maintains them in a marginal role – 'oh they are only speaking for themselves; they are unaware of other factors'. Debates about children's best interests bring this sharply into focus. Adults have been very reluctant to include children in decisions about what is in their best interests: we allow them to express their views but then we make the decisions, based on a wider set of considerations. Why can't children also engage with these matters? Conversely, some seem to believe that children's views should be followed *just because they are children*. This is also demeaning to children because we are not genuinely engaging with them as "peers". Furthermore, this essentialist view tends only to show itself in the smallest range of decision-making – children are allowed to choose the colour of their school uniform, but not whether they wear one; children are invited to speak at a conference, but not asked whether they think a conference on a particular issue is the best way of bringing about change; children are invited to make proposals for local play facilities but they are not asked to help plan leisure amenities they share with adults.

### Question 6: How will the child express his or her views and will anyone else's views be considered?

- Are there any immovable perimeters affecting how, when and where the child is to express his or her views, or are these flexible?
- Does this action or intervention concern only the rights of an individual child, particular groups of children, or potentially all children?
- If the action or intervention concerns more than a single child, how important is it to maximise the number of children involved or to bring together diverse views and experiences?

#### Why these questions are important

These questions encourage us to reflect on the options open to children when deciding how to express their views, and to be clear from the start whether other views also need to be considered.

In certain circumstances – a judicial hearing, a medical procedure or a parent loses a job for instance – the child may have little control over *when* he or she must express a view: the court is considering whether she should be adopted; a life-saving operation is needed; or the child's family must move because they cannot now afford the weekly rent. This is not to say there cannot be flexibility in *how* the child's views are sought and considered. It also does not mean the child is compelled to express a view on a particular matter – he or she may have no strong views; he or she may trust others to make a decision; or he or she might consider the matter to be too trivial or too complicated. A child who is given the option of expressing a view but decides not to is still expressing a view. It will be important in these circumstances to ensure the child's abstinence in this particular situation is not universalised into a general exclusion from decision-making. Each matter or decision must be seen as a separate opportunity to seek the views of the child.

Children may wish to express their views through conversation, artwork, writing or play; they may choose to express themselves directly to decision-makers or they may ask someone else to do this on their behalf. This is central to them being able to express their views *freely*. As the Committee on the Rights of the Child explains (2009a, page 10, paragraph 22):

*"Freely" means that the child can express her or his views without pressure and can choose whether or not she or he wants to exercise her or his right to be heard. "Freely" also means that the child must not be manipulated or subjected to undue influence or pressure. "Freely" is further intrinsically related to the child's "own" perspective: the child has the right to express her or his own views and not the views of others.*

*States parties must ensure conditions for expressing views that account for the child's individual and social situation and an environment in which the child feels respected and secure...*

A lot of frustration could be avoided in children's participation if adults were honest at the outset with children (and ourselves) about the factors that have to be taken into account when making decisions affecting them. This includes the views of others. The process of working out whose views will be considered, and the weight they carry, will force us to be accountable for our decision-making: if we say we are consulting children and parents or children and teachers but more weight will be given to the adults we must justify this. In seeking to explain our actions we may discover all kinds of assumptions and prejudices that cannot be objectively justified.

**Question 7: What will you do to make sure children's rights generally are protected in this scenario?**

- Are there any risks to the child in expressing his or her views? Is it possible to reduce or remove these risks?
- Does the process itself expose the child to any risks – does the child have to travel and spend time away from home; is this a public process that threatens the child's right to privacy?
- What legal, ethical or professional responsibilities do you have? How will you carry these out consistent with all your obligations under the Convention?

**Why these questions are important**

These questions encourage us to carefully consider the risks for children in expressing their views, and our responsibilities to reduce or remove these risks. How we approach risk-taking has to be consistent with the Convention's principles and we must be careful, on the one hand, not to patronise children and on the other not to exploit them. For example, if a child is invited to speak at a conference with a Government Minister at a particular time and the Minister is badly delayed, how should responsible adults proceed? Is it appropriate for the adults supporting the child to decide the delay is putting undue pressure on her and to withdraw her from the conference? Or should they discuss the situation with the child and come to a joint decision about how long is reasonable to wait, the factors to be considered, and how to communicate with the Minister and the conference organisers about the impact of the delay. It has to be assumed that the child some time ago made an informed decision to participate in the conference because she wanted to influence the Minister's views or actions, so this will not simply be a decision about how tired or bored the child is. At the same time, if the child is unable to wait for the Minister, alternative arrangements could be made.

There are some risks that you and your organisation will have absolute responsibility to protect the child from – for example, a child who discloses violence in custody must be assured that she will not be further victimised; and a child witness who gives testimony in court should be guaranteed anonymity in any press reports of the case. In other situations, the child himself will undertake to reduce risks – for example, when he is attending a residential meeting, he will agree to follow rules that he helped to make in advance.

**Question 8: What will happen to the child's views?**

- Are there a limited number of people that will consider the child's views in this situation – a judge, a prosecutor, a head teacher, parents, a paediatrician, a social worker, a village chief or employer for example? Or is the child "speaking" to adults generally?
- If the action or intervention concerns a larger number of children, who are the children's views directed to? Who should respond to them?
- How will children's views be communicated to the people that need to respond to them?
- Are there any other people or organisations that could learn from or use the child's views?

**Why these questions are important**

These questions are a reminder that seeking the child's views is only one part of implementing Article 12: next we have to ensure these views are given due weight in accordance with the child's age and maturity. For this to happen, we need to be clear about who must receive and respond to the child's views and how these views will be communicated – in a report, a film or audio recording, or by the child meeting the decision-maker/s directly? As part of providing information to the child (see above), we will have already discussed with them the different approaches to communicating their views and the strengths and weaknesses of each method in different contexts. It may also be necessary to obtain permission from decision-makers to receive information in alternative formats, not least because technical equipment may be required.

**Question 9: How will the child know his or her views have been given due weight?**

- How, when and where will you feedback to the child the outcomes of this particular decision-making process?
- What evidence will you have to show the child's views have been given due weight?

**Why these questions are important**

This aspect of implementing Article 12 is about being accountable to children, and strongly demonstrating that we take them and their views seriously. The Committee on the Rights of the Child has explained that '*The feedback is a guarantee that the views of the child are not only heard as a formality, but are taken seriously. The information may prompt the child to insist, agree or make another proposal or, in the case of a judicial or administrative procedure, file an appeal or a complaint*' (2009a, page 13, paragraph 45).

**Question 10: What can the child do if he or she believes his or her right to be heard has been breached?**

- Have you information for the child about how he or she can challenge the decision/s – through an independent complaints procedure, contacting the Children's Commissioner or Ombudsperson or engaging an independent advocate or lawyer for example?
- How do you communicate to the child that you and your organisation fully support his or her right to challenge decisions?

**Why these questions are important**

The right to be heard is as important as all other human rights and there must be safeguards in place to enable the child (or someone acting on his or her behalf) to challenge breaches and seek redress. Furthermore, as part of our broader responsibilities under the Convention and international law, we must display to the child an explicit and positive openness to being challenged and questioned, including in a court of law if necessary.

**Question 11: What opportunities exist for the child in this scenario to become involved in children's rights advocacy on a longer-term basis?**

- What other opportunities exist for the child to express and have his or her views considered – in his or her daily life as well as during the development of law, policy and social programmes?
- What opportunities exist for the child to establish his or her own children's rights campaigns or initiatives?



### Why these questions are important

These questions are a reminder that children should experience adults asking for their views on an ongoing basis. There is no limit to which matters children can, in principle, influence as Article 12 applies to all matters affecting the child. The Committee on the Rights of the Child reminds that '*wide interpretation of matters affecting the child and children helps to include children in the social processes of their community and society*' (2009a, page 10, paragraph 27).

### Question 12: What will you do next to support children's right to be heard?

- At what stage and how will your organisation document the outcomes and outputs of this particular action or intervention?
- How will your organisation make use of the learning and experiences of children and staff involved in this action or intervention?
- How will this action or intervention feed into other actions and interventions – are methods transferable; will the children or adults involved advise, train or coach others; have the seeds of new actions or interventions already been sown?

### Why these questions are important

These questions stress the permanent nature of children's participation: it never stops for those of us working with, and for, children and for our organisations. As with all other human rights, the right to be heard is lasting and evolving and we have a responsibility to be constantly learning and developing our effectiveness in implementing it.

## Participation case studies

Below are five different case studies exploring a range of common challenges and experiences in children's participation. The case studies are fictional but they are based upon real-life scenarios that many of us will have experienced, or heard about, at one time or another.

### Case study 1

*The Children's Minister would like a group of representative children to accompany her to an international conference on ending forced marriage in six weeks' time. The Minister says resources will not be an obstacle to children's participation.*

### Key considerations

- What exactly is being offered to children accompanying the Minister?
- How does this fit within the Government's and your organisation's plans to fully implement the Convention?

- How might the Minister's proposed actions further children's rights? Is it a threat to children's rights? A key test is: if the Minister does not "take" children to the conference, what will be the consequences for a) children in your country, b) the Minister and c) your organisation? Who stands to benefit the most from children's participation in this scenario?
- What happens after the conference – to the child participants and to the issue itself?
- What does the Minister mean by representative – a cross-section of all children in the country; a cross-section of children with direct experience of forced marriage; or something else?
- Will government officials be actively engaged in this work; or is the expectation that your organisation will take care of everything?
- If necessary, could the Minister be persuaded to do something different that would be more beneficial to children's rights?

### Resources needed

- Your organisation will require resources to cover:
  - Initial meetings with Government officials and possibly the Minister to agree purpose, expectations, practical arrangements and follow-up
  - Preparation and dissemination of information to children
  - Preparatory briefings and other contact with children, including facilitating meetings between children and Government
  - Staff and child travel, accommodation, food and insurance costs
  - Other appropriate child costs (e.g. clothing for the event, telephone costs, lost wages, interpreters, personal assistants for disabled children, passports and visas<sup>23</sup>)
  - Staff and child time, before, during and after the conference
  - Write-up of the event and wide dissemination, including to Government and children and young people.

### Ethical behaviour

- Your organisation supports the Minister because this is a significant opportunity to further children's rights.
- There are children who have relevant knowledge and expertise to contribute to the process who could be mobilised within this timescale.

---

<sup>23</sup> The aim here is to ensure no child is excluded from participating because of low income or other barriers. The reference to clothing is an acknowledgement that children may wish to wear formal clothes at an official event and, accordingly, should be provided appropriate resources.

- As part of offering to assist the Minister, your organisation obtains an agreement that:
  - There will be genuine opportunities for children accompanying the Minister to influence the outcome of the event or, as a minimum, to influence policy development within their own country
  - The child participants will meet with the Minister ahead of the conference; they will have adequate time with the Minister at the conference; and a debriefing meeting will be held within weeks of both parties returning home
  - This is the beginning of ongoing engagement with children on ending forced marriage
  - The information obtained through this process will be fed into the Government's overarching strategy on ending violence against children
  - The work is part of the Government's active implementation of the Convention
  - Government officials will be actively engaged at all levels, so that their own child participation expertise and capacity grows.
- Children with direct experience of forced marriage are given accessible information about the opportunity and the reasons your organisation and the Government are taking this action. They are invited to nominate themselves / organisational representatives to participate. They are asked to outline what knowledge and expertise they could bring to the process and to list the information and assistance they would need to participate, with an undertaking that your organisation and the Government will endeavour to meet these needs. You stress that all expenses will be covered. The selection process is transparent: the aim is to bring together children with relevant knowledge and expertise from a range of backgrounds and circumstances.

### **Unethical behaviour**

- Your organisation supports the Minister as a political or personal favour.
- Neither your organisation nor the Government is concerned about the knowledge or expertise of the children selected to attend: the priority is simply to get children to the conference. You brief children with no prior knowledge or experience of forced marriage to say the right things.
- Your organisation makes no demands on Government: this is a one-off event.
- Children only have contact with the Minister at the event itself: the contact is brief and superficial.
- You advertise the opportunity to children more like an all-expenses-paid holiday or a CV-enhancing opportunity, rather than a chance to further children's rights.
- You fail to provide children with information about the country they are visiting; and you do not seek their views about hotel or other practical arrangements.
- After the event, children return to their communities having made no obvious impact on the outcomes of the conference itself or on Government policy.

## Case study 2

*The Government is developing its national children's plan and would like to consult children.*

### Key considerations

- How does this fit within the Government's and your organisation's plans to fully implement the Convention?
- Does this proposal further children's rights? Is it a threat to children's rights? A key test is: if the Government does not consult children in the development of the plan, what will be the consequences for a) children in your country, b) the Government and c) your organisation? Who stands to benefit the most from children's participation in this scenario?
- What exactly is being offered to children?
- What is the time frame? Has anything been decided already?
- Have there been any relevant consultations conducted already; if so, why are the findings from these not being considered? Why must there be a new consultation?
- What happens after the consultation – to the child participants and to the issues raised by children?
- Which children does the Government want to consult – a cross-section of all children in the country; a cross-section of children with particular knowledge and experiences; or something else?
- Will government officials be actively engaged in this work; or is the expectation that your organisation will take care of everything?

### Resources needed

- Your organisation will require resources to cover:
  - Initial meetings with Government officials and possibly the lead Minister to agree purpose, expectations, practical arrangements and follow-up
  - Preparation and dissemination of information to children
  - Preparatory briefings, training and other contact with children, including facilitating meetings between children and Government
  - Staff and child travel, accommodation, food and insurance costs
  - Other appropriate child costs (e.g. telephone and Internet costs, lost wages, interpreters, personal assistants for disabled children)
  - Staff and child "fact-finding" time to establish what other Governments and NGOs have done
  - Staff and child time in devising and conducting the consultation
  - Staff and child time in analysing and preparing the findings of the consultation

- Cost of producing and disseminating a report about children's views and the children's plan
- Write-up of the consultation process and wide dissemination, including to Government and children.

### **Ethical behaviour**

- Your organisation supports the Government because this is a significant opportunity to further children's rights.
- Your organisation harnesses the joint expertise of research and advocacy staff.
- You agree to work with the Government on the following conditions:
  - The children's plan and the consultation are to be framed within the principles and provisions of the Convention on the Rights of the Child
  - The views and experiences of the widest range of children are to be sought: no group of children is to be excluded (e.g. child asylum seekers or child prisoners)
  - No subject is "off topic"
  - Children will be provided accessible information about current law and policy and international obligations, as well as relevant developments in other countries
  - Children are able to influence the way the consultation is conducted
  - Government will publish the consultation report and will not seek to change or censor the content
  - There will be opportunities for child participants to meet with the lead Minister to discuss the findings and Government follow-up
  - Children will be invited to join any task forces established by Government to draft the children's plan
  - The children's plan will be disseminated widely; there will be several different versions to ensure accessibility, for example an online (website) version, summary leaflets, postcards and posters.
- Children are given accessible information about the different ways they can participate in the consultation (for example, steering group, researchers, consultees, disseminating the results) and the reasons your organisation and the Government are taking this action. For designated roles, they are invited to nominate themselves/organisational representatives to participate. They are asked to outline what knowledge and expertise they could bring to the process and to list the information and assistance they would need to participate, with an undertaking that your organisation and the Government will endeavour to meet these needs. You stress that all expenses will be covered. The selection process is transparent: the aim is to bring together children with relevant knowledge and expertise from a range of backgrounds and circumstances.

### Unethical behaviour

- Your organisation does the work simply for financial or political gain.
- You allocate staff without any research or advocacy experience – the only thing that matters to you is that staff are “good with young people”.
- Your organisation makes no strategic demands on Government to frame this within its Convention obligations: this is a one-off process.
- Thinking within Government about what should be included in the children’s plan is already well advanced but your organisation does not challenge this.
- Children have no direct contact with Government officials or Ministers.
- You provide children with very little contextual information. You and the Government are not concerned whether children are given enough time or information to consider the issues: you simply want to obtain “good quotes” from children.
- You submit your report to the Government then move onto the next project.
- Children are not given any feedback on how their views were considered and acted on. There is no published report.
- The Government claims the children’s plan is based on children’s views without showing how this is the case; your organisation colludes with this by not pushing for evidence of children’s influence.

### Case study 3

*The Committee on the Rights of the Child will examine the State Party in two years’ time. The Government wants to include children in the process.*

### Key considerations

- What exactly is being offered to children?
- How does this fit within the Government’s and your organisation’s plans to fully implement the Convention?
- How might the proposed actions further children’s rights? Is it a threat to children’s rights? A key test is: if children do not participate in the process, what will be the consequences for a) children in your country, b) the Government and c) your organisation? Who stands to benefit the most from children’s participation in this scenario?
- What happens after the State Party report has been drafted and submitted?
- Will government officials be actively engaged in this work; or is the expectation that your organisation will take care of everything?
- Would the Government also support children’s own research and advocacy around the reporting process?
- Would the Government meet the costs of children giving evidence to the Committee on the Rights of the Child at its pre-session working group in Geneva?

## Resources needed

- Your organisation will require resources to cover:
  - Initial meetings with Government officials and possibly the lead Minister to agree purpose, expectations, practical arrangements and follow-up
  - Preparation and dissemination of information to children
  - Preparatory briefings, training and other contact with children, including facilitating meetings between children and Government
  - Staff and child travel, accommodation, food and insurance costs
  - Other appropriate child costs (e.g. telephone and Internet costs, lost wages, interpreters, personal assistants for disabled children, passports and visas)
  - Staff and child "fact-finding" time to build on the experiences of other Governments and NGOs
  - Staff and child time in devising different ways of engaging children in the process
  - Staff and child time in analysing and preparing key messages for the State Party submission
  - Cost of producing and disseminating publication of children's views and experiences
  - Write-up of the process and wide dissemination, including to Government and children.

## Ethical behaviour

- Your organisation supports the Government because this is a significant opportunity to further children's rights.
- Your organisation harnesses the joint expertise of research and advocacy staff.
- You agree to work with the Government on the following conditions:
  - The Government also makes funds available for children to submit their own report to the Committee on the Rights of the Child: these funds go to existing children's rights organisations run by, and for, children
  - Children are provided accessible information about the Convention, the Government's obligations, and the Committee on the Rights of the Child's concluding observations from the last examination
  - Children are encouraged to contribute their own views and experiences of the implementation of the Convention, as well as to comment on the general views and perspectives of Government about how it has discharged its obligations
  - The views and experiences of the widest range of children are to be sought: no group of children is to be excluded (e.g. child asylum seekers or child prisoners)
  - No subject within the scope of the Convention is "off topic"
  - Children are able to influence the way the engagement is conducted

- Government will publish any research or consultation report and will not seek to change or censor the content
- There will be opportunities for child participants to meet with the lead Minister to discuss the findings and Government follow-up
- Children will be invited to join any task forces established by Government to ensure a co-ordinated response to the Committee's new concluding observations
- The concluding observations will be disseminated widely; there will be several different versions to ensure accessibility, for example an online (website) version, summary leaflets, postcards and posters.
- Children are given accessible information about the different ways they can participate in the process (for example, steering group, researchers, consultees, disseminating the results) and the reasons your organisation and the Government are taking this action. For designated roles, they are invited to nominate themselves / organisational representatives to participate. They are asked to outline what knowledge and expertise they could bring to the process and to list the information and assistance they would need to participate, with an undertaking that your organisation and the Government will endeavour to meet these needs. You stress that all expenses will be covered. The selection process is transparent: the aim is to bring together children with relevant knowledge and expertise from a range of backgrounds and circumstances.

#### **Unethical behaviour**

- Your organisation does the work simply for financial or political gain.
- You allocate staff without any research or advocacy experience – the only thing that matters to you is that staff are “good with young people”.
- Your organisation makes no strategic demands on Government to work longer-term with NGOs and children on implementing the Convention: this is a one-off process.
- You fail to support children in submitting their own report to the Committee on the Rights of the Child.
- Thinking within Government about what should be included in the State Party submission is already well advanced but your organisation does not challenge this.
- Children have no direct contact with Government officials or Ministers.
- You provide children with very little contextual information. You and the Government are not concerned whether children are given enough time or information to properly consider the issues: you simply want to obtain “good quotes” from children for the State Party report.
- You submit your report to the Government then move onto the next project.
- Children are not given any feedback on how their views were considered and acted on. There is no published report.



- The Government claims the State Party report is based on children's views without showing how this is the case *or* it does not tell the Committee on the Rights of the Child about its engagement with children.
- The Government fails to disseminate the Committee's concluding observations and your organisation makes no demands for follow-up.

## **Case study 4**

*Your organisation has not embarked on supporting children's participation before and wants to know where to start.*

### **Key considerations**

- How does this fit within your organisation's plans to fully implement the Convention?
- What do you hope to achieve? For whom?
- How will you make children's participation a permanent feature of your organisation, ensuring it can resist personnel, political and funding changes? How will you build support across the whole organisation; who will champion the change and who might hold back progress?
- What is happening already that can be celebrated and built upon?
- What knowledge, skills and capacity does your organisation already have; what are the critical gaps?
- What is your own personal contribution and commitment, and how will you show this on a consistent basis?

### **Resources needed**

- Your organisation will require resources to cover:
  - Analysis of the current mission, goals, strategies and behaviour of your organisation to assess the extent to which children's participation features, and the aims and outcomes. This process to include engagement with the widest range of children in contact with your organisation
  - The development of a strategic plan for ensuring children's participation is embedded within your whole organisation
  - Ongoing information and training for all staff working in the organisation
  - Development of materials and training for children working in governance roles in the organisation
  - Development of materials for staff and volunteer recruitment, induction and performance management that clearly establish the human rights framework of your organisation and the conduct required by those performing different roles

- Assigning responsibility to champion and sustain participation in your organisation to several key postholders across all levels of your organisation
- Sufficient capacity for maintaining ongoing relationships with the widest range of children and child-led organisations.

### **Ethical behaviour**

- Senior managers in your organisation are fully committed to the realisation of children's participation rights in a broad range of settings and situations. They understand that this:
  - Requires dedicated ongoing resources
  - Is uncertain territory given the scale of change necessary in adult-defined and operated institutions, decision-making structures and systems and the importance of supporting children to act for themselves
  - Will involve the organisation in publicly challenging social attitudes, traditions and cultural practices which are harmful to children
  - Will involve the organisation being challenged itself – by children who use its services or programmes and by its staff and volunteers, as well as by other organisations and Government itself (who may or may not agree with its work)
  - Will bring a variety of positive "results", some immediate and short-term and others longer-term. As this is new terrain, sometimes mistakes will be made, though the organisation can learn from these
  - Requires them to consistently support children's rights in the media and other public settings.
- The organisation seeks to support the widest range of children to express their views freely, using a range of methods including through their own organisations and groups. There are systems and processes in place to ensure children can contribute to the organisation's own governance; can safely make complaints which will be dealt with fairly and quickly; and have a wide range of ongoing opportunities to influence what the organisation does, and how it operates.
- Every person working in your organisation makes some contribution to supporting children's right to be heard, and this is reviewed and monitored on an ongoing basis.

### **Unethical behaviour**

- Senior managers in your organisation support participation simply because they believe it will enhance the reputation or income of the organisation.
- Senior managers are unaware or averse to the children's rights arguments for participation; they support it because they hope for financial or political gain.

- Disproportionate resources are invested in one-off high profile events where the presence and reputation of your organisation is more important than change for children.
- The focus is on seeking and recording the views of children: there is no follow-up or feedback.
- Little or no attention is given to the rights of individual children to have their views given due weight in all matters affecting them.
- The same few children are repeatedly asked to give their views or participate in events.
- Few structural adjustments are made within your organisation as children's participation is seen to be a temporary priority.

## **Case study 5**

*Government funding is available to support children's participation that is innovative, inclusive and project-based. Children must be involved in running the projects. Your organisation wants to apply: how should you proceed?*

### **Key considerations**

- How does this fit within your organisation's plans to fully implement the Convention?
- Why do you want to apply for funding? Have you existing plans and ideas; or are you starting afresh in light of the funding opportunity?
- What are the arrangements for submission: how flexible is the process, for example is there a standard form or can children submit their ideas in a different format?
- Is there a child-led organisation that could apply for this funding; could you work with them or support their application?
- How have children been involved in developing your project ideas and plans? If you are starting afresh, how will they be involved?
- How will your project proposals further children's rights? If your organisation does not do this project, what will be the consequences for a) children in your country and b) your organisation? Who stands to benefit the most from children's participation in this scenario?
- What is your understanding of innovative and inclusive; is this the same as the Government's or children's understanding?
- What happens after the project ends?
- If necessary, could the Minister be persuaded to do something different that would be more beneficial to children's rights?

### Resources needed

- Your organisation will require resources to cover:
  - Preparation and dissemination of information to children
  - Direct work with children to prepare the project submission; flexible resources that allow the use of different media, for example audio or online submission, DVD and / or performance
  - Project costings, which will vary according to the roles played by children and the support they do or do not need
  - Monitoring and evaluation
  - Resources for developing or wrapping up the project and supporting children to make new funding applications as appropriate.

### Ethical behaviour

- Your organisation makes an application because the project will significantly enhance children's rights and you have the expertise and capacity to undertake it well.
- This is part of a planned and long-term commitment to children's participation.
- You have informed child-led organisations about the opportunities and offered support and collaboration (where appropriate).
- Children enjoy significant influence in the design and operation of the project.

### Unethical behaviour

- Your organisation makes an application because of the financial rewards.
- You do not have the necessary capacity to meet all the project requirements.
- You have obtained funding that child-led organisations were depending upon.
- Children have no or limited influence in the design and operation of the project.
- This is a one-off project that has no recognisable place in your organisation's strategic plan or mission.



# ‘All appropriate measures’: children’s roles in implementing the UN Violence Study recommendations

# 5

*Sometimes my parents were wrong when they beat me, maybe because they were angry. They view us as an outlet to relieve pressure. I felt frustrated but can’t do anything because I am so small.*

**Child in focus group, Viet Nam**

## IN SUMMARY

Article 4 of the Convention on the Rights of the Child requires States Parties ‘to undertake all appropriate legislative, administrative and other measures for the implementation of the rights [in the Convention]’. This chapter explores the different ways children can participate in implementing the UN Violence Study’s overarching recommendations.

---

Professor Pinheiro made 12 overarching recommendations. These are:

1. Strengthen national and local commitment and action
2. Prohibit all violence against children
3. Prioritise prevention
4. Promote non-violent values and awareness-raising
5. Enhance the capacity of all who work with and for children
6. Provide recovery and social reintegration services
7. Ensure participation of children
8. Create accessible and child-friendly reporting systems and services
9. Ensure accountability and end impunity
10. Address the gender dimension of violence against children
11. Develop and implement systematic national data collection and research
12. Strengthen international commitment.

The actions governments and NGOs can take to support children’s right to be heard are listed under each recommendation; these are followed by a discussion of the key issues. Wherever possible, legal and practice examples are included to illustrate what can be achieved.

## OVERARCHING RECOMMENDATION I: Strengthen national and local commitment and action

### What Governments and children's rights advocates can do:

1. Undertake a comprehensive review of legislation, policy and practice to:
  - a) Assess whether the law gives adequate protection from all forms of violence for all children in all settings and in all circumstances, using the framework of international human rights law and the "jurisprudence" of the Committee on the Rights of the Child
  - b) Identify any legal loopholes that condone violence against children
  - c) Assess whether children's right to be heard and taken seriously in all matters affecting them is sufficiently reflected in the national constitution (where one exists), civil and criminal codes, sectoral laws and the statutory framework for regulation and inspection bodies, human rights institutions and professional codes of conduct, using the framework of international human rights law and the "jurisprudence" of the Committee on the Rights of the Child
  - d) Identify any legal barriers to the full implementation of Article 12
  - e) Assess children's understanding of their rights and their awareness of available advice and assistance
  - f) Ascertain children's views and experiences of seeking help, including from family and friends, and their interaction with different professional groups
  - g) Identify any practical barriers to children seeking help, such as the absence of confidentiality or the inaccessibility of helplines to particular groups of children, including disabled children, children in custody and children from minority ethnic groups
  - h) Assess children's access to justice and the extent to which their views are taken into account in judicial proceedings, including when they are witnesses in criminal trials
  - i) Consult children about their recommendations for a national strategy, policy or plan of action on ending violence against children
2. Publish a national strategy, policy or plan of action to end violence against children, incorporating children's advice and recommendations, with timeframes and independent reporting to Parliament and to your country's children's Parliament where one exists. Widely disseminate accessible versions of the strategy, policy or plan of action to children in a variety of settings
3. Include information on action taken to implement the UN Violence Study's recommendations in the State Party's periodic reports to the Committee on the Rights of the Child
4. Include children as expert members, advisers and consultants in the national "focal point" established to co-ordinate the implementation of the national strategy to end violence against children. Require the new agency to

engage children in all areas of activity, and include children's participation in all contracts with external organisations (e.g. when commissioning research, public awareness programmes or workforce training)

5. Make funds available to support the creation and capacity-building of child-led groups and organisations working to end violence against children

## Discussion

The first of Professor Pinheiro's overarching recommendations offers a multitude of opportunities for children to express their views and for these views to be taken seriously. All children will be affected by the way the law is framed and the protection it gives (or does not give) them, just as laws on domestic violence are of interest to all women. Children in particular circumstances will be affected by certain laws and policies, such as those relating to the custody and detention of minors and the legal protection afforded to child workers. It will be important to ensure that children affected broadly and specifically have varied opportunities to contribute their views.

Children can participate in national reviews of legislation, policy and practice in a number of ways. When the State Party undertakes its national review of law, policy and practice as part of implementing the UN Violence Study, children can be involved as advisers to the process, as researchers and research respondents, as "translators" of key documents and as co-formulators of new laws, policies and approaches. Where this national review is undertaken outside of government – by a national independent human rights institution or a coalition of children's NGOs for example – children can play an additional campaigning role in lobbying for the review's findings and proposals to be taken seriously by Ministers and Parliamentarians.

Law reform is vital to ending violence against children and children themselves are pressing for change. Children's testimony and demands for legal protection were a major contributing factor to the banning of corporal punishment in state-run and private schools in the Indian state of Orissa in 2004 (Bhandari, 2005, page 154).<sup>24</sup> In Afghanistan, in 2008, the campaigning activity of adults and children led to two Government Ministers committing themselves on national television to prohibiting corporal punishment in schools (Owen, 2008, page 48). The views, experiences and activism of children in the Philippines informed the Anti Corporal Punishment Bill, drafted to prohibit corporal punishment in all settings. The Bill has now been approved by three House of Representatives Committees and is awaiting plenary deliberations (September 2009). The Inter-Parliamentary Union and UNICEF report

---

<sup>24</sup> Corporal punishment has been prohibited in all schools in India since August 2009.



*that 'Parliamentary committees are taking evidence from children in the course of enquiries into care and justice systems, child prostitution and trafficking, and bullying in schools. Children's Parliaments have been established and are formally consulted by government in several countries; sessions sometimes take place on the premises of national parliaments' (IPU and UNICEF, 2007, pages 36-37).*

Another of the obligations arising from the UN Violence Study, and stressed by the Committee on the Rights of the Child in its State Party reviews, is the development of a national strategy, policy or plan of action to end violence against children. The participation of children in violence prevention and protection should be at the heart of these strategies.

Children will have views on what should be included in the national strategy; how it can be effectively disseminated; and monitoring mechanisms should be established that take into account their perspectives and experiences. Children will also be able to advise on the production of appropriate materials about the strategy for use in schools and other settings.

Almost 10 years ago, the Special Rapporteur on the sale of children, child prostitution and child pornography urged a focal point within the Government of Fiji to address violence against children. She referred to the grave case of a young boy who was killed by his step-father because he had eaten some bananas without permission. His mother had on six previous occasions contacted different agencies to get help to protect her son from his violent step-father (Calcetas-Santos, 1999, paragraph 68). Now, Professor Pinheiro has recommended that every government establish a focal point to co-ordinate action on ending violence against children.

Children are entitled to know which Minister or part of government is responsible for co-ordinating the implementation of the UN Violence Study's recommendations. Clearly, any government focal point for implementing the Study's recommendations, as well as independent monitoring mechanisms, should be informed by children's views and experiences. Children's advisory boards, councils or committees could be established and given financial and other appropriate support from government officials, human rights institutions or NGOs. The existence of such a mechanism does not absolve adults in positions of power of their broader responsibilities to seek and give due weight to children's views. Rather, it should ensure children have genuine opportunities to influence strategic decision-making, and help to make decision-makers directly accountable to children. And a range of other activities – research with (and by) children, awareness-raising and ongoing assistance for child-led groups and organisations for example – will protect the advisory board, council or committee members from being seen as representative of the views of all children.

Government and others need to build bridges to children in the community and proactively seek their advice on matters that affect them. They should also be responsive to the agendas and demands of child-led groups and organisations. The vital role played by women's organisations in ending violence against women was recognised by the UN General Assembly in its resolution passed in January 2009. Resolution 63/155 reaffirms the importance of national strategies and coherent and sustained approaches to ending violence against women and urges States to '*[Support and engage] in partnerships with non-governmental organisations, in particular women's organisations...*' (2009, page 6, paragraph 16t). The UN Trust Fund,<sup>25</sup> established in 1996, places much emphasis on the mobilisation of civil society, including girls and boys, to end violence against women.

The Committee on the Rights of the Child has stressed the importance of direct contact between government and child-led organisations (2006a, page 5, paragraph 26):

*The Committee calls for States parties to clearly designate which authority has the key responsibility in the implementation of children's rights and ensure that this entity establishes direct contact with child and youth led organisations in order to engage with them.*

Only a small number of countries have genuine child-led organisations, though the region's reputation is bolstered by positive developments in Mongolia. Concerned for Working Children NGO reports that the country '*can lay claim to having the largest number of child-governed organisations participating in local and national governance in the world*'. In 2004, a national strategy was adopted '*to promote, nurture and support children's organisations*' following a countrywide consultation of 2,000+ adults and children across all provinces of Mongolia. The adolescent declaration to end sexual exploitation included as an annex to the Rio Declaration and Call for Action<sup>26</sup> illustrates powerfully the importance of child-led organisations (page 16):

*The children have suffered too much from adult exploitation. But, organized and united, we have gone from being victims to actors. Our children's organisations give us the strength to defend ourselves and fight for our rights.*

Children seeking to run their own organisations face many roadblocks – legislative, economic, political and social. The Inter-Agency Working Group on Children's Participation explains (2008, page 22):

*Few countries have put in place the necessary policies and legislation to fully*

<sup>24</sup> The UN Trust Fund in Support of Actions to Eliminate Violence against Women.

<sup>25</sup> The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents was the outcome document of the World Congress III against Sexual Exploitation of Children and Adolescents, held 25-28 November 2008.

*implement their commitments to children's right to association. Laws concerning the administration of organisations often prevent children from acting as directors or trustees of public associations.*

It is necessary for governments to include the capacity building of child-led organisations in their overall strategy for implementing the UN Violence Study's recommendations. It is notable that the Committee on the Rights of the Child now requires States Parties to indicate the number of *'child and youth organisations or associations and the number of members that they represent'* in their periodic reports (2005a, page 11, paragraph 6). The original guidelines (1996) were much more comprehensive, in the information requested about the implementation of Article 12 as well as other obligations, though they did not mention organisations run by and for children. The Committee's General Comment on the right to be heard encourages States to support child-led organisations and initiatives, including student groups within schools and other educational settings (2009a, pages 22, 24 and 25). These organisations are all the more important since the vast majority of the world's children do not have the right to vote and are disqualified from standing for political office. As James R. Himes, former director of UNICEF Innocenti Centre in Florence, wrote in 1993: *'Children are the most politically powerless citizens of all nations'* (page 3).

The right to vote is regarded as a fundamental human right and mark of citizenship. Accordingly, the Council of Europe's Parliamentary Assembly has urged the Committee of Ministers to encourage member states *'to reconsider the age-related restrictions placed on voting rights in order to encourage young people's participation in political life'* (2009, paragraph 12).

After its 2006 day of general discussion on the right to be heard, the Committee on the Rights of the Child observed, *'that in certain contexts apparent inconsistencies arise, such as when children below the age of 18 are subject to military service yet are not eligible to vote'* (2006a, page 6, paragraph 38). The matter is not considered in the Committee's General Comment on the right to be heard though it is perhaps implicit in its penultimate paragraph (2009a, page 28, paragraph 135):

*Achieving meaningful opportunities for the implementation of article 12 will necessitate dismantling the legal, political, economic, social and cultural barriers that currently impede children's opportunity to be heard and their access to participation in all matters affecting them. It requires a preparedness to challenge assumptions about children's capacities, and to encourage the development of environments in which children can build and demonstrate capacities.*

## Box 7: The right to vote and minimum age conditions

Number of States where under 18s allowed to vote – worldwide	<p>There are 13 States in the world where 16 or 17 year-olds are permitted to vote in general or local elections.</p> <p>Of these 13 States, 4 have conditions:</p> <ul style="list-style-type: none"> <li>• In the Dominican Republic and Indonesia all married persons gain suffrage irrespective of age</li> <li>• In Bosnia and Herzegovina and Slovenia, 16 and 17 year-olds are entitled to vote only if they are employed.</li> </ul>
Number of States where under 18s allowed to vote – Southeast Asia and the Pacific	People are enfranchised in the Democratic People's Republic of Korea, Indonesia and Timor-Leste at the age of 17 years.

In June 2007, days after her Bill banning corporal punishment in New Zealand was passed, Green Party MP Sue Bradford announced she would be putting forward a Bill to lower the voting age.<sup>27</sup> She explained (2007):

*Lowering the voting age is consistent with the approach on my s59 Bill, which becomes law this week – and which I have always seen as being about the rights of children, in that case to grow up free from violence. This Bill is about taking young people seriously as citizens, and ensuring their voices are heard...*

Bradford withdrew her Bill the following month amid widespread public opposition. Attempts to lower the voting age in Canberra, Australia's capital city, failed some months later when a legislative standing committee simply recommended a further review before the end of 2010 (Standing Committee on Education, Training and Young People, 2007). There have been similar setbacks in other countries: in South Africa, for example, before the first democratic elections in 1994, Nelson Mandela gave his support to votes at 16 though this was not included in the country's Electoral Act 73, 1998.<sup>28</sup>

Thomas Hammarberg, the European Commissioner for Human Rights has urged political institutions 'to seek ways of consulting the views of children' and to ask themselves: 'How can [children's] voices be heard within the formal institutions of democracy?' (2007, page 7).

<sup>27</sup> It is perhaps of interest that New Zealand was the first country in the world to extend the franchise to women, in 1893.

<sup>28</sup> The Act allows 16 year-olds to register to vote, as does legislation in Argentina.

## OVERARCHING RECOMMENDATION 2: Prohibit all violence against children

### What Governments and children's rights advocates can do:

#### 6. Carry out urgent law reform to:

- a) Abolish the death penalty for crimes committed by children and ensure criminal justice proceedings and sentencing are consistent with international human rights law
- b) Provide children with full legal protection from all forms of violence in all settings
- c) Remove legal loopholes that condone violence against children, including any "reasonable chastisement" defences
- d) Require the automatic and independent review of all unexpected child deaths to assess what could have been done to prevent the deaths, including the extent to which children's views had been sought and appropriately acted on
- e) Provide legally enforceable rights for children to be heard and taken seriously in all matters affecting them, including in the family, at school, in the local community, in judicial and administrative proceedings and the democratic process
- f) Ensure appropriate adaptations have been made in judicial proceedings so that children are able to express their views freely in all matters affecting them, including in parental separation, adoption and care proceedings and when children are defendants or witnesses in criminal proceedings
- g) Ensure children's right to privacy is fully protected in all judicial and administrative proceedings
- h) Require all those working with children to ascertain and give due weight to children's views in accordance with their age and maturity; and to document children's views and their organisation's responses to them
- i) Require independent inspectors to ascertain, document and respond to the views of children in alternative care settings, residential schools, health and custodial establishments
- j) Ensure children have access to free and independent legal advice and representation about the exercise of their rights
- k) Ensure children have access to independent advocacy and statutory complaints procedures in every setting
- l) Establish a national independent human rights institution compliant with the Paris Principles and the Committee on the Rights of the Child's General Comment no. 2 (2002)
- m) Remove any legal barriers to children exercising their right to express their views freely, including minimum age and parental consent requirements
- n) Incorporate human rights education, including the Convention on the Rights of the Child and how to seek redress for rights violations, in the school curriculum

## Discussion

Children can play key roles in campaigning for law reform (see pages 101-102) both in identifying gaps in protection and in advocating for change. Their expert advice is also critical in disseminating information about the law and protection – how materials should look and feel, what they should communicate and where they should be sent. Authorities need to have up-to-date knowledge of the views and experiences of children, in order to strengthen existing protection and introduce new safeguards when necessary. For example, in recent years, States Parties have become more sensitised to children's experiences of peer violence (bullying) within schools (Slee et al cited in Keeves and Watanabe, 2003, pages 425-439) and to the risks of "cyber-abuse". In Australia, more than 26,000 school students were consulted about their experiences of bullying and proposals for stopping it (Rigby, 1997). An Act prohibiting Discrimination and other Degrading Treatment of Children and School Students entered into force in Sweden in 2006 (since incorporated into the country's education and equality legislation). Teachers are required to prepare equal treatment plans for each activity and have a duty to prevent children, including those attending pre-school or childcare activities, from being subject to harassment and other degrading treatment. Gunilla Larsson, the Director of the Swedish National Agency for Education summarises (2008):

*In Sweden we have placed human rights and democratic values at the heart of our school system. This means pupils are more empowered to shape their education and to stand up against problems such as bullying and classroom violence.*

Adults, including policy makers, often believe we know everything that happens to children, or at least everything that is important. This is a mistake: we only know what we observe or are told, and even when children show or tell us they have been hurt or demeaned we often do not "see". In 2005 more than 3,000 children participated in comparative research in eight different countries in Southeast Asia and the Pacific.<sup>29</sup> The report which brings together all of the findings explains that '... the research revealed several previously-unknown punishments' (Beazley et al, 2006, page 66) and includes among its recommendations ongoing research to ensure urgent law reform is making an impact. Researchers in West Timor observed first-hand the capacity of adults not to empathise with children's pain and suffering. In a meeting of 49 people – children and a wide range of professionals working with children – in May 2005 participants talked freely about punishment. The researchers note: '... none of the adult stakeholders expressed any shame or embarrassment in recounting the punishments they had administered, or dismay, shock or criticism about any of the (often quite severe) punishments others described' (ibid, page 53).

---

<sup>29</sup> The countries were Cambodia, Fiji, Hong Kong, Indonesia, the Republic of Korea, Mongolia, The Philippines and Viet Nam.

Sometimes the horrific treatment of an individual child can precipitate changes to the law. In May 2009, a corporate barrister in Delhi launched a foundation to campaign against school corporal punishment, following the horrific death of 11 year-old Shanno Khan the previous month. When Shanno was unable to recite the English alphabet she was allegedly beaten by her teacher and forced to squat in the sun for two hours with bricks on her shoulders. Children's diaries, kept as part of a CASP-PLAN<sup>30</sup> project in Delhi reveal Shanno's treatment was not an isolated case. One child's diary records:

Athri (Bihar): In a visit to the Government Senior Secondary school, Athri, we (a group of child reporters) noticed that a group of three boys and two girls = namely Ram Kumar, Gautam, Krishan, Nikita and Neha - were all standing outside the classroom in the harsh sun, reading their science books and mugging up answers.

We asked them why they were being made to stand here, to which Neha and Nikita replied, 'We won't come to school tomorrow onwards, we don't like coming to school.'

Neha said she had not been able to prepare some answers as relatives were visiting her home the previous day and now she was being made to stand under a harsh sun.

We tried to console her and assured her that we would go and speak to her teacher. On enquiring, the teacher named Abrendra justified the corporal punishment meted out to these children saying these students would not behave properly unless they were disciplined.

*Extract from: India eNews, April 19 2009*

The diary extract above, together with many other children's testimonies, were released to the media soon after Shanno's death. Corporal punishment in all schools in India was finally prohibited in August 2009 (the Indian Government committed to full legal protection in schools in 2006 and draft legislation was discussed in 2008). Research carried out with children in Mongolia found that the act of punishing a child by making him or her stand in the hot sun is a common practice in children's institutions in that country. Harriot Beazley and colleagues firmly reject the notion that this and other 'savage' treatment is a form of discipline: '*[This] is better defined as abuse or torture by any standards*' (Beazley et al, 2006, page 125).

<sup>30</sup> Community Aid and Sponsorship Program and PLAN International (Delhi) formed an alliance in 1979, the International Year of the Child, and the two organisations run a variety of joint projects, including on children's rights and education.

The Children's Rights Alliance for England drafted an amendment to child protection legislation following the torture and death of an eight year-old girl, Victoria Climbié, at the hands of her aunt and aunt's partner. The provision was accepted by the Children's Minister and included in the Children Act 2004. It requires social workers undertaking child protection enquiries to ascertain and give due consideration to the child's wishes and feelings. More changes are being demanded following widespread media coverage of the death of 17 month-old "Baby Peter" in London in 2007. The infant's care was supposed to be closely monitored as he was on the local authority's child protection register, yet he died with more than 50 injuries including eight fractured ribs and a fractured spine, leaving him semi-paralysed. A consultant paediatrician saw "Baby Peter" two days before he died but did not examine him because he was 'miserable and cranky'. Now, children's rights campaigners are lobbying to make it the norm for social workers and others with monitoring responsibilities to see children separately from their parents. In the Czech Republic, children have had the right to speak with a social worker in private since April 2000, when the Law on Social and Legal Protection of Children No. 359/1999 came into force, and there is a new duty on social workers to take account of children's views (O'Donnell, 2009, page 12).

Children's rights must be protected in the strongest possible terms and this includes in national constitutions and human rights laws. UNICEF reports on the key role played by children in persuading the Government of Timor Leste to develop '*a rights based and child centred Constitution*'. Over 100 children "made history" by petitioning the country's Constituent Assembly in November 2001 (UNICEF, 2008, page 160).<sup>31</sup> The Northern Ireland Human Rights Commission considered the views of over 1,350 children during its preparation of advice for the UK Government on a Bill of Rights for Northern Ireland (Boyce, 2002): the process itself allowed vital awareness raising of human rights. The Children's Rights Alliance for England successfully persuaded the UK Parliament's human rights select committee to recommend to Government Ministers that they take particular steps to consult the country's 11 million children about any forthcoming British Bill of Rights (Joint Committee on Human Rights, 2008, paragraph 336).

---

<sup>31</sup> Section 18(2) of the Constitution provides that: 'Children shall enjoy all rights that are universally recognised, as well as all those that are enshrined in international conventions commonly ratified or approved by the State'.



## OVERARCHING RECOMMENDATION 3: Prioritise prevention

### What Governments and children's rights advocates can do:

7. Incorporate the principles and provisions of the Convention on the Rights of the Child into national law
8. Integrate the national strategy, policy or plan of action to end violence against children into the State Party's broader implementation plan for the Convention on the Rights of the Child. Include children in the development and regular review of this broader plan
9. Consult children in the development of national children's rights indicators (see data collection below) and ensure children's right to be heard is adequately reflected in the indicator set
10. Recruit children as advisers and contributors to public awareness campaigns on children's rights, including in the development of materials and messages to parents and carers
11. Develop guidelines for the media on human rights values, the Convention on the Rights of the Child and promoting positive images of children
12. Include children in the design, delivery and evaluation of professional training courses and codes of conduct

### Discussion

State action to end all forms of violence against children cannot be divorced from its wider implementation of the Convention on the Rights of the Child. The full realisation of children's rights is the ultimate and strongest form of child protection because it is founded on total respect for each child's dignity, physical integrity and human potential – there can be no higher goals.

Very few countries in Southeast Asia and the Pacific have incorporated the Convention into national law, according to children's rights advocates in the region (5 of 18 countries). Clearly, States can surpass the *minimum* standards of the treaty and its Optional Protocols. Children's views and experiences will be vital to this process. For example, the proposals for a Northern Ireland Bill of Rights put forward by the country's Human Rights Commission incorporate many of the rights in the Convention. In addition, the Commission recommends a duty on public authorities to '*take all appropriate measures to ensure the right of every child to be protected from direct involvement in any capacity in armed conflicts or civil hostilities including their use as intelligence sources*'. This is broader than Article 38

of the Convention and the provisions in the Optional Protocol on Armed Conflict. The Commission explains (2009, page 34):

*There is now evidence of trauma affecting the children of those who grew up during the conflict.<sup>32</sup> Children were abused by both state and non-state actors, and some were subject to so-called punishment violence by armed groups... In order to repair the damage of the past and protect future generations, it is important that children in Northern Ireland are afforded additional protections.*

South Africa's constitution (1996) provides that the child's best interests be given paramount importance in every matter concerning the child: this is stronger than the Convention's positioning of best interests as 'a primary consideration'. The Philippines' Special Protection of Children Against Abuse, Exploitation and Discrimination Act of 1991 takes a similar approach. Ecuador's new constitution (2008) includes the 'superior interest' of children principle and requires that children's rights prevail over other people's rights 'in all cases' (article 48) (Moreira, n.d.); it also reduces the voting age to 16 years (CRIN, 2008).

Children have expertise to offer to the drafting of national implementation plans for the Convention and the development of children's rights indicators. These processes will raise children's awareness of the rights and freedoms guaranteed to them by the Convention and other human rights instruments.

Beazley and others observe that research with children about their experiences of physical and emotional punishment shows that verbal attacks and humiliation are very prevalent and that older children in particular report this type of violence as 'hurting the most'. Children's rights indicators must be able to monitor these types of incidents and experiences and children are the best people to tell us precisely what we should be looking for. As Jonathan Bradshaw, Petra Hoelscher and Dominic Richardson in their UNICEF Innocenti Research Centre working paper explain in relation to measuring well-being (2006, page 6):

*Children's participation in understanding and measuring their well-being is still rare, though children and young people are best able to give insights into their daily lives and their views on what makes them and other children be well.*

Children's engagement in developing setting specific indicators can be very revealing, particularly when children's and adults' measures differ:

---

<sup>32</sup> The recent period of violent conflict occurred between the 1960s and the late 1990s. Different political and religious groupings had strongly opposing views about whether Northern Ireland should become part of the Republic of Ireland or remain as part of the United Kingdom.

### **What makes a good playgroup: views of children and adults**

Research in Northern Ireland about the preferences of three and four year-olds attending playgroups showed how children and adults can have different priorities. Children had a strong preference for '*[being allowed] to use their own initiative, to use their imagination and to be physically active*' whereas parents and staff placed more value on learning outcomes. The researchers explain (Cunningham et al, 2004, page 96):

*Interestingly very few practitioners when asked about the purpose of playgroup mentioned words relating to fun and enjoyment. In the same way very few parents mentioned when asked why they sent their children to playgroup "to have fun" or to "enjoy themselves".*

A Government Minister subsequently informed the UK Parliament that the research would '*assist the future development of Early Years policy and practice*' (Goggins, 2006), hopefully indicating that children's measurements of what makes a good playgroup prevailed over adults.

The Irish Government commissioned an innovative study with children to develop its national indicator set (Gabhainn and Sixsmith, 2005). One specific issue raised by children that did not arise in any adult deliberations and had no existing data collection was children's relationships with pets / animals. A question was subsequently included in the country's 2006 'Health Behaviour in School-aged Children Survey'<sup>33</sup> and the results included in the 2008 State of the Nation's Children report (Office of the Minister for Children and Youth Affairs, 2008). Research on physical and emotional punishment in Viet Nam also raised the importance of pets: within this context, children said the animals helped them to cope with parental violence (Beazley et al, 2006, page 168):

*In urban areas children said they turn to their pet animals or cuddly toys for comfort, whereas in rural areas they tend to go alone to reflect by a stream or in a secluded area. Most children said they do not tell anyone when they get punished.*

In 1999, the Committee on the Rights of the Child's meeting to commemorate the Convention's tenth anniversary focused on general measures of implementation. In relation to awareness raising of the Convention, the Committee urged

---

<sup>33</sup> The national survey now records the percentage of children aged 9-17 who report having a pet of their own or a pet in their family. Health Behaviour in School-aged Children (HBSC) is a cross-national research study conducted in collaboration with the WHO Regional Office for Europe. It began in 1982 and is conducted every four years. The 2006 survey involved over 180,000 children from 41 countries.

'interaction and dialogue rather than lecturing' and promoted the positive role of children in bringing about social change (Committee on the Rights of the Child, 1999, page 69, paragraph 291k). There are numerous examples of initiatives led by governments and NGOs, including child-led groups and organisations, to sensitise adults and children alike to the principles and provisions of the Convention. Training materials, posters, playing cards, CDs, DVDs, theatre productions, booklets, magazines, social networking sites, calendars, badges, festivals, websites, the celebration of particular dates, activity books, postcards, text messaging and children's marches and demonstrations – there is no end to what has been, and could be, done to raise awareness of children's rights. This aspect of implementing the Convention is very pertinent to preventing violence. It is often said that rights are useless if people do not know they have them. There are two parts to this – making sure rights holders know about their entitlements and also seeking to influence the people whose behaviour affects those rights holders. Children can play a vital role in designing and disseminating information both to their peers and to adults – see page 115.

Messages about the Convention should be accurate and accessible. Some governments and NGOs have decided to emphasise children's rights and responsibilities, as if these are connected in the treaty itself. This is a fundamental misrepresentation of the Convention and human rights generally. Diluting the strength of children's rights in order to make them more palatable is not something that children's rights advocates should be engaged in. Thomas Hammarberg has observed (2007, page 116):

*Behind the argument on children's duties lurks the notion that children's rights should be conditioned by their having formal duties, imposed by law or otherwise. Such conditionality is not part of any international human rights convention. The argument is, in fact, a frontal attack against the whole concept of children's rights, and should be approached accordingly.*

Changing the way we view and relate with children, and making space for them in all sorts of decision-making, involves a lot of effort and some uncomfortable feelings. Packaging children's rights with messages about children's behaviour and duties, as well as being inaccurate, is a depressing demonstration of adults trying to hold onto power. The fear is that if we give rights to children they will not understand them, have unrealistic expectations and even misuse them. But children have already been handed rights – 96 percent of the world's children<sup>34</sup> are entitled to the rights in the

---

<sup>34</sup> Children in Somalia and the United States of America are not protected by the Convention – about 79.1 million children in all (4.2 million children in Somalia, 74.9 million in the USA).

Convention on the Rights of the Child and no State has made a reservation to Article 12, the right to be heard.<sup>35</sup>

How many women's rights or disability rights advocates circulate materials telling people they have the right to be protected from violence but they should not hurt others; that they have the right to express themselves but they should not stop others expressing themselves? Of course we should take every opportunity to promote human rights values, which encourage mutual respect and solidarity, but the point of informing children about *their* treaty is to tell them how they can expect to be treated *by others*. Furthermore, the consultation transcripts and research findings that fed into the UN Violence Study show an overwhelming desire from children to work with adults – not against us or separately – to make change happen. As Mary John explains in her book on children's rights and power (2003, page 269):

*The reason that the idea of children's rights frightens so many adults who murmur 'What about responsibilities?' is based on a false view of the sort of power children are after. It is assumed that they seek a form of power which involves unlicensed freedom. This is not the case... What is involved in the exercise of children's rights is working towards changing the relationship between adults and children so that, through participation and voicing, each person works towards understanding and respecting each other's realities and points of view.*

The Committee on the Rights of the Child expects States to make the full Convention widely available to children and adults, but also to produce child-friendly summaries. It is vital that summaries of the Convention, as well as engaging children, communicate the key points. This may need some elaboration. For example, on children's right to protection from all forms of violence, we need to remember that children are socialised, just like adults, to believe many forms of violence are not violence at all – being coerced into marriage; smacking or spanking; and being deliberately humiliated in a school or workplace are all covered by Article 19 and child-friendly materials will probably need to spell this out. As the Inter-Parliamentary Union's handbook on eliminating violence against children explains: '*Much violence against children remains legal, state-authorized and socially approved*'. It will often fall to NGOs to inform children that the violence they have endured is unacceptable and not their fault (2007, page 7).

---

<sup>35</sup> Singapore is the only country in the region which has made a declaration to Article 12. This reads: '*The Republic of Singapore considers that a child's rights as defined in the Convention, in particular the rights defined in article 12 to 17, shall in accordance with articles 3 and 5 be exercised with respect for the authority of parents, schools and other persons who are entrusted with the care of the child and in the best interests of the child and in accordance with the customs, values and religions of Singapore's multi-racial and multi-religious society regarding the place of the child within and outside the family.*'

### **Children's rights materials for teenagers and young children**

When the Children's Rights Alliance for England produced a pocket guide to the Convention for teenagers they asked for examples to be included of young people who had taken action to claim their rights. Young people were particularly inspired by legal challenges to rights violations because they depicted their peers in an empowered way. Young children enjoyed following the trail of a fictitious character – 'the Rights robot' – exploring different aspects of the Convention and they welcomed being able to use stickers and puzzles to learn about their rights.

### **Children in Mongolia produce their own children's rights book**

Children in Mongolia who were involved in producing a shadow report for the Committee on the Rights of the Child also developed a child-friendly book on children's rights, called "Anaraa and Child Rights". They wrote the content, produced the illustrations and decided the design (Anaraa is the name of the girl who is the book's main character) (Save the Children, 2009, page 11).

The media is much more powerful than NGOs in reproducing, influencing and confirming attitudes. The communication expertise within the media, and the space it occupies, are enormous. A lot of the media is devoted to advertising and this sector has directly engaged children as actors for many more decades than governments or NGOs. The Australian Medical Association recently pointed out that: *'The ten biggest food advertisers are outspending the government by six to one to promote their food products'* (2009). Notwithstanding concerns about media manipulation of young minds and behaviour, and the protective action taken by many States, there are two fundamental lessons for governments and NGOs:

- We should aim to get human rights messages into the mainstream media and
- We should explore the transferability of some of the techniques used by commercial advertisers for human rights awareness raising.

Research into children's television advertising in the USA found three prevalent "pitches": fun / happiness; taste / flavour and smell; and product performance (Kunkel and Gantz, 1992). Over a quarter (27 percent) of 10,000+ advertisements aimed at children had fun/happiness as their key message. Even healthy food adverts were nearly 8 times more likely to use an association with fun/happiness instead of an emphasis on health or nutrition. Applying this template to children's *rights* advertising, we could ask whether our materials evoke a sense of fun, excitement or empowerment. In her book about young children's rights, commissioned by Save the Children UK, Priscilla Alderson notes that *'exciting children's books have somehow to remove the parents in Chapter 1'* (2000, page 99). This technique is also deployed in many commercial advertisements: in both

children's literature and children's advertising, the principal young characters are competent adventurers and explorers who make things happen. The images of children and childhood are a long way from the sad, lonely victims of many charity appeals or government brochures.

The media monitoring project in South Africa analysed 22,000 print, radio and television news items between March and May 2003. Supported by Save the Children and UNICEF, the project examined media coverage of children and children's rights. It found that children featured in about 6 percent of news stories but nearly half of these items were negative in their portrayal of children. Children were quoted in only 13 percent of items. The main messages, including from children who participated in a parallel process, were conveyed to media representatives at a stakeholders meeting in 2004. The aim was to try and influence their future practice. As the monitoring report explains (2004, page 74):

*Greater and improved representation of children and children's rights plays a key role in creating a protective environment for children. The media's influence and reach would enable the communication of messages that is empowering to children and would facilitate greater awareness of children and children's rights to both adults and children. It is therefore vitally important that reports are framed within a rights based framework to create awareness and educate the public and children about their rights.*

The Children's Rights Alliance for England analysed over 2,600 newspaper articles published across a six-month period in 2007/08 and found only 2 percent made explicit reference to children's human rights or equality. With funding from the country's independent human rights institution,<sup>36</sup> it produced guidelines for journalists (Willow, Barnes and Dimmock, 2009) incorporating the views and experiences of young children's rights activists; these were sent to journalism

#### **National Children's Broadcasting Day in the Philippines**

In the Philippines, a law passed in 1997 established the second Sunday of each December as "National Children's Broadcasting Day". Television and radio stations must provide a minimum of three hours airtime for programmes exclusively for, on, or about children. At least one hour must be prime time.

Section 2 of the Act requires that television and radio programmes '*should be child-friendly, promote positive values, and enable children to exercise their rights to freedom of thought and expression as stated in the United Nations Convention on the Rights of the Child. The participation of children as talents or guests should be encouraged*'.

<sup>36</sup> The Equality and Human Rights Commission.

schools as well as directly to hundreds of journalists. Endorsed by the country's largest trade union for journalists, the guidelines followed the Committee on the Rights of the Child's recommendation to the UK Government in October 2008 that it take '*urgent measures to address the intolerance and inappropriate characterization of children, especially adolescents, within society, including the media...*' (Committee on the Rights of the Child, 2008, page 6, paragraph 25).

#### **Children's rights in the media**

UNICEF and the Thai Journalists' Association joined forces in 2004 to launch the "Thai Child Friendly Media" Award for professional journalists and media students. Hundreds of journalism students have received UNICEF training in children's rights and the organisation supported Radio Thailand to run a weekly programme featuring youth DJs debating issues of concern to children.<sup>37</sup>

For those children who do come into contact with professionals, they should be confident that they will be treated in a respectful manner at all times. This will prevent them being further abused and can be a vital part of their recovery. Adults that work with and for children consume media messages and absorb pervasive social attitudes just like anybody else. This is why professional codes of conduct and effective training are so important.

Save the Children Australia (SCA) has developed a comprehensive code of conduct relating to child protection that all those who work with the organisation must sign. In addition to setting out expectations for professional behaviour, the code requires SCA employees and Board members to make a personal commitment to the elimination of child marriage, corporal punishment, hazardous child labour and domestic violence.

#### **Extract from Save the Children Australia's Child Protection Code of Conduct for employees and Board members**

In accepting employment with SCA I agree that I will not:

- Marry a person under the age of 18 years old
- Hit or physically discipline children in my family
- Physically, sexually or emotionally abuse any member of my family, including my partner, wife, husband, child or any other relative or person living in my home or
- Hire children for domestic or other labour which is inappropriate given their age or development stage, which interferes with their availability for education and recreational activities, or which places them at significant risk of injury.

<sup>37</sup> Information available at: [http://www.unicef.org/thailand/advocacy\\_social\\_mobilization.html](http://www.unicef.org/thailand/advocacy_social_mobilization.html)



**"Total Respect" training course to ensure the rights and participation of children in care**

In England, a participation training pack for front-line staff working with children in care was developed by a network of children's rights advocates with Government funding. Over 200 children were directly involved in developing the pack. Two copies of the pack, called "Total Respect", were sent to every local authority by the Chief Inspector of Social Services who explained: *'The pack highlights the continued shared responsibility that we all have to ensure that children and young people participate in: individual care planning; local policy development and children's services planning; and are taken seriously when making complaints or allegations of abuse'* (Platt, 2000). The pack has won awards for the prominence given to children's views and experiences: it was designed to be co-delivered by adults and children.

## OVERARCHING RECOMMENDATION 4: Promote non-violent values and awareness-raising

### What Governments and children's rights advocates can do:

13. Include children in the development of a national dissemination strategy on the Convention on the Rights of the Child
14. Involve children in the design and delivery of positive, non-violent relationships materials and training for professionals working with children
15. Incorporate children's views and experiences into parenting materials on positive, non-violent relationships
16. Ensure substantial parts of the curricula of professional training courses for work with children in early years centres, schools, health, care and custodial establishments is devoted to human rights values, non-violent relationships and reducing aggression

### Discussion

Children are entitled to know what their human rights are and what their governments are doing to make them real. In accepting Professor Pinheiro's report, UN member states agreed to implement most recommendations by 2007 and to have achieved full legal protection and effective data collection by 2009. A translation of the report, including recommendations, has been produced for children and young people (Kwast and Laws, 2006), as well as awareness raising materials (Fountain, 2006). Media guidelines were made available at the Study's launch.<sup>38</sup>

<sup>38</sup> Available at: <http://www.unviolencestudy.org/>

The specific duty on States Parties to inform children about their rights is set out in Article 42 of the Convention on the Rights of the Child. Ahead of the UN General Assembly Special Session on Children in 2002, children in Finland selected this article as the most important in the Convention, though only as a foundation for implementation of all other rights. As the Finnish Government told the Committee on the Rights of the Child (2005, page 17, paragraph 65):

*The children explicitly expressed their view that all the 54 articles of the Convention are important but they are not widely known.*

The Committee on the Rights of the Child in its General Comment no. 5 gives clear guidance to States Parties on their obligations to widely disseminate information about the Convention, to children and adults alike. The Committee explains (2003, pages 15-16, paragraph 66):

*Traditionally in most, if not all, societies children have not been regarded as rights holders. So article 42 acquires a particular importance. If the adults around children, their parents and other family members, teachers and carers do not understand the implications of the Convention, and above all its confirmation of the equal status of children as subjects of rights, it is most unlikely that the rights set out in the Convention will be realized for many children.*

Article 42 of the Convention is a common element of all human rights treaties – the requirement on States Parties to widely disseminate information about human rights. It is essential to communicate the Convention in real terms to children, to spell out exactly what it means in practice. Following its examination of Mauritania in 2009, the Committee urged the 'active participation' of children in the dissemination of children's rights information (2009b, page 6, paragraph 23).

The actions required to discharge Article 42 obligations are equally applicable to the dissemination of information about the UN Violence Study, as shown in box 8.

## Box 8: Disseminating the Convention and the UN Violence Study

Convention on the Rights of the Child dissemination	UN Violence Study dissemination
Develop a comprehensive strategy for disseminating information, including informing children (and others) about who is involved in implementing and monitoring the Convention and sources of help	Develop a comprehensive strategy for disseminating information, including informing children (and others) about who is involved in implementing and monitoring the UN Violence Study and sources of help
Include the full text as well as accurate translations of the Convention and the Committee's concluding observations on key government websites	Include the full text as well as accurate translations of the UN Violence Study recommendations on key government websites
Involve children in awareness raising	Involve children in awareness raising
Ensure information about the Convention is appropriately disseminated to people who cannot read and write	Ensure information about the UN Violence Study is appropriately disseminated to people who cannot read and write
Incorporate information about the Convention and human rights generally in the school curriculum	Incorporate information about the UN Violence Study and human rights generally in the school curriculum
Provide initial and in-service training about the Convention to all those working with and for children	Provide initial and in-service training about the UN Violence Study to all those working with and for children
Engage the media in information dissemination. As the Committee on the Rights of the Child explains: ' <i>[It] can play a crucial role</i> ' (2003, page 16, paragraph 70).	Engage the media in information dissemination. As Professor Pinheiro explains: ' <i>States should encourage the media to promote non-violent values and implement guidelines to ensure full respect for the rights of the child in all media coverage</i> ' (2006b, page 26, paragraph 100).

A communication strategy on children's rights to protection from violence in the Convention would have at least 10 key messages.

**What Governments should communicate to children about protection from violence and their right to be heard: 10 key messages**

1. No one has the right to hit or harm you
2. The law protects you from all forms of violence
3. Help is available if you are affected by violence
4. We will always listen to you and take your views seriously
5. We will always respect your privacy
6. You will not be punished for trying to stop or escape violence
7. We will do everything we can to stop you being exposed to violence again
8. We will help you recover from violence
9. Protecting your rights is our top priority
10. We are doing everything we can to end violence against children.

Awareness raising and dissemination, about the Convention generally and protection from violence specifically, can be given the force of law by incorporating provisions into national constitutions and other laws. The constitutions of Uganda and Ukraine require the authorities to make the provisions of the constitution widely known (UNICEF, 2008, page 162). Article 45(6) of the constitution of the Democratic Republic of Congo requires the widest dissemination and teaching of the Universal Declaration of Human Rights, the African Charter of Human and Peoples' Rights, and all ratified regional and international conventions relating to human rights and international humanitarian law (State Party report to the Committee on the Rights of the Child, 2007, pages 14-15).

The Committee on the Rights of the Child expects the Convention to be integrated into the school curriculum and this information dissemination should be reinforced by '*the promotion of values and policies conducive to human rights*' (2001b, page 6, paragraph 19). But teachers are not alone in their responsibility to promote understanding about the meaning and provisions of human rights. Social workers, police officers, lawyers, judges, health professionals and early years workers also play critical roles in informing and supporting children to claim their rights, as do children's rights advocates in NGOs. The development of national strategies to end violence against children should include the review and revision of professional codes of conduct and legal responsibilities, as well as pre-and post qualification training. Children could contribute to these reviews by giving feedback and advice on the services they have received from different types of worker, and how they could be improved. They can help design and deliver training to a wide range of professionals. Respondents to an international questionnaire conducted by the Consortium on Street Children considered direct contact between children and police officers

### **Training in non-violent-parenting**

Save the Children has been disseminating materials and providing training on non-violent parenting in Southeast Asia and the Pacific since 2003. Parents in China, Fiji, Hong Kong, South Korea, Japan, Lao PDR, Mongolia, New Zealand, the Philippines, Thailand and Viet Nam have received practical advice on the many positive ways of demonstrating to children, from infancy to adolescence, that they are respected and understood. Associate Professor Joan E. Durrant has designed the organisation's rights-based approach (2007) and explains in an interview with Save the Children Sweden:<sup>39</sup>

*Almost all countries of the world have ratified the United Nations Convention on the Rights of the Child. This Convention sets out the fundamental rights of children based on their developmental needs. Three of these rights have particular relevance to discipline. First, children have the right to freedom from all forms of violence. This means that we need to learn ways of responding to parent-child conflict without hitting. Second, children have the right to be treated with respect for their dignity. This means that we need to learn ways of teaching children without humiliating them with put-downs, name-calling, or threats. Third, children have the right to express themselves. This means that we need to learn not only how to talk to children, but also how to listen and understand how they think and feel.*

as part of training on children's rights and child protection to be 'one of the most effective methodologies' (Wernham, Geerinckx and Jackson, 2005, page 24). This comes amid grave concerns about police intimidation and brutality of street children in many countries.

### **What skills and knowledge should every worker have?**

In 2005, the UK Government published its common core of skills and knowledge for the children's workforce in England, setting out the basic requirements of all those working with children (2.7 million people). In relation to safeguarding skills, the document states every worker should: 'Have the confidence to represent actively the child or young person and his or her rights'. Much emphasis is given to effective communication with children and their participation 'in the design and delivery of services that affect them' (Department for Education and Skills, 2005, pages 14 and 25). The document is being revised (2010), hopefully taking into account the 2008 concluding observations of the Committee on the Rights of the Child.

<sup>39</sup> Available at: [http://seap.savethechildren.se/South\\_East\\_Asia/Misc/Puffs/Positive-Discipline-What-it-is-and-how-to-do-it](http://seap.savethechildren.se/South_East_Asia/Misc/Puffs/Positive-Discipline-What-it-is-and-how-to-do-it)

The law in many States now requires social workers to take children's views seriously, but there is no wider duty to inform children of their right to protection from all forms of violence. That mandatory reporting between professional groups is more common than a duty to inform children of their rights, including their right to an effective remedy, is illustrative of a "child-rescue" approach to protection, where adults are the principal actors.

At the regional symposium to launch the UN Violence Study in October 2006, children's representatives gave their four key recommendations. One of these was directed to the media (UNICEF, 2006):

*The media to be responsible in exercising your role in providing balanced and sensible information, particularly concerning children. Tell our stories and issues in a responsible manner where we are not exploited or used for misinformation.*

The importance of engaging with the media is reiterated in the Committee's General Comment on the right to be heard in which it urges States Parties to: '*Combat negative attitudes, which impede the full realization of the child's right to be heard, through public campaigns, including opinion leaders and the media, to change widespread customary conceptions of the child*' (2009a, page 12, paragraph 49). This follows earlier guidance on using the mass media to foster positive attitudes towards children with disabilities (Committee on the Rights of the Child, 2006b, paragraph 26). Sensitising the Government, public agencies and the general public about the principles and provisions of the Convention is one of the Committee's '*recommended activities*' for national independent human rights institutions (Committee on the Rights of the Child, 2002, page 5, paragraph 19).

The Swedish Government's awareness campaign on the prohibition of corporal punishment in 1979 was ahead of its time in the messages it portrayed but also in the methods used. Information was printed on milk cartons, and a 16-page colour leaflet, available in 10 minority languages, was sent to every household with children and to agencies working with families. The ban was discussed in parenting classes, child health clinics and in schools. The Government leaflet included a series of questions and answers. The answer to why a new law was passed shows the strong inter-relationship between respecting the human dignity, capacity and decision-making of children, and rejecting outright all forms of violence against them:

**Extract from Swedish Government leaflet to parents, 1979, entitled 'Can you bring up children successfully without smacking and spanking?'**

**Why was the law passed?**

Because it is a natural historical development. We have already done away with the right to beat one's wife and servants. We have done away with the right to strike children at school.

Because our democratic community needs children taught to think for themselves, who are used to making their own choices and to shouldering responsibility. It is impossible to beat a child into obedience and at the same time expect it to be able to think for itself.

In 2001, the Swedish Government published a pamphlet reflecting on the history of equal protection in that country, and the positive effects on children, family life and wider society. The joint publication from the Ministry of Health and Social Affairs and the Ministry for Foreign Affairs describes the responses of Government and civil society to the death of a four year-old girl at the hands of her stepfather in 1971. Following strong public concern, the Government established a committee in 1977 to consider how children's rights could be better protected (the committee called itself 'The Children's Rights Commission'). The Commission's interim report the following year urged prohibition of corporal punishment, explaining (Ministry of Health and Social Affairs and the Ministry for Foreign Affairs, 2001, pages 10-11):

*At the beginning of the 20th century it was still implicitly assumed that the child should obey its parents and authorities without murmur. Children were ascribed no independent standing and as a rule were not allowed to voice their opinions ... Gradually society has changed ... The concept of the child as an independent individual with rights of its own has become more prominent. This calls for a form of child education based on interaction, care and mutual respect.*

In the recent review of Timor Leste's implementation of the Convention on the Rights of the Child, Committee member Moushira Khattab, serving as co-Rapporteur, explained: '*the awareness-raising on children's rights issues is not just for the public, the government also has to be made aware. It is the best investment that could be made for the country's future*' (UNOG, January 2008).

There is little documentary evidence of children's active engagement in information dissemination about the UN Violence Study, to their peers or adults alike: clearly this could be one of the areas of activity monitored and encouraged by the Special Representative on violence against children. 'Adolescents and youth' are seen as 'key strategic actors' in the UN Secretary-General's Campaign to End Violence

### Human rights training for government officials

National independent human rights institutions and NGOs can play a decisive role in disseminating information about the Convention and the UN Violence Study, including training government officials and others whose work affects children.

- UNICEF provides children's rights training for government officials in the Ministry of Social Development and Human Security in Thailand
- Save the Children Australia provides children's rights training to government officials in the Solomon Islands and Vanuatu
- Broad human rights training, as well as specific training in children's rights '*are offered in virtually all Government ministries*' in the Democratic Republic of Congo, according to the State Party's report submitted to the Committee on the Rights of the Child in 2007
- The Swedish Government's strategy to implement the Convention, adopted in 1999, includes the provision of in-service training to '*all national government employees whose work impacts on children and young people ... to strengthen their child-related skills and their knowledge of the Convention*' (Ministry of Health and Social Affairs, 2004).

Against Women 2008-2015. The Campaign's communications plan stresses the importance of using new media, including StopX.org – an online platform run by UNICEF and others for young activists fighting child sexual exploitation. Other online resources include the award-winning "Bursting the bubble" website run by The Domestic Violence Resource Centre in Victoria, Australia, and "The Hideout" run by Women's Aid in England.

## OVERARCHING RECOMMENDATION 5: Enhance the capacity of all who work with and for children

### What Governments and children's rights advocates can do:

17. Include the promotion of human rights values and non-violent relationships in all professional codes of conduct governing direct work with children
18. Include children in the development of job descriptions and person specifications, recruitment, induction and appraisal of all staff working directly with them
19. Recruit children as advisers and contributors in the development of materials and programmes to support those working with and for children to reject violence and model human rights values



20. Conduct research on children's views and experiences of violent and peaceful relationships and settings, and incorporate this into training programmes and ongoing performance management
21. Include an assessment of the dominant values and ethos of an institution, as perceived by children, in all audits and inspection processes

## Discussion

Many of the suggested activities above are dealt with in other sections. What has not been discussed elsewhere in this publication is children's direct participation in staff recruitment and professional development. There is growing experience within NGOs and public authorities of utilising the insight and knowledge of children when recruiting staff working with, and for, children. At a national level, most appointments of Children's Commissioners and Ombudspersons now involve children in some way. Clearly, the selection, induction and ongoing development of staff affects two groups of children – those the adults are recruited to work with now, and those they could potentially work with in the future. Having children as equal partners in the selection process gives an immediate and powerful message to candidates about the respect accorded to children within the organisation. The process itself can show whether adults are able to communicate well with children, verbally and in writing, from the perspective of children themselves. As a young person reported to the New South Wales Commission for Children and Young People: *'I've been on an interview panel when one of the applicants wouldn't even look at me. You could tell they didn't treat young people with respect and were not really interested in young people'*.<sup>40</sup> Young panellists asking direct questions about the candidates' views on violence against children can be very revealing.

One of the fears adults have about including children as equal partners in recruitment is the power they may then have as a consequence of having access to personal information or being party to discussions about an individual's suitability. This is a welfarist conception, which narrowly casts children as service users, rather than as individuals offering different experiences, knowledge and skills. There is no reason in principle why children cannot understand and respond appropriately to confidential matters – so long as we brief them on their legal and moral responsibilities. There are many benefits of including children in staff selection, including:

- Can obtain fuller picture of the candidate's strengths and weaknesses
- Able to see directly how the candidate interacts with children
- Fosters better relationships between children and managers

---

<sup>40</sup> Taken from: <http://kids.nsw.gov.au/kids/ourwork/participation/resources/kidsinstaffselection.cfm>  
Accessed 30 June 2009.

- Where the successful candidate will be working directly with the child/ren on the interview panel, this first contact could be the basis of a mutually respectful relationship
- Process can become more accessible and transparent for everyone: there will be less (or no) jargon, unnecessary formalities will be dropped and hidden agendas should be less common.

Some adults express other fears, such as candidates posing a safety risk to children during the selection process. This can be another sign of paternalism. Yet, in small communities, or particularly sensitive services, there may be genuine challenges about how to protect the privacy rights of children who are escaping violence. Rather than excluding children altogether, we need to think creatively and develop appropriate roles that give them influence without placing them in danger. It may mean holding initial interviews away from a residential centre where the child lives; or it may involve the candidate writing a letter or submitting an audio recording to children. In these circumstances, we should have honest dialogue with children and be open to their solutions.

## **OVERARCHING RECOMMENDATION 6: Provide recovery and social reintegration services**

### **What Governments and children's rights advocates can do:**

22. "Rights-proof" statutory child protection and safeguarding systems and services to examine their compliance with the principles and provisions of the Convention on the Rights of the Child and the six principles of the UN Violence Study. Refocus them so that children's rights and children's voices underpin all relevant legislation, policies and interventions
23. Place a statutory duty on all those that work with, and for, children – including education, health, social services, criminal justice and immigration and asylum personnel – to ascertain children's views on all matters affecting them, and to give these views due weight in accordance with the child's age and maturity
24. Undertake a national review of children's right to an effective remedy, framed by the State's international human rights obligations, to assess:
  - a) Children's awareness of legal protection and advice and assistance that can help bring an end to violence
  - b) The availability and effectiveness of advice and assistance offered to children, including the provision of care and rehabilitation in residential settings
  - c) What helps and what makes it difficult for children to resist and escape violent treatment and relationships, within and outside the family
25. Act on children's reflections and recommendations to ensure the right to an effective remedy is available to all

## Discussion

Children's participation is not usually associated with legal action – against parents or carers, school bodies, employers or government. Yet the ability to challenge rights violations is fundamental to being a rights holder. Article 8 of the Universal Declaration of Human Rights guarantees everyone *'the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law'*. This right is repeated in the International Covenant on Civil and Political Rights, ratified by all States in Southeast Asia and the Pacific and the Human Rights Committee, in its General Comment no. 31, has explained that (2004, paragraph 15):

*... Such remedies should be appropriately adapted so as to take account of the special vulnerability of certain categories of person, including in particular children.*

The Committee Against Torture has reminded States Parties of their obligations to *'prohibit, prevent and redress torture and ill-treatment in all contexts of custody or control, for example, in prisons, hospitals, schools, institutions that engage in the care of children...'* (2008, page 4, paragraph 15).

The right to an effective remedy is not explicitly referred to in the Convention on the Rights of the Child (Detrick, 1999, page 9). Indeed, the Working Group drafting the Convention seems to have only considered including the term in relation to articles protecting children from parental child abduction and torture (ibid, page 205). One of the proposals relating to the protection of civil and political rights put forward by delegates from the USA in 1985 included the right to 'redress of grievances', however this particular draft was not considered by the Working Group (Detrick, ed., 1992, page 230).

Despite the absence of the term itself in the treaty, the Committee on the Rights of the Child in its State Party reviews consistently examines and comments on the availability of effective complaints procedures and other forms of redress. In its report of its day of general discussion in 2006, on the right to be heard, the Committee confirms that all children should be able to access complaints mechanisms: *'age should not be an impediment for the child to access complaints mechanisms within the justice system and administrative proceedings'* (2006a, page 8, paragraph 52). The Committee has confirmed in its General Comment on the right to be heard that: *'The right to be heard applies both to proceedings which are initiated by the child, such as complaints against ill-treatment and appeals against school exclusion, as well as to those initiated by others which affect the child...'* (2009a, page 9, paragraph 33).

Furthermore, Article 13(1) of the Convention on the Rights of Persons with Disabilities requires States Parties to make '*age-appropriate accommodations*' to ensure access to justice. The Committee on the Rights of the Child's General Comment on general measures of implementation explains (2003, page 7, paragraph 24):

*For rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention and consistently referred to in the other six major international human rights treaties. Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives.*

The latter point about representatives is a reminder that a large number of children may not be able to seek redress themselves. Infants and other very young children need supportive adults to act on their behalf, as will some disabled children and many others who are too afraid or vulnerable to act directly. Requiring children to instigate action themselves can actually impede their right to an effective remedy. In the Philippines, the Special Protection of Children Against Abuse, Exploitation and Discrimination Act 1991 allows child victims to file a complaint, in addition to parents, some other relatives and a range of officials including social workers. Significantly, the legislation makes provision for a group (three or more) of '*concerned responsible citizens where the violation occurred*' to bring an action. Children's rights organisations across Southeast Asia and the Pacific region are currently campaigning strongly for a regional human rights body that can investigate complaints of rights violations. The organisations welcome the promotional role of such a body but warn:

*[We] should not lose sight of the immediate human rights violations committed against children in the region. ASEAN should no longer employ a weak hand in protecting the rights of children especially when its member states have failed to fulfil their human rights obligations.<sup>41</sup>*

Thomas Hammarberg and Peter Newell have set out the components of child-friendly international and regional human rights mechanisms. They recommend that, when others are acting on the child's behalf, a safeguard exists to ensure the complaint is in the child's best interests and, wherever possible, the child has given

---

<sup>41</sup> 'ASEAN Human Rights Body Should Be Strong Enough to Protect the Rights of Children in ASEAN'. Public Statement of Child Rights Organisations in Southeast Asia, 30 June 2009.

his or her consent (Hammarberg and Newell, 2007, page 15). Daniel O'Donnell's overview of legal systems and practices in 52 countries relating to the child's right to be heard gives an interesting example: the Ecuadorian children's and youth code provides that the child's best interests '*may not be invoked ... without previously listening to the opinion of any child who is able to express one*' (cited in O'Donnell, 2009, pages 8-9). The Child, Youth and Families Act 2005 in Victoria, Australia, requires that the child's ascertainable wishes and feelings '*should be given such weight as is appropriate in the circumstances*' when determining whether a decision or action is in the child's best interests (Section 10(3)(d)). This is consistent with the advice given in the Committee on the Rights of the Child's General Comment on the right to be heard: '*the view of the child must be taken into account in order to determine the best interests of the child*' (2009a, page 13, paragraph 53). The Council of Europe's Parliamentary Assembly Social, Health and Family Affairs Committee took a similar view (Clivetti, 2008, paragraph 54):

*The right to be heard and children's best interests are often seen as being in competition, when in reality they are mutually dependent. Try asking yourself which you would be prepared to relinquish – the right to live in conditions conducive to your well-being or the right to be heard and respected. It's an impossible and meaningless choice – the right to express oneself to others is part of being a fully functioning human being. Yet children are victim to this lazy thinking each and every day. A construction of children's best interests, at the individual or macro level, without the involvement of children, categorically does not live up to the promise of the Convention.*

The box below sets out the essential elements for ensuring children have the right to an effective remedy.

### Box 9: Children's right to an effective remedy

#### General awareness-raising

- Child-friendly information about the different ways children can seek redress for rights violations is widely disseminated; this information is available in different languages and formats
- The school curriculum includes information about the Convention on the Rights of the Child and where and how children can seek redress for rights violations
- Part of the statutory function of independent human rights institutions and public authorities is to raise awareness among children of their rights, including their right to an effective remedy
- Children's right to be heard is required by law and actively encouraged in all settings

#### Components of an effective remedy

- Immediate protection / cessation of the rights violation
- Independent complaints procedures in all children's settings
- There is no minimum legal age for being able to make a complaint, and no other inappropriate conditions on children seeking a remedy (such as a requirement for parental consent). Children are able themselves to access:
  - All complaints mechanisms
  - The courts
  - Regional and UN complaints mechanisms
  - Free legal advice and representation
  - Independent advocacy
- Others can act on behalf of the child (with appropriate safeguards – see page 129)
- The process of considering the child's complaint or legal challenge is non-intimidating and conducive to the child expressing his or her views freely
- There is absolutely no risk of violence or punishment as a result of seeking a remedy
- The child's right to privacy is fully respected at all stages
- The child has the assistance of an interpreter, signer etc
- Child-friendly information is provided throughout all stages of the proceedings
- The process accommodates the child's time perspective – the need for regular breaks during hearings and the necessity of achieving a speedy resolution

#### After a child has sought a remedy

- Written notifications are produced in child-friendly language and accessible formats
- The child is able him or herself to receive compensation (there are no age discriminatory assessments of harm)
- Measures are in place to promote the child's physical and psychological recovery, rehabilitation and reintegration
- Legal or policy change follows where appropriate, within a reasonable timescale
- The Government ensures positive awareness raising / wide dissemination of the outcome of the case (protecting the child's privacy as appropriate).

Professor Pinheiro's report to the UN Secretary-General notes that in many States legislation focuses more on protection and penalties '*while recovery, reintegration and redress receive much less attention*' (2006b, page 23, paragraph 86). The Human Rights Committee's General Comment no. 20 stresses that, in relation to torture, legal Human right prohibition is not enough: information about the ban should be widely disseminated and individuals must also have '*appropriate redress*' (1992, paragraphs 8, 10, 11 and 14):

*... it is not sufficient for the implementation of article 7<sup>42</sup> to prohibit such treatment or punishment or to make it a crime. States parties should inform the Committee of the legislative, administrative, judicial and other measures they take to prevent and punish acts of torture and cruel, inhuman and degrading treatment in any territory under their jurisdiction... The Committee should be informed how States parties disseminate, to the population at large, relevant information concerning the ban on torture and the treatment prohibited by article 7. Enforcement personnel, medical personnel, police officers and any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment must receive appropriate instruction and training ... In addition ... the State party should provide detailed information on safeguards for the special protection of particularly vulnerable persons.*

*... In their reports, States parties should indicate how their legal system effectively guarantees the immediate termination of all the acts prohibited by article 7 as well as appropriate redress. The right to lodge complaints against maltreatment prohibited by article 7 must be recognized in the domestic law. Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective.*

At the end of its day of general discussion on State violence against children, in October 2000, the Committee urged the Office of the High Commissioner for Human Rights to hold a '*special workshop*' to examine violence against children and children's use of UN complaints mechanisms. The workshop would, among other matters, consider the '*need for either an optional protocol to the Convention to establish a procedure for individual complaints, or the establishment of a new*

---

<sup>42</sup> Article 7 of the International Covenant on Civil and Political Rights states, '*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation*'. The Committee's General Comment no. 20, states, '*The prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee's view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure. It is appropriate to emphasize in this regard that article 7 protects, in particular, children, pupils and patients in teaching and medical institutions*' (1992, paragraph 5).

*"special procedure" of the Commission on Human Rights'* (2000, page 130, paragraph 5d). The NGO Group for the Convention on the Rights of the Child has set out the broad characteristics of an effective complaints mechanism to the Convention on the Rights of the Child. An Optional Protocol to be ratified by States Parties to the Convention would permit children and their representatives to bring cases of alleged rights violations before the Committee on the Rights of the Child. This would put the Convention on a par with other human rights treaties that have compulsory reporting.<sup>43</sup> The NGO Group's paper explains that, in many ways, children subject to rights violations are '*not very different to adults*' who also require support in seeking redress. In addition, '*Innovative mechanisms, drawing from national and/or regional best practices, will need to be incorporated ... [and] the communication procedure will have to be designed with children's safety in mind and allow for specific safeguards for vulnerable petitioners – anonymity provisions, protection from reprisals, etc*' (2009, page 2). These principles similarly apply to domestic remedies.

## OVERARCHING RECOMMENDATION 8: Create accessible and child-friendly reporting systems and services

What Governments and children's rights advocates can do:

26. Amend legislation to ensure that no child is penalised by the State for being subject to violence, or for reporting or seeking to escape violence
27. Invest in confidential helplines and online information and support. Make sure children from a wide variety of communities are actively engaged in the creation and ongoing development of these services. Widely disseminate the contact details, including in schools, community buildings and institutional settings
28. Establish safe houses and refuges for children escaping violence
29. Establish confidential reporting systems in institutional settings so that children can notify an independent body that violence has occurred, or is threatened
30. Where violence, or suspicion of violence, has been reported, require professionals conducting statutory child protection investigations – police, social workers and health professionals – to ascertain and document the child's views and demonstrate how they have taken those views into account in determining actions to protect the child

---

<sup>43</sup> International complaints procedures are available for the following UN human rights treaties: the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of all Forms of Discrimination against Women; and the Convention on the Rights of Persons with Disabilities.



31. Require inspectors and independent advocates visiting institutional settings to meet children in private
32. Conduct research with children about their preferred methods of reporting violence in different settings
33. Establish ongoing data collection to assess the extent to which children self-report violence

## Discussion

Children often have many fears that prevent them from reporting or escaping violence. Intimidation frequently accompanies physical or sexual assault – a stepfather threatens to kill a sibling or favourite animal if the child tells anyone she is being raped; an employer says she will make the child homeless if he contacts the police; a prison officer warns no one will believe the child's word over his. These children's rights breaches are difficult for the State to eliminate completely, because they require fundamental changes in society. However, the State does have the power to remove the threat of criminal sanctions that entraps children in violent situations.

The outcome document of the Third World Congress on Sexual Exploitation of Children and Adolescents, held in Rio de Janeiro in November 2008, makes seven pledges relating to the legal framework and enforcement of children's legal rights. One of these requires States to:

*Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.*<sup>44</sup>

Urgent legal reform is required to protect children from penal sanctions relating to prostitution. It is not enough for States to claim they rarely use penal law against children subject to sexual exploitation in prostitution: the fear of such action can act as a powerful deterrent stopping children from seeking help. It is vital that children receive the strong, straightforward message that if they are being sexually exploited in prostitution they can seek advice, assistance and rehabilitation without any fear of prosecution. No perpetrator of sexual violence must be able to silence a child

---

<sup>44</sup> The other six legal framework commitments are: international human rights standards to be the framework for action; effective extraterritorial jurisdiction and international co-operation; a lead law enforcement agency; special gender sensitive units/children's desks within police forces, and specialized training to judicial and law enforcement personnel; action against corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children; and effective international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism.

with the threat of police, courts and prison. States must also be vigilant about using detention in the guise of protection as a response to other forms of violence such as forced marriage and trafficking. The World Report on Violence Against Children warns (2006a, page 195):

*The use of so-called 'protective custody' disproportionately affects girls who are most often the victims of sexual abuse and exploitation. Detention for the protection of girls who have been sexually abused is particularly acute in countries where 'honour crimes' are practiced.*

Peter Newell has reviewed the requirements and global application of human rights laws and standards in protecting children from sexual exploitation since the Second World Congress against Commercial Sexual Exploitation of Children, held in Yokohama in 2001 (the first Congress took place in Stockholm in 1996). He explains (2008, page 37):

*In line with the aim of avoiding further victimization of victims, national laws need to provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that their involvement was forced. This should apply in every case for trafficked children.*

Children whose lives are saturated in violence may perpetrate violence themselves. This makes it even more important that juvenile justice systems are entirely rehabilitative and non-punitive. Indeed, the World Report on Violence Against Children observed: *'In too many countries, the criminal justice system is used as a substitute for adequate care and protection systems'* (2006a, page 195). During international debates about the creation of the International Criminal Court, the deputy executive director of UNICEF argued that under-18s should be excluded from its jurisdiction because it could not *'provide the rehabilitative emphasis which juvenile justice requires [and] the commission of serious crimes by children is often the result of indoctrination and manipulation by adults ... accountability must rest with those responsible for giving orders to children, and not with the victimized children'* (Lewis, 1998). The Court does not have jurisdiction over child perpetrators of serious crimes of concern to the international community (Article 26, Rome Statute of the International Criminal Court, adopted July 1998), partly because there was a lack of uniformity over the age of criminal responsibility but also as a consequence of the Convention's and the Beijing Rules' (1985) requirement for child-friendly procedures and safeguards. The Committee on the Rights of the Child in its General Comment on juvenile justice systems reminds States of their responsibilities to avoid judicial proceedings: even when children have committed

serious offences, the priority must be *'to safeguard the well-being and the best interests of the child and to promote his/her reintegration'* (2007, page 20, paragraph 71). A child who commits an offence does not lose his or her right to protection or recovery and rehabilitation: being treated with respect by criminal justice staff and agencies is a fundamental right in itself but it will also increase the chances that children will seek advice and support to escape violence.

**'I have been through a lot in my life already . . .'**

For someone who is only 17, I have been through a lot in my life already. I have always had to take care of myself because my family never properly looked after me.

My dad treated me bad right from when I was a baby. It was like I was never good enough for him. He would bait me, even as a small kid he used to hit me and then say 'come on, hit me, stand up and be a man' and I would try to hit back and he'd belt me twice as hard. He used to kick or hit me if I didn't do what I was told. So I learnt to go along with whatever he said, and to keep out of his way.

The worst thing was that mum never told him off for the way he treated me. She would just yell at me 'don't get him mad, it's your fault you should do what he says'. She never defended me from my dad, she acted like I deserved everything I got. I started to believe that everything was my fault.

When I was about 13 I started drinking heavily and smoking pot every day. I also used whatever drugs I could get, just to get out of it, so I didn't have to think about anything. I wagged just about every day, until the school told my parents and my dad bashed me up so bad to punish me.

I hated school because I was always in trouble for having fights with other kids or with the teachers. But also I hated being at home. I used to stay over at friend's houses, and sometimes I would sleep out in car parks. The more I stayed away, the more scared I was of going back home, cos I knew I would get a belting for running away. I started sleeping in the city, in doorways or wherever, and hanging out with other kids there. It still was better than going home.

After a while I went to a youth support service and they got me into a refuge. Some of the workers there are cool and you feel like someone cares about you for once. They went in to Centrelink with me and helped me get some money, and they have just helped me organise my life more. They are trying to get me into long-term accommodation. Now at least I feel like I might have a future.

Taken from Bursting the bubble website <http://www.burstingthebubble.com/stories.htm>

In 2006, on average, 14 percent of the calls made to child helplines in 62 countries concerned abuse and violence against children (Child Helpline International, n.d.). In the UK, nearly 12,000 children spoke to ChildLine about sexual abuse in 2005/06. Rape was by far the most common reason for contacting the helpline, accounting for 63 percent of calls (ChildLine, 2007). The organisation uses the UK Government's definition of physical abuse – hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child – and reports that more than two calls are received from children every hour of every day about this type of violence (ChildLine, 2006).

#### **Child helplines and digital technology**

New Zealand's youthline began in 1970 and has used SMS counselling since December 2004 (this service has been free to children since December 2007). The organisation now receives up to 6,000 incoming texts a month and aims to respond to each text message within 10 minutes. It advises that '*Digital technology is not a choice it is a necessity: this is the way young people communicate*' (Youthline, n.d., page 20).

Child helplines must involve children in the development, operation and evaluation of their services, argued Child Helpline International (CHI) in its submission to the Committee on the Rights of the Child's 2006 day of general discussion on the child's right to be heard. It explained (2006, page 3):

*When a child calls a helpline in any region of the world, the first step towards children's participation is set in motion. This action alone, however, is not enough to ensure that children's voices and opinions are really being heard and acted upon ... Helplines need to be ready to accept children as capable decision-makers.*

CHI gave several examples of helplines that were engaging children in the ongoing development of their services and in broader children's rights advocacy:

- Children as members of the management board – helplines in Japan and Swaziland
- Child advocates – Madadgaar helpline for women and children in Pakistan
- Peer advice and counselling – Canada's Kids Help Phone and Japan's helpline
- Children's clubs and groups – helplines in Lesotho, Mongolia and Nepal
- Children engaging the media – Uitani Childline Radio in Namibia
- Consultation events with children – Childline India
- Ongoing evaluation forms – KinderTelefoon in The Netherlands

Helplines play a major role in children expressing their views freely and they are trusted and well used because they are confidential, accessible and build on children's own capacities. They do not attempt to overpower the child with ready-made solutions and they follow the child's own pace. CHI points out that funding is an ongoing challenge as these helplines must be available at all times: *'Violence and abuse does not adhere to a 9-to-5 schedule ... Contacts with child helplines show that many calls regarding violence against children are made during the night and early morning'* (ibid). The Committee on the Rights of the Child urges States to require *'all children's institutions to establish easy access to individuals or organisations to which they can report in confidence and safety, including through telephone helplines, and to provide places where children can contribute their experience and views on combating violence against children'* (2009a, page 23, paragraph 120). Child helplines are also strongly promoted in the outcome document of the World Congress III against the Sexual Exploitation of Children and Adolescents, held in November 2008 (Rio Declaration and Call for Action, paragraphs 47 and 62).

As the Committee on the Rights of the Child identified, helplines are a very effective means of children confidentially reporting violence, especially when they are living in institutional settings and "speaking up" brings with it an immediate risk of violent punishment, being moved or eviction. Save the Children's research in Sri Lanka on children's experiences in institutional care, where 50 percent of the children are there because of poverty, found very little evidence of children being heard and involved in decision-making. One child powerfully describes the oppressive environment (Bilson and Cox, 2005, page 23):

*My home is far away. Therefore my mother cannot come to see me. Here we do not have any one to tell our sorrow. Even at a time of sickness when we tell they scold us. My father and mother are not like that.*

A UNICEF survey in Southeast Asia and the Pacific found children were deterred from talking about their problems with teachers for a range of negative reasons (n=912):<sup>45</sup>

---

<sup>45</sup> Available at: <http://www.unicef.org/polls/eapro/participation/index.html> Accessed 30 June 2009.

**Box 10: Why children don't talk about problems with their teachers, Southeast Asia and the Pacific**

Reasons why it is difficult / very difficult to talk about problems with teachers (n=912)	
They tell me off / scold me	16%
They don't treat me well	13%
They don't listen to me	13%
They are unfair	9%
They beat me	8%
They give me too much homework	8%
They have no patience	6%
They expect too much	4%
They don't help me	4%
They bully me	2%

Clearly, it is not enough to remove the threat of violent punishment: the general culture of the institution must instill confidence in children that they will be always treated with respect and taken seriously.

Children must know there is somewhere they can escape to in a crisis – a safe house, street shelter or refuge for example. Many children living on the street have endured high levels of violence at home and at school, and continue to be subject to violence now – from employers, police officers and other unscrupulous adults. Organisations offering temporary shelter must build on the child's own wisdom, coping mechanisms and future plans. As Save the Children's Andy West explains (2003, page 31):

*It should be obvious that street children know far more about their reasons for choosing to leave home or to migrate to the streets than anyone else. They certainly know far more about survival and making the most of street life through a variety of coping mechanisms. And they also know what they want in terms of care, reintegration, and acceptable work ... Not taking children's views into account or not involving them in decision making is one reason why many children who are forcibly returned to their families are "back on the street before the bus that took them home."*

The views of children must be sought, responded to and documented in each formal investigation of child abuse or neglect. Where the child's views are not ascertainable – because they refuse to be interviewed by a social worker or police

officer for example – the reasons for not finding out the child's views should be recorded. This helps to build a culture where the child's views are considered and documented as a matter of routine. This habitual and proactive "search" for children's views must also underpin all inspections of children's settings. Given the vulnerable nature of many children in alternative care, and the often punitive regimes, it is vital that inspectors meet children in private and assure them of confidentiality in reporting concerns. Inspectors must be able to report matters of concern to the authorities without having to reveal the identities of individual children and, obviously, they must operate completely independently of the institutions and organisations being inspected. Like effective researchers, inspectors must spend significant amounts of time with children to build up trust and to gain accurate impressions of life inside the institution or organisation. When Save the Children conducted research on children's institutional care in Sri Lanka, researchers spent five days in each of the 86 institutions (Bilson and Cox, 2005, page 1).

Children have a lot to say about how to make reporting processes and systems more sensitive to their needs and wishes and feelings. States could commission research by NGOs and academic bodies and independent human rights institutions can conduct their own inquiries and consultations. Existing research shows children value confidentiality, being able to access advice and help 24 hours a day and knowing that their views about escaping violence will be taken into account. It will be necessary to conduct ongoing research to assess the extent to which children are experiencing and reporting violence. Many women's rights NGOs collect this type of information routinely so they can assess the number of women who are subject to violence, the proportion who actually report these crimes, and the outcomes of these reports. Data collection over time will reveal whether violence is increasing or changing, whether a higher proportion of women are seeking official help and whether women's access to justice is improving. Increases in police reports from women who are the victims of violence are often welcomed as a sign of changing attitudes and developing services. Conversely, an increase in self-reports of violence from children is sometimes viewed negatively because of concerns that parents or other adults are being criminalised. It will be important for States and NGOs to educate the public about positive changes in children's protection and the expectation that, as legal systems and practices become more child-friendly, a greater number of children will seek assistance.

## OVERARCHING RECOMMENDATION 9: Ensure accountability and end impunity

What Governments and children's rights advocates can do:

34. Require prosecutors and courts to consider the child's views when making charging and sentencing decisions
35. Establish and operate a distinct juvenile justice system focused on meeting children's needs and positive rehabilitation. Remove all punitive responses from the juvenile justice system
36. Collect ongoing data on the outcomes of police reports of violence against children and use this information to improve the responsiveness of the police and other criminal justice agencies
37. Collect ongoing data on child deaths, including in institutional settings, where violence was or is suspected to be a significant contributory cause. Use this information to improve the State's effectiveness in protecting children's right to life
38. Make funding available for dedicated legal advice and advocacy for children
39. Disseminate information to children about their right to petition UN complaints mechanisms (where the State has ratified them), and ensure legal advice and advocacy is available

### Discussion

In 2005, the UN Economic and Social Council passed a resolution on guidelines for child victims and witnesses of crime. The guidelines require professionals to make every effort to ensure that children *'are enabled to express freely and in their own manner their views and concerns regarding their involvement in the justice process, their concerns regarding safety in relation to the accused, the manner in which they prefer to provide testimony and their feelings about the conclusions of the process'* (paragraph 21(b)). The requirement to enable, rather than simply respond to children's expressed views, is very important because it places the onus on professionals to actively inform, encourage and empower children.

Children will probably have views about the prosecution and sentencing of perpetrators and they have a right to express these freely and safely. The law in Mongolia requires that each police station has a "juvenile officer" (UNICEF and Save the Children, 2008, page 27). It is essential that safeguards be introduced to minimise further victimisation through judicial proceedings – use of videos and screens in court, pre-trial visits to the courtroom and separate waiting areas for example.

---

<sup>46</sup> The International Society for Prevention of Child Abuse and Neglect.



In 2008, ISPCAN<sup>46</sup> carried out a world survey of responses to child abuse and neglect. Of the 75 countries that responded, 67 percent said that the law requires that a separate attorney or advocate is required to represent the child's interests (Daro, 2008, page 28). This of course is not the same as representing the child's views, though it at least indicates a focus on the child in the process. Of the five continents represented in the study, Asia had the lowest number of countries whose legal framework required separate representation (60 percent) and Oceania had the highest (100 percent).

The UN Violence Study should increase adult disgust at the scale and damage caused by violence against children. However, as Professor Pinheiro's recommendations make clear, the punishment of offenders is only one aspect of realising children's right to protection. It is important that we consider the effects on children themselves of different responses to offending. Children often resist telling the authorities of violence within the family because they fear the consequences for their parent and, subsequently, the rest of their family. They foresee that a disclosure to the authorities could result in their family life changing forever. It is worth including this issue in research on children seeking help – see page 121. In addition, communication strategies could include information for children on how perpetrators of violence may be dealt with, including through non-punitive treatment programmes. In the 1980s, when I worked in a refuge for women and children escaping violence, I overheard a group of siblings, aged five and under, talking on a stairwell about their father who was serving a prison sentence for extreme violence against their mother. The children were very worried about their father. Later that day I convened a children's meeting and included on the agenda a discussion about prison. I asked the children whether they knew what happens to people in prison. The children whose father was in prison piped up immediately: '*They have to break up rocks and only get water to drink*'. This was a salutary reminder that adults' focus on retribution and punishment can cause great anxiety among children. The Inter-Parliamentary Union advises (2007, page 46):

*While there can be no impunity for perpetrators of violence against children, the law should be implemented in a manner that focuses on the best interests of affected children. Prosecuting parents is very seldom in the interests of their children, except in extreme cases.*

Critically, the violence must stop and individual children must be assured that they will be safe from now on. How we deal with perpetrators of violence, and with preventing violence, must be informed by children's views and experiences. At the same time, we have to be careful that a more constructive, less punitive, approach to dealing with offenders does not in any way portray children as being victims of

lesser crimes, or that it puts pressure on children to over-empathise with people who have violated them. The UN Violence Study reports unimaginable acts of violence committed against children of all ages, nationalities and circumstances: this is what perpetrators must face up to.

Accountability for violence against children does not belong only to individual perpetrators; it rests also with State agencies. Ongoing data collection from children is a critical way of monitoring the effectiveness of agencies in preventing, monitoring and responding to violence against them. This must also happen when children die in suspicious circumstances, in the community or in institutional settings such as children's homes or custody. Here it will be important for investigators to ask for and consider documented evidence of the child's views being sought, and the extent to which agencies acted on these expressed views.

Legal advice and advocacy, including to assist the child to seek redress through UN complaints mechanisms, are a vital part of supporting children's right to be heard.

The Convention on the Rights of the Child does not currently have a complaints mechanism. It is, however, possible to review other mechanisms to see how they work for children.

Peter Newell has reviewed children's use of international and regional human rights mechanisms and concludes that: *'seeking remedies through the use of international and regional human rights mechanisms is certainly growing, but is not as yet common or well-developed'* (2007, page 2). He observes *'the apparent lack of any review of cases to identify those with child applicants, and the lack of any detailed analysis of the jurisprudence of the mechanisms relating to children's rights'* (ibid). Clearly this is a task which could be undertaken by national independent human rights institutions, NGOs or justice departments within government.

**Convention on the Elimination of Discrimination against Women  
communications procedure: an effective mechanism for protecting the rights  
of children?**

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women entered into force in December 2000.

As of 7 August 2009, just 22 cases had been brought under the Optional Protocol from 94 States Parties; only one of these concerned rights violations in a Southeast Asia or Pacific country. The communication submitted from the Philippines – by a professional woman who was allegedly raped by the president of her company (she was the executive director) – is not yet concluded (September 2009) (Andrade, 2007).

Of 13 cases where the Committee on the Elimination of Discrimination against Women has published its concluding views, none was brought by a child though one concerned a Chinese young woman who alleged she was trafficked into The Netherlands for prostitution after living on the street and being raped and subject to many other rights violations in China. She was 20 years old when she made a claim to the CEDAW Committee after being refused asylum and residency in The Netherlands. The Committee found the application to be inadmissible because the young woman had not exhausted all domestic remedies.

Four admissible cases of violence against women: one forced sterilisation and the other three domestic violence. In two of these cases, women were killed by their husbands. Both communications were submitted by women's rights NGOs in Austria. In one case a woman was shot dead by her husband in front of their two young daughters a few hours after contacting the police, who never came. Curiously, the Committee does not explicitly consider the violation of the children's rights in this case. In another case where a woman was stabbed to death by her husband, written consent was given by two of the deceased's adult children and by the father of a third child who was just five years old when her mother was killed. The youngest child had brought a civil action against the authorities for compensation for psychological damage, funeral costs and child support. The CEDAW case related to the failure of the State to protect the mother's right to personal security and to prevent her homicide. In a separate case brought by a Hungarian woman, the impact of violence on children was considered by the Committee which urged a package of measures for the women and her two children, one of whom is disabled (Committee on the Elimination of Discrimination against Women, 2005, page 13):

*Ensure that A. T. is given a safe home in which to live with her children, receives appropriate child support and legal assistance as well as reparation proportionate to the physical and mental harm undergone and to the gravity of the violations of her rights.*

## OVERARCHING RECOMMENDATION 10: Address the gender dimension of violence against children

What Governments and children's rights advocates can do:

40. Public awareness campaigns should emphasise that all children have the right to protection from all forms of violence
41. Run communication campaigns informed by the views and experiences of girls and boys
42. Establish and support single-sex services where girls and boys can obtain gender-sensitive information, advice and protection from violence

43. School curriculum to include gender equality and positive messages about the human dignity and potential of girls and boys. Model a variety of positive gender roles in educational and early years settings

## Discussion

Professor Pinheiro's report for the UN provides a lot of evidence of boys being at greater risk of physical violence than girls, and girls enduring much more sexual violence than boys – in the family, at school, in the workplace and in institutional settings and the wider community.

Social norms that stress the physical strength and resilience of boys, and the passivity and availability of girls, inevitably condition the types of violence they are subjected to. This is not to underestimate the horrific physical violence suffered by girls, including acid throwing / violence and when they are sexually exploited, or to deny the devastating effects of rape and sexual assault on boys. Honour and reputation – for girls as well as boys – will often prevent children reporting sexual violence, because they feel they no longer conform to social expectations. The stigma still surrounding homosexuality in so many parts of the world is another strong barrier to children, particularly boys, seeking protection from sexual violence. Children can feel intense shame and humiliation when subject to treatment that contravenes traditional roles – a truth often exploited by teachers and others, as these children's accounts of school life in India show (Bhandari, Jabeen and Karki, 2007, pages 12 and 13):

*The teacher at the school humiliated me ... Once a few of us could not answer a question. The girls were given punishment of sit-ups while a girl was made to slap me in front of everybody. I was ashamed and vowed not to go to school again.*

*The teacher asks us to pull off branches from the bush outside. Then they give us a beating with them... They force us to beat other children too. If we beat them softly, we are beaten and told, 'Beat like this'. Boys are forced to beat girls and girls to beat boys.*

Young girls, aged 8 to 10, in Nepal described their teachers making them engage in sexualised behaviour as a form of punishment (ibid, page 14):

*As a result of punishment for not doing homework the teacher used to let them go if they agreed to kiss him on the cheek or he made them kiss a friend of the opposite sex. He made them sit on his lap if they asked him to return their notebooks.*

It is extremely important that children's rights awareness raising challenges gender stereotypes and inequality, especially within schools. The views and experiences of children affected by violence should form the bedrock of all initiatives, including those aimed at securing gender equality, gender-sensitive services and non-discrimination. It is worth recalling that the first World Conference on the International Women's Year, held in 1975 in Mexico, recommended: '*That genuine reforms should be carried out in all educational systems, beginning with early childhood education, so that girls and boys will consider each other as equals*' (UN, 1976, page 100, paragraph 24(2)(a)).

#### **What are schools for?**

Save the Children UK – Indonesia has developed 10 activity cards for raising awareness among teachers of their human rights obligations and the views and experiences of children. The final card asks teachers: '*What would you have to change in your school for it to be a model for a civil society: a democratic, non-violent, honest and respectful society?*' (Childe et al, 2003, pages 170-189).

Educational campaigns must be part of a broader national strategy aimed at achieving gender equality and ending discrimination. Indeed, Professor Pinheiro comments (2006b, pages 15-16, paragraph 52):

*Sexual and gender-based violence is facilitated by Government's failure to enact and implement laws that provide students with explicit protection from discrimination.*

## **OVERARCHING RECOMMENDATION II:** **Develop and implement systematic national data collection and research**

### **What Governments and children's rights advocates can do:**

44. In addition to the data collection referred to above, conduct regular prevalence studies of violence against children, through confidential interviews with children, parents and those working directly with children
45. Develop comprehensive indicators to assess the extent to which children's right to be heard and taken seriously are implemented in the home and family, schools and other educational settings, care and justice systems, the workplace and wider community

## Discussion

In her report to the UN on The Impact of Armed Conflict on Children, Graça Machel said: *'Throwing a spotlight on such abuses is one small step towards addressing them'* (1996, page 72, paragraph 314). The Global Initiative to End All Corporal Punishment of Children has explained (2005, page 11):

*Making the true extent of violence against children visible is an essential step towards gaining public support and political priority for its elimination.*

Until the 1990s, research about children's lives rarely sought children's own testimony or reflections, and gave even less attention to their proposals and recommendations. The change has been dramatic: children are increasingly acknowledged as experts in their own lives and most respected adult researchers now seek out their authentic voices. The meanings children give to their own lives, and to the lives of other children, is now viewed with as much interest, if not more, as the observations and perceptions of adults. The absence of children's views in research affecting them – whether government officials or private corporations conduct it – belongs to the pre-Convention era, when children were largely seen as specimens and objects for adults to observe, control and do unto. There are strong parallels with the past global treatment of women whose voices and experiences were similarly kept hidden.

Judith Ennew and Dominique Pierre Plateau have produced extensive guidelines on undertaking research with children about physical and emotional punishment. They note that *'Adults do not always know what children are doing and thinking, and they are likely to hide, deny or misrepresent children's experiences of punishment'* (2004, page 35). That children are now being asked about their views and experiences of parental corporal punishment fills *'a gaping hole in the literature'*, according to Canadian Associate Professor Joan E. Durrant (cited in Dobbs, 2005, page v).

Writing about the successful campaign for full legal protection from violence for school children in Mongolia, Olonchimeg Dorjpurev explains that (2007, page 29):

*The research on corporal punishment in schools ... helped us understand what was really going on and enabled us to convince others. Our most powerful tools were quotes from the children themselves and served to silence our opponents.*

Dulamdary Enkhdor considers *'the right attitude'* to be the *'first and foremost'* ingredient in achieving meaningful child participation. Reflecting on research on the physical and emotional punishment of children in Viet Nam, she describes the essential characteristics of a researcher with children (2007, page 99):

### **Young children's views on smacking**

Research carried out by Terry Dobbs in New Zealand in 2004 on children's views and experiences of smacking powerfully dismantles adults' claim that this is not a form of violence or that little harm is caused. Beth Wood and others have reflected that (Wood, Hassall and Hook, 2008, page 177):

*This groundbreaking report effectively injected the voices of children into the debate on physical punishment [and] revealed that children believed that a significant motivation for hitting them was parental anger rather than a desire to correct their behaviour.*

Dobbs' study was based on similar research undertaken with very young children in the UK in 1998. The UK Government had announced the previous year that it planned to consult the public on law reform relating to physical punishment, following a successful case brought to the European Court of Human Rights. The two NGOs that carried out the research, the National Children's Bureau and Save the Children, explained that their findings gave adults, including government officials, 'a window through which they can clearly see the distress, pain and hurt caused to children by the continued social and legal acceptance of smacking' (Willow and Hyder, 1998, page 12). Young children in the UK, although living on the opposite side of the world from their New Zealand counterparts, also identified parental anger as a significant factor (ibid, page 93):

*A lot seemed to rest on the parent's mood at the time; many of the children involved described parents as being very angry, cross or red in the face when they smacked children.*

Research on smacking and other forms of violence against children across Southeast Asia and the Pacific region identified adults' 'ungoverned anger' as a major area for public policy intervention. Indeed, the authors of the comparative report propose (Beazley et al, 2006, page 198):

*Education [for parents] in anger management and conflict resolution is probably more important than suggesting 'alternatives'.*

*... being humble, considering children equal to themselves, being genuinely interested in children's opinions, protecting their best interests, and being able to talk to children in a clear and child-friendly manner. It also helps if the adult researcher can be fun, and be able to facilitate a variety of games.*

Clearly, research on violence against children carries no guarantee that legal protection will be strengthened, or that children's lives will improve – though it does remove the excuse of ignorance from adults that fail to act. The World Report on Violence Against Children begins with an admission that 'The full range and scale of all forms of violence against children are only now becoming visible' (2006a, page 3).

The publication ends with an urgent call for Government action: '*There should be no more excuses or delays: the problem is out in the open*' (ibid, page 355).

The Committee on the Rights of the Child advises that '*in any research or consultative process, children must be informed as to how their views have been interpreted and used and, where necessary, provided with the opportunity to challenge and influence the analysis of the findings. Children are also entitled to be provided with clear feedback on how their participation has influenced any outcomes*' (2009a, page 27, paragraph 134i). Professor Pinheiro reflected this sentiment when he told children attending a regional consultation in Ljubljana in July 2005: '*I hope you will be able to recognise yourselves in the study*' (CRIN, 2005).

## OVERARCHING RECOMMENDATION 12: Strengthen international commitment

What Governments and children's rights advocates can do:

46. Involve children in disseminating and celebrating human rights; use key dates such as the anniversaries of treaties being adopted by the UN, State ratifications and the launch dates of national, regional and international human rights bodies
47. Provide regular (at least annually) information to children's groups and organisations about the human rights instruments ratified by the State, the responsibility of different government departments and significant progress and challenges since last report
48. Make funds available to support children's independent reporting to human rights monitoring bodies

### Discussion

Celebratory children's rights events are increasingly commonplace and, although important, are barely challenging to governments – especially if their engagement is nothing more than providing funds to NGOs. States can show their commitment to children's rights in lots of additional ways, including through progress reports to children's groups and organisations. A frequent complaint of child-led organisations is their lack of direct dialogue with decision-makers: a regular report from national government to children about the implementation of the Convention and other human rights instruments could be the platform on which to hold regular exchanges of views and experiences. This would not replace dialogue between other children's rights NGOs but would supplement and broaden government's contact with and accountability to civil society. The information gathered could form the basis of periodic reports to the Committee on the Rights of the Child. The process could also



help build the knowledge and capacity of child-led groups and organisations so they can submit their own alternative reports to the Committee on the Rights of the Child. For example, in Sweden, the NGO Network for the Rights of the Child organises an annual hearing where children meet with government representatives, including Ministers (NGO Network for the Rights of the Child, 2004, page 5).

There is growing international expertise among children of reporting themselves to the Committee on the Rights of the Child. Children in England were the first to submit their own alternative reports to the Committee in 1999 and 2000 (examined in September 2002). There were two reports from child-led organisations, Article 12 (Fisher et al, 1999) and the Young People's Rights Network, and one report of a consultation with children aged 12 months to 19 years submitted by an adult-run NGO (Willow, 1999). Ahead of the UK examination, two further reports were submitted to the Committee from children living in other parts of the UK (Children's Law Centre and Save the Children Northern Ireland, 2002; Young Voice, n.d.). Children in Belgium submitted their 'That's my opinion' report in 2001 (examined in May 2002). The Belgium Government funded the consultation with children and the report to the Committee.

World Vision reviewed 16 submissions to the Committee that conveyed children's views and experiences in Angola, Belgium, Cambodia, Colombia, Denmark, Egypt, Ghana, India, Jamaica, Japan, Kyrgyz Republic, Latvia, Netherlands, Sweden, Uganda and the UK; only three of the documents reviewed were written by children (Belgium, India and Japan). The National Movement of Working Children in India told World Vision why it had decided to send its own report to the Committee (Miller, 2007, page 13):

*The children chose to write their own report because they felt that children should be involved in helping to solve the problems they face, and because they were not consulted when the government submitted its report.*

The NGO Group for the Convention on the Rights of the Child is preparing guidelines for children and NGOs on the involvement of children in the reporting process. They will be based on an international review of the views and experiences of 37 children<sup>48</sup> and 26 NGOs<sup>49</sup> who have extensive experience of children's

---

<sup>48</sup> The children live in Bangladesh (1), Hong Kong (2), Kenya (1), Latvia (1), Mozambique (1), Moldova (1), Peru (7), Uganda (9) and the United Kingdom (12).

<sup>49</sup> The NGOs are based in Argentina, Australia, Bangladesh, Chile, England, Hong Kong, Kenya, Latvia, Moldova, Mozambique, the Netherlands (four NGOs), Netherlands Antilles, Paraguay, Peru (three NGOs), Scotland, the South American region, Sweden, Uganda, Uruguay and Wales.

participation in the reporting process. Key findings of the review include (Dimmock, 2009):

- More than 43,000 children in total were engaged in activities related to the reporting process; the smallest number of children involved was six and the largest 15,000
- 52 percent of NGOs reported that children had written their own report for the Committee
- Virtually every NGO (99 percent) said that children's views had been included in their alternative reports
- 44 percent of NGOs reported that children's views had been represented in State Party reports
- 91 percent of children said that children from their country had met with Committee members in Geneva. Of these, 72 percent said they spoke to the Committee in a children-only meeting
- Only 28 percent of children had participated in the formal pre-session hearing (the Republic of Moldova, Uganda and the UK)
- The vast majority of children (95 percent) said they felt the Committee had listened to them in Geneva. None felt the Committee had not listened to them
- Over half of the children (63 percent) had seen the concluding observations relating to their country, most receiving a copy through the NGO they were working with; of these 55 percent of children had seen a version of the concluding observations written especially for children. Child-friendly versions of the concluding observations were usually produced by either NGOs or by children themselves
- 72 percent of children felt that the issues they had raised with the Committee were reflected in the concluding observations
- 63 percent of children have continued to campaign on children's rights issues, though less than a fifth (19 percent) appear to be working with the State Party to address the Committee's concluding observations.

**The work does not stop after the report has been submitted**

Children in Mongolia submitted their own shadow report to the Committee on the Rights of the Child and they made two films, one documenting their project and the other highlighting the main child protection concerns of children in their country. A group of nearly 30 children worked together throughout the summer of 2007. The project was sometimes stressful – because the children were dealing with difficult issues – so social workers were available and fun activities were arranged. Children organised their own budget. A combination of research methods was used, including a questionnaire, interviews and desktop study. Nearly 200 children participated, aged

between 8 and 18 years: the child researchers targeted poor districts, care centres, markets, rubbish sites, homeless shelters and police units. A researcher provided professional support to the children, who used the SPSS research programme to analyse their findings. Project workers encouraged parental support, which proved vital to the children's continuing involvement. Four days before the official launch, children presented their report to parents and family members. Project staff describe this as '*a breathtaking event ... filled with joy and tears that brought these families closer together and boosted parents' trust in and support to their children*'. Over 120 representatives of State, non-governmental, educational, media and youth organisations attended the formal launch and the report was directly delivered to all Members of Parliament and Government. The children's films were also broadcast on Education TV, Eagle TV and TV9 channels.

After the report was completed, the children established the "Protection Club" which aims to ensure child participation in the development of a national child protection system. The Club organised an open discussion on the "Future of Street Children", involving street children and professionals, and has held public awareness activities challenging corporal punishment. Children also conduct peer children's rights training, having produced a booklet and curriculum.

On reaching 18, some of the members established the "Child for Child" NGO, which now runs the Protection club with 30 children.

### **Children run their own children's rights campaigns after release of concluding observations**

The Children's Rights Alliance for England (CRAE) secured a major Lottery grant to fund a three-year child-led research and advocacy project focused on the UK's examination in 2008. Children conducted their own research – seven separate surveys and 48 focus groups – with assistance from an experienced adult social researcher recruited to work exclusively with them. The organisation ran a national competition to assemble the child delegation to Geneva and children presented their own report to the Committee (alongside young children's rights activists from other parts of the UK). Crucially, after the concluding observations on the UK were released, children devised three major children's rights campaigns and are now engaging in various forms of advocacy to bring about change. CRAE staff made available a children's version of the concluding observations, with the Committee's 124 recommendations, via the project website within three hours of the report being received from Geneva. In a session with government officials ahead of the State examination, children made a powerful presentation about their right to protection from all forms of violence.

# In conclusion

# 6

1. The right to be heard and the right to live free from all forms of violence, including corporal punishment and other cruel or degrading forms of punishment, are inseparable in their affirmation of children as people with feelings, views and inalienable human rights.
2. Children throughout history and across the world have been, and are, subjugated. They endure persistent attacks on their human dignity and mental and physical integrity and they are often treated like “outsiders”: because they are deemed to be essentially different from the rest of the human family. The UN Violence Study has exposed the scandalous levels of violence inflicted on children, in every continent of the world. Traditional attitudes about the nature of children and childhood are harmful and hold back progress – an observation made consistently by the Committee on the Rights of the Child in its reviews of State Party progress in implementing the Convention, and in its General Comment on the right to be heard (2009a).
3. The Convention on the Rights of the Child is the universal framework for achieving political, economic and social change with, and for, children. In setting *minimum* standards for children everywhere to be able to lead dignified and happy lives, and stressing that individual fulfilment can only come through respect for others, solidarity and social action, there is enormous scope within the treaty for individual nations and governments to implement children’s human rights in their own way. The obligations in the treaty, however, are not negotiable: every Government Minister, public official and person working with, and for, children has to operate within its framework of legally binding obligations. Two additional Optional Protocols have strengthened the obligations in the original treaty, agreed in 1989, and the Convention itself sits alongside other human rights instruments agreed by the international community. While some argue we should move beyond the Convention, and others believe the work has been done, the reality of children’s lives as documented by the UN Violence Study – from the richest to the poorest of nations – shows in no uncertain terms that this treaty needs much greater attention and action, not less.

4. Across the world children are bringing about change – in their own lives, in their communities and in wider society. Children's capacities and much of what they contribute remains invisible or unrecognised by adults. In seeking to better understand children's lives, feelings, views and perceptions, we must be careful not to patronise them. Children do not need adults to *give them* a voice: the challenge for us is to stop silencing and undermining them – we do this in obvious ways like using language and processes that exclude; and in more subtle ways such as not expecting children to have anything important to contribute to decision-making, problem-solving or relationships.
5. There is compelling evidence that children's capacities have been denied across most cultures. However, a human rights framework emphasises the equal worth and human dignity of each person. Children, as individuals and as a social group, do not have to prove their worth or meet prescribed conditions to enjoy human rights protection.
6. We have to stop using the age, size, power and social status of a person to determine whether they have been subject to violence. In accepting Professor Pinheiro's report to the UN Secretary-General in 2006, the international community once again embraced the Convention on the Rights of the Child and the World Health Organisation's definition of violence. This includes corporal punishment and other cruel or degrading forms of punishment. For too long, adults have dominated discussions about what constitutes violence against children. We have denigrated children by seeking to distinguish and categorise pain inflicted on them for the purposes of deliberate harm, education or correction – with only the former being seen to warrant State action and legal protection. Men are not allowed to decide what counts as violence against women, and male perpetrators' views about why they assault women, or whether any harm is caused by their actions, are rightly not allowed to permeate (let alone control) public policy. We need to give much more respect to children's views and experiences. Just as many politicians have held their heads above the parapet to advocate the fundamental rights of women, we need many more strong political champions for children.
7. At the same time, adults should not allow their own buried suffering to cause harm to children today. Most of us have hit or been hit. We have to face up to what was wrong in our own childhoods or parenting and use this to positive effect. The right not to be hit or hurt runs to the core of our being and is deeply personal. Changing this aspect of our societies is not easy: that the Parliamentary sponsor of legal reform in New Zealand was issued with death threats shows the desperate measures some will take to defend the status quo.

8. All signatories to the Convention on the Rights of the Child must ensure children enjoy full legal protection, can access effective remedies and that they and their carers receive accurate and accessible information about children's right to protection. Child protection is not separate from children's human rights – it is the same thing. Using the framework of the Convention to protect children's human dignity and mental and physical integrity ensures all aspects of children's well-being are considered; that children are respected as individual people and their wishes, feelings and views are always taken into account; and that international norms, rather than vested interests, govern what is done with, and for, children. The Convention gives children positive standing in society – as individuals and as a social group; it also demands continual change and improvement in how societies and governments work for children. The jurisprudence of the Committee on the Rights of the Child – its concluding observations summarising the progress and challenges of States in implementing the Convention, as well as its General Comments – provide the authoritative and progressive benchmarks by which to judge the actions of governments.
9. The international children's rights movement has led developments in children's self-advocacy and participation. Some champions of children's participation may be primarily motivated by a desire to create more educated or better-behaved citizens, or because they see that including the views and experiences of "users" leads to more efficient use of public resources. They may consider participation to be a powerful protector from social exclusion, harnessing the energies of children – "youth" especially – who may otherwise remain on the margins of society. These narratives have been evident throughout the modern children's rights movement, from the 1970s onwards, but the driving force has always been that children are people and they have the right to be respected as such. To deny children's voice and influence is to deny their personhood. All of us working to protect and promote children's rights should strongly resist attempts to split off participation from the rest of the children's rights movement.
10. Children's participation is clearly defined within the Convention on the Rights of the Child and other human rights instruments – it includes children being informed about their rights, being able to express their views freely in all matters affecting them, and having these views explicitly taken into account. It concerns matters affecting children as individuals, as well as collectively. Children's rights advocates supporting children's participation need to be clear about what change or influence children are seeking, and to tailor methods accordingly. Part of this process will be familiarising children with human rights norms – not to coerce or bully children into following our views, but to clearly communicate to them

what the international community has agreed they are entitled to. Every child in contact with child protection services or programmes should hear loudly and clearly that their wishes and feelings count and that no one has the right to harm or hurt them. A child protection system that fails to deliver these messages does not have the rights and interests of children at heart.

11. There are a myriad of ways to support children's free expression and participation in decision-making. New ideas are emerging all the time. Within the context of the UN Violence Study, and Professor Pinheiro's 12 overarching recommendations, this publication sets out 48 actions that can be taken to substantially increase children's participation in violence prevention and protection. None of these are unrealistic, insofar as they are already happening in different settings and parts of the world. They range from social workers being legally required to take into account the wishes and feelings of children they are seeking to protect, to children running their own campaigns and undertaking research, to modernising judicial and complaints processes so they work for children, to children collecting and submitting evidence to international human rights bodies. Article 4 of the Convention on the Rights of the Child requires that States Parties to the Convention '*undertake all appropriate legislative, administrative and other measures for the implementation of the rights*' in the Convention. This standard underpins Article 12 alongside all the other substantive rights in the Convention, and this publication has tried to show that increasing children's participation in decision-making requires a coherent and consistent human rights framework, major legal reform, high-level political commitment, ongoing financial investment, as well as grassroots activism. Twenty years after the world adopted the first children's rights treaty, those of us promoting and protecting children's rights – both inside and outside government – can be inspired by the major changes we have been part of to date. Debates are now happening that even 10 years ago were barely on the international agenda – why do we have minimum age requirements for children to be simply able to express their views to decision-makers; why are teenagers not allowed to vote; why is the Convention the only major treaty without a complaints mechanism, for example. The UN Violence Study was the first time children across the world were systematically engaged in a global review of their rights, how they are treated and the legal responsibilities of world leaders. This alone shows the scale of social change. Yet much more can, and must, be achieved.

This publication has gone under the skin of Article 12 to explore what it really means for children and their rights, what is expected of adults in different roles and the scale of change. It has drawn upon a wide range of perspectives and experiences, increasingly documented from all parts of the world, and sought to identify common challenges and pitfalls and ways of avoiding them. It has critiqued the different roles adults play, warning against giving undue focus and attention to those at the opposite ends of the participation spectrum – the saboteurs and the innovators. The aim is to make participation ordinary and instinctive. In chapter 4, a framework was offered by which actions can be judged against each of the different elements of Article 12. This is to encourage a coherent and systematic approach, moving participation away from one-off projects and events towards making it the routine business of all our organisations and work settings. Yet, this book deliberately avoids presenting a ready-made blueprint for change because of the enormity of what is required, the progressive nature of human rights implementation and the individual contributions we all have to make. Children continually stress that they want authentic and respectful relationships with adults, in all our different roles: the starting point for this is reflecting on how we were treated as children, critically looking at the position of children in society today, understanding the radical vision and detailed legal obligations of the Convention, and considering how we can better communicate respect and understanding in our daily interactions with children. The participation rights in the Convention have been described as the treaty's '*dangerous centre*' – see page 60 – because they completely transform children's position and influence in society. It is highly unlikely a single document could ever capture the possibilities and changes ahead; indeed, this is what makes this aspect of children's rights implementation so exciting.





# Annex: Relevant parts of international human rights instruments

## RIGHT TO FREE EXPRESSION AND PARTICIPATION

<b>Freedom of Association and Protection of the Right to Organize Convention, adopted by the General Conference of the International Labour Organisation on 9 July 1948</b>	
Article 2	Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.
Article 11	Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.
<b>Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948</b>	
Article 19	Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
Article 20(1) and (2)	(1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.
Article 21(1) (2) and (3)	(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.
Article 23(4)	(4) Everyone has the right to form and to join trade unions for the protection of his interests.

<b>International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly of the United Nations on 21 December 1965</b>	
Article 5(c) (d)(viii)(ix) and (e)(ii)	<p>In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:</p> <p>(c) Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;</p> <p>(d) Other civil rights, in particular:</p> <p>(viii) The right to freedom of opinion and expression;</p> <p>(ix) The right to freedom of peaceful assembly and association;</p> <p>(e) Economic, social and cultural rights, in particular:</p> <p>(ii) The right to form and join trade unions;</p>
<b>International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966</b>	
Article 19(2)	<p>2. Everyone 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 his choice.</p>
Article 21	<p>The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right 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.</p>
Article 22(1)(2) and (3)	<p>1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.</p> <p>2. No restrictions may be placed on the exercise of this right other than those which are prescribed by 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. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.</p> <p>3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.</p>

Article 25(a)(b) and (c)	<p>Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:</p> <ul style="list-style-type: none"> <li>(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;</li> <li>(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;</li> <li>(c) To have access, on general terms of equality, to public service in his country.</li> </ul>
<p><b>International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations on 16 December 1966</b></p>	
Article 8(1) (a)(b)(c)(d)(2) and (3)	<ol style="list-style-type: none"> <li>1. The States Parties to the present Covenant undertake to ensure: <ul style="list-style-type: none"> <li>(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</li> <li>(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organisations;</li> <li>(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</li> <li>(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.</li> </ul> </li> <li>2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.</li> <li>3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.</li> </ol>

**Convention on the Elimination of All Forms of Discrimination against Women\*, adopted by the General Assembly of the United Nations on 18 December 1979**

\* The Convention protects both girls and women

Article 7(a)(b) and (c)	States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: <ul style="list-style-type: none"> <li>(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;</li> <li>(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;</li> <li>(c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.</li> </ul>
Article 8	States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.
Article 14(2)(a) and (e)	2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: <ul style="list-style-type: none"> <li>(a) To participate in the elaboration and implementation of development planning at all levels;</li> <li>(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;</li> </ul>

**Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989**

Article 9(1) and (2)	<ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol>
----------------------	---

Article 12(1) and (2)	<ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol>
Article 13(1) and (2)(a) and (b)	<ol style="list-style-type: none"> <li>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.</li> <li>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:               <ol style="list-style-type: none"> <li>(a) For respect of the rights or reputations of others; or</li> <li>(b) For the protection of national security or of public order (ordre public), or of public health or morals.</li> </ol> </li> </ol>
Article 15(1) and (2)	<ol style="list-style-type: none"> <li>1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.</li> <li>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.</li> </ol>
Article 2(a)	<p>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:</p> <ol style="list-style-type: none"> <li>(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;</li> </ol>
Article 23(1)	<ol style="list-style-type: none"> <li>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.</li> </ol>

<b>Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), adopted by the United Nations General Assembly on 14 December 1990</b>	
Article 3	For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.
Article 10	Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.
Article 21(c)	21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following: (c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;
Article 31	Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.
Article 37	Youth organizations should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations should encourage youth to organize collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.
Article 41	The mass media should be encouraged to portray the positive contribution of young persons to society.
Article 50	Generally, participation in plans and programmes should be voluntary. Young persons themselves should be involved in their formulation, development and implementation.
<b>Worst Forms of Child Labour Convention, 1999 (No. 182), adopted by the General Conference of the International Labour Organization on 17 June 1999</b>	
Article 6(1) and (2)	<ol style="list-style-type: none"> <li>1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.</li> <li>2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.</li> </ol>

<b>Convention on the Rights of Persons with Disabilities, adopted by the General Assembly of the United Nations on 13 December 2006</b>	
Article 4(3)	3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
Article 7(3)	3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.
Article 21(a)(b)(c)(d) and (e)	States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by: <ol style="list-style-type: none"> <li>Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;</li> <li>Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;</li> <li>Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;</li> <li>Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;</li> <li>Recognizing and promoting the use of sign languages.</li> </ol>
Article 27(1)(b) and (c)	<ol style="list-style-type: none"> <li>States Parties recognize the right of persons with disabilities to work, on an equal basis with others ... [and] shall safeguard and promote the realization of the right to work ... by taking appropriate steps, including through legislation, to, inter alia:</li> <li>Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;</li> <li>Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;</li> </ol>



<p>Article 29 (a)(i)(ii)(iii)(b)(i) and (ii)</p>	<p>States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:</p> <ul style="list-style-type: none"> <li>(a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by: <ul style="list-style-type: none"> <li>(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;</li> <li>(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;</li> <li>(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;</li> </ul> </li> <li>(b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including: <ul style="list-style-type: none"> <li>(i) Participation in non-governmental organisations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;</li> <li>(ii) Forming and joining organisations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.</li> </ul> </li> </ul>
<p>Article 34(3)</p>	<p>3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention [general obligation to consult disabled people and representative organisations concerning issues relating to them].</p>

## RIGHT TO AN EFFECTIVE REMEDY AND ACCESS TO JUSTICE

<b>Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948</b>	
Article 8	Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
<b>Standard Minimum Rules for the Treatment of Prisoners, adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders on 30 August 1955</b>	
Rule 35(1) and (2)	<p>(1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.</p> <p>(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.</p>
Rule 36(1)(2) (3) and (4)	<p>(1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.</p> <p>(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.</p> <p>(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.</p> <p>(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.</p>
<b>International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly of the United Nations on 21 December 1965</b>	
Article 6	States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

<b>International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966</b>	
Article 2(3) (a)(b) and (c)	<p>3. Each State Party to the present Covenant undertakes:</p> <p>(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;</p> <p>(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;</p> <p>(c) To ensure that the competent authorities shall enforce such remedies when granted.</p>
<b>Optional Protocol to the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966<sup>51</sup></b>	
Article 2	Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.
<b>Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations on 18 December 1979</b>	
Article 2(c)	<p>States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:</p> <p>(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;</p>
<b>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984</b>	
Article 13	Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.
Article 14(1)	1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

<sup>51</sup> The following Southeast Asian and Pacific countries have ratified or acceded to the ICCPR Optional Protocol: Philippines (22 August 1989); Mongolia (16 April 1991); Nepal (14 May 1991); Guinea (17 June 1993); Sri Lanka (3 October 1997); and Maldives (19 September 2006).

**Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989**

Article 37(d)	States Parties shall ensure that: (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.
---------------	---

**Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), adopted by the United Nations General Assembly on 14 December 1990**

Article 57	Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would also supervise the implementation of the Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.
------------	---

**United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the United Nations General Assembly on 14 December 1990**

Rule 24	On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.
Rule 25	All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.
Rule 72	Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

Rule 73	Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.
Rule 74	After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.
Rule 75	Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.
Rule 76	Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.
Rule 77	Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.
Rule 78	Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

<b>Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations on 6 October 1999<sup>52</sup></b>	
Article 2	Communications [to the Committee on the Elimination of All Forms of Discrimination against Women] may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.
Article 11	A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.
<b>Convention on the Rights of Persons with Disabilities, adopted by the General Assembly of the United Nations on 13 December 2006</b>	
Article 13(1)	1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
Article 27(1) and (b)	1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others ... [and] shall safeguard and promote the realization of the right to work ... by taking appropriate steps, including through legislation, to, inter alia: (b) Protect the rights of persons with disabilities ... including protection from harassment, and the redress of grievances;
<b>Optional Protocol to the Convention on the Rights of Persons with Disabilities, adopted by the General Assembly of the United Nations on 13 December 2006<sup>53</sup></b>	
Article 1(1)	1. A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.

<sup>52</sup> The following Southeast Asian and Pacific countries have ratified or acceded to the CEDAW Optional Protocol: Australia (4 December 2008); Cook Islands (27 November 2007); Maldives (13 March 2006); Mongolia (28 March 2002); Nepal (15 June 2007); New Zealand (7 September 2000); Philippines (12 November 2003); Republic of Korea (18 October 2006); Solomon Islands (6 May 2002); Sri Lanka (15 October 2002); and Thailand (14 June 2000).

<sup>53</sup> The following Southeast Asian and Pacific countries have ratified or acceded to the CRPD Optional Protocol: Australia (21 August 2009); Cook Islands (8 May 2009); and Mongolia (13 May 2009).



# References

*Where human rights instruments are listed, these references should be read in conjunction with Optional Protocols.*

Adams, R., 1991. *Protests by pupils: empowerment, schooling and the state*. London, UK: Falmer Press.

Alderson, P., 2000. *Young children's rights: exploring beliefs, principles and practice*. London, UK: Jessica Kingsley.

Alderson, P., 1993. *Children's consent to surgery*. Buckingham, UK: Open University Press.

Andrade, J., 2007. Filipina executive elevates rape case to UN. *Inquirer Global Nation*, [internet] 12 March.

Available at: [http://globalnation.inquirer.net/news/breakingnews/view/20071203-104602/Filipina\\_executive\\_elevates\\_rape\\_case\\_to\\_UN](http://globalnation.inquirer.net/news/breakingnews/view/20071203-104602/Filipina_executive_elevates_rape_case_to_UN)  
[Accessed on 1 July 2009].

Annan, K., 2001. *We the children: meeting the promises of the World Summit for Children*. New York, USA: UNICEF.

Arnstein, S., 1969. 'A ladder of citizen participation in the USA'. *Journal of the American Institute of Planners*, 35(4) pp. 216-24.

Australian Medical Association, 2009. *AMA calls for ban of junk food advertising on children's TV*. [Press release] 30 April 2009.

Barnardo's New Zealand, 2008. *Media kit. The Crimes (Substituted Section 59) Amendment Act: why we don't need referenda on child discipline issues*.

Beazley, H. Bessell, S. Ennew, J. & Waterson, R., 2006. *What children say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and the Pacific*. Bangkok, Thailand: Save the Children Sweden.



Beers, H.V. Invernizzi, A. & Milne, B. eds., 2006. *Beyond article 12: Essential readings in children's participation*. Bangkok, Thailand: Knowing Children.

Befring, E. Smith, L. Vikan, A. Røkke, M. & Waage, T., 1995. *Summary of the Committee's conclusions from the Norwegian official report*. Norway: The Commissioner for Children, and Childhood in Norway.

The Beijing Rules, 1985 (UN standard minimum rules for the administration of juvenile justice).

Bellamy, C., 2005. Colombo Press Conference, *Sri Lanka*, [Online] 3 January 2005. Available at: [http://www.unicef.org/media/media\\_24709.html](http://www.unicef.org/media/media_24709.html) [Accessed on 27 June 2009].

Bellamy, C., 2003. *The state of the world's children 2003*. New York, USA: UNICEF.

Bessell, S. 2009. 'Children's participation in decision-making in the Philippines: Understanding the attitudes of policy-makers and service providers', *Childhood*; 16, pp 299-316.

Bessell, S., 2007. *Adult attitudes towards children's participation in the Philippines*. Australia: Crawford School of Economics and Government, The Australian National University.

Bhandari, N., 2005. *Working against physical and degrading/humiliating punishments of girls and boys: experiences from Andhra Pradesh & Orissa, India*. Nepal: Save the Children Sweden.

Bhandari, N., Jabeen, F. & Karki, M., 2007. *Voices and actions of girls and boys to end violence against children in South and Central Asia. In preparation of UN study on violence against children*. 3rd ed. Kathmandu, Nepal: Save the Children Sweden Regional Office for South and Central Asia.

Bilson, A. & Cox, P., 2005. *Home truths: children's rights in institutional care in Sri Lanka. Advocacy document*. Colombo: Save the Children in Sri Lanka.

Blanchet-Cohen, N., 2009. *Children, agency and violence: In and beyond the United Nations study on violence against children*. Innocenti working paper no. IDP 2009-10. Florence, Italy: UNICEF Innocenti Research Centre.

Bottoms, B.L. & Goodman, G.S., 1996. *International perspectives on child abuse and children's testimony: psychological research and law*. USA: Sage.

- Boyce, S., 2002. *What you said. Young people's views on a Bill of Rights for Northern Ireland*. Northern Ireland, UK: Northern Ireland Human Rights Commission.
- Bradford, S., 2007. *Bradford launches Bill to lower voting age to 16*. [Press release] Green Party of Aotearoa New Zealand, 21 June 2007.
- Bradshaw, J. Hoelscher, P. & Richardson, D., 2007. *Comparing child well-being in OECD countries: concepts and methods*. Innocenti working paper no. 2006-03. Florence, Italy: UNICEF Innocenti Research Centre.
- Brandon, M. Schofield, G. & Trinder, L. 1998. *Social work with children*. London, UK: Macmillan.
- Bunting, L. Webb, M.A. & Healy, J., 2008. *The 'smacking debate' in Northern Ireland – messages from research*. Northern Ireland, UK: Barnardo's, NICCY and NSPCC.
- Burke, T., 2008. *Listen and change. A guide to children and young people's participation rights*. London, UK: Children's Rights Alliance for England.
- Butler, I. & Williamson, H., 1994. *Children speak. Children, trauma and social work*. Harlow, Essex, UK: NSPCC and Longman.
- Butler-Sloss, Lord Justice E., 1988. *Report of the inquiry into child abuse in Cleveland 1987*, Cm 412. London, England: Her Majesty's Stationary Office (HMSO).
- Cairns, L. & Brannen, M., 2005. 'Promoting the human rights of children and young people. The 'Investing in Children' experience'. *Adoption & Fostering*, 29(1), pp. 78-87.
- Calcetas-Santos, O., 1999. Commission on Human Rights. Fifty-sixth session. Item 13 of the provisional agenda. Report on the mission of the Special Rapporteur to the Republic of Fiji on the issue of commercial sexual exploitation of children (11-16 October 1999). E/CN.4/2000/73/Add.3. New York: UN Economic and Social Council.
- Cawson, P. Wattam, C. Brooker, S. & Kelly, G., 2000. *Child maltreatment in the United Kingdom: A study of the prevalence of child abuse and neglect*. London, UK: NSPCC.
- Childe, M., Ennew, J., Plateau, D.P. & Trimmer, C., 2003. *Towards a strategy to address corporal punishment of children in Southeast, East Asia and Pacific. Proceedings of the International Save the Children Alliance regional workshop on corporal punishment of children, 6-9 October 2003*, Bangkok, Thailand: Save the Children Sweden.

Child Helpline International, n.d. *Connecting to children. A compilation of child helpline 2006 data*. The Netherlands: CHI.

Child Helpline International, 2006. *CRC day of discussion. The right of the child to be heard. September 2006. Children's participation at children's helplines around the world*. The Netherlands: Child Helpline International.

ChildLine, 2007. *ChildLine casenotes. A series of reports on issues facing children today. What children and young people tell ChildLine about sexual abuse*. London, UK: NSPCC.

ChildLine, 2006. *ChildLine casenotes. A series of reports on issues facing children today. What children and young people tell ChildLine about physical abuse*. London, UK: NSPCC.

Children Act 2004, UK.

Children Act 1989, UK.

Children's Forum Network, Sierra Leone, 2007 'Our participation matters!' in Connors, J. et al eds., 2007. *18 candles: the Convention on the Rights of the Child reaches majority*. Switzerland: Institut International des Droits de l'Enfant (IDE).

Children's Law Centre and Save the Children Northern Ireland, 2002. *Young people's submission to the United Nations Committee on the Rights of the Child for consideration during the Committee's scrutiny of the UK Government's report*. Belfast, UK: Children's Law Centre and Save the Children Northern Ireland.

The Child, Youth and Families Act 2005, Victoria Australia.

*China third periodic report to Committee on the Rights of the Child, 2003*. Published by Committee on the Rights of the Child, 2005.

Cleaver, H. Cawson, P. Gorin, S. & Walker, S. eds., 2009. *Safeguarding children: A shared responsibility*. Wiley series in protecting children. London, UK: NSPCC.

Clivetti, M., 2008. *Promoting the participation by children in decisions affecting them*. Doc.11615. Strasbourg: Council of Europe Parliamentary Assembly, Social, Health and Family Affairs Committee. Doc.11615.

Coalition to Stop the Use of Child Soldiers, 2008. *Child soldiers global report 2008*. London, UK: Coalition to Stop the Use of Child Soldiers.

Committee against Torture, 2008. *General comment no. 2. Implementation of article 2 by States parties.* (CAT/C/GC/2).

Committee on the Elimination of Discrimination against Women, 2005. *Views of the Committee on the Elimination of Discrimination against Women under article 7, paragraph 3, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Communication No.: 2/2003, Ms. A. T. v. Hungary. (Views adopted on 26 January 2005, thirty-second session).*

Committee on the Rights of the Child, 2009a. *General comment no. 12. The right of the child to be heard.* CRC/C/GC/12. Geneva: United Nations.

Committee on the Rights of the Child, 2009b. *Consideration of reports submitted by States Parties under article 44 of the Convention. Concluding observations: Mauritania.* CRC/C/MRT/CO/2. Geneva: United Nations.

Committee on the Rights of the Child, 2008. *Consideration of reports submitted by States Parties under Article 44 of the convention. Concluding observations United Kingdom of Great Britain and Northern Ireland.* CRC/C/GBR/CO/4. Geneva: United Nations.

Committee on the Rights of the Child, 2007. *General comment no. 10. Children's rights in juvenile justice.* Geneva: United Nations.

Committee on the Rights of the Child, 2006a. *Day of general discussion on the right of the child to be heard. Forty-third session. 11-29 September 2006.* Geneva: United Nations.

Committee on the Rights of the Child, 2006b. *General comment no. 9. The rights of children with disabilities.* CRC/C/GC/9. Geneva: United Nations.

Committee on the Rights of the Child, 2006c. *General comment no. 8. The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment: Articles 19, 28.2 and 37, inter alia.* CRC/C/GC/8. Geneva: United Nations.

Committee on the Rights of the Child, 2005a. *General guidelines regarding the form and content of periodic reports to be submitted by States Parties under Article 44, Paragraph 1 (B), of the Convention.* CRC/C/58/Rev.1. Geneva: United Nations.

Committee on the Rights of the Child, 2005b. *General comment no. 7: Implementing child rights in early childhood.* CRC/C/GC/7. Geneva: United Nations.

Committee on the Rights of the Child, 2003. *General comment no. 5. General measures of Implementation for the Convention on the Rights of the Child*. CRC/GC/2003/5. Geneva: United Nations.

Committee on the Rights of the Child, 2002. *General comment no. 2. The role of independent national human rights institutions in the promotion and protection of the rights of the child*. CRC/GC/2002/2. Geneva: United Nations.

Committee on the Rights of the Child, 2001a. *General discussion on violence against children in the family and in schools, 28 September 2001*. CRC/C/111. Geneva: United Nations.

Committee on the Rights of the Child, 2001b. *General comment no. 1. The aims of education*. CRC/GC/2001/1. Geneva: United Nations.

Committee on the Rights of the Child, 2000. *Report on the twenty-fifth session (Geneva, 18 September-6 October 2000)*. CRC/C/100. Geneva: United Nations.

Committee on the Rights of the Child, 1999. *10th anniversary commemorative meeting. Excerpted from CRC/C/87, Annex IV, 22nd Session, 30 September-1 October 1999*. Geneva: United Nations.

Committee on the Rights of the Child, 1996. *General guidelines for periodic reports*. CRC/C/58. Geneva: United Nations.

Concerned for Working Children, Mongolia blazes a new global trail, [internet] n.d. Available at:  
<http://www.workingchild.org/dhruvalink.htm>  
[Accessed on 30 June 2009].

Connors, J. Zermatten, J. & Panayotidis, A. eds., 2007. *18 candles. The Convention on the Rights of the Child reaches majority*. Switzerland: Institut international des droits de l'enfant.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

Convention on the Elimination of All Forms of Discrimination against Women, 1979.

Convention on the Rights of Persons with Disabilities, 2006.

Convention on the Rights of the Child, 1989.

- Council of Europe Parliamentary Assembly, 2009. *Recommendation 1864 (2009). Promoting the participation by children in decisions affecting them*. Strasbourg: Parliamentary Assembly.
- Covell, K. & Howe, R. B., 2005. *Rights, respect and responsibility. Report on the RRR initiative to Hampshire County Education Authority*. Nova Scotia, Canada: Children's Rights Centre, Cape Breton University.
- CRIN, 2008. News release. ECUADOR: *New constitution strengthens children's rights*. [Online] Childs Rights Information Network.  
Available at: <http://www.crin.org/resources/infodetail.asp?ID=18566>  
[Accessed on 15 October 2009].
- CRIN, 2006. *Youth forum on the right to be heard, day 2: Children ask questions to members of the Committee*. News release. [Online] Childs Rights Information Network.  
Available at: <http://www.crin.org/resources/infodetail.asp?id=10220>  
[Accessed on 27 June 2009].
- CRIN, 2005. *Pinheiro and young delegates – question time*.  
Available at: <http://www.crin.org/violence/search/closeup.asp?infoID=5879>  
[Accessed on 27 June 2009].
- Cunningham, H., 2006. *The invention of childhood*. BBC Books. London, UK: Ebury Press.
- Cunningham, J., Walsh, G., Dunn, J., Mitchell, D. & McAlister, M., 2004. *Giving children a voice: Accessing the views and interests of three four year old children in playgroup*. Belfast, UK: Stranmillis University College.
- Daro, D., 2008. *World perspectives on child abuse. An official publication of the International Society for Prevention of Child Abuse and Neglect*. Hong Kong: ISPCAN.
- Declaration on the Rights of the Child, 1924.
- Declaration on the Rights of the Child, 1959.
- Democratic Republic of The Congo, 2007. Second periodic report to the Committee on the Rights of the Child. Published by Committee on the Rights of the Child, 2008. CRC/C/COD/2. Geneva: United Nations.

Department for Children, Schools and Families (DCSF), 2008. *Statistical first release. Children looked after in England (including adoption and care leavers) year ending 31 March 2008*. London, UK: DCSF.

Department for Education and Skills, 2005. *Common core of skills and knowledge for the children's workforce*. DfES/1189/2005. London, UK: UK Government.

Detrick, S., 1999. *A commentary on the United Nations Convention on the Rights of the Child*. Leiden, Netherlands: Brill.

Detrick, S ed., 1992. *The United Nations Convention on the Rights of the Child. A guide to the Travaux Préparatoires*. Leiden, Netherlands: Martin Nijhoff Publishers.

Dimmock, S., 2009. *Maximising children and young people's engagement in the reporting process for the Convention on the Rights of the Child*. Geneva: NGO Group for the Convention on the Rights of the Child.

Dobbs, T., 2005. *Insights. Children & young people speak out about family discipline*. Christchurch, New Zealand: Save the Children New Zealand.

Dorjpurev, O., 2007. 'New dawn for Mongolia's children as abuse and violence are outlawed in schools'. *CRIN review*, November 2007.

Driskell, D., 2002. *Creating better cities with children and youth: A manual for participation*. Paris/London: UNESCO Publishing and Earthscan Publishing.

Durrant, J., 2007. *Positive discipline: What it is and how to do it*. Bangkok, Thailand: Save the Children Sweden Southeast Asia and the Pacific.

Economic and Social Commission for Asia and the Pacific, 2000. *Youth in the Philippines: A review of the youth situation and national policies and programmes*. New York, USA: UN.

Ecuador, 2004. Second and third periodic reports to the Committee on the Rights of the Child. CRC/C/65/Add.28. Geneva: United Nations.

Enkhtor, D., 2007. 'Paving a Two-Way Street: Encouraging Children's Participation in the Study on the Physical and Emotional Punishment of Children in Vietnam.' *Children, Youth and Environments* 17(1): 88-104.

- Ennew, J. & Plateau, D.P., 2005. *Childrearing for peace: a search for solutions: family life without corporal punishment in East Asia and the Pacific*. Bangkok, Thailand: Black on White Publications.
- Ennew, J. & Plateau, D.P., 2004. *How to research the physical and emotional punishment of children*. Bangkok, Thailand: International Save the Children Alliance Southeast, East Asia and Pacific Region.
- Ertürk, Y., 2007. *Report of the Special Rapporteur on violence against women, its causes and consequences. Intersections between culture and violence against women*. A/HRC/4/34. Geneva: United Nations.
- Evans, A. & Gray, E., 2005. 'What makes an Australian family?' Chapter 2 in Wilson, S. et al. *Australian Social Attitudes: The First Report*. Sydney: UNSW Press.
- Featherstone, B. & Evans, H., 2004. *Children experiencing maltreatment: Who do they turn to?* London, UK: NSPCC.
- Feinstein, C. & O'Kane, C., 2009. *Children's and adolescents' participation and protection from sexual abuse and exploitation*. Innocenti working papers, 2009-09. Florence, Italy: Innocenti Research Centre.
- The Filipino Child of the Millennium National Plan of Action for Children 2005-2010.
- Finland third periodic report to Committee on the Rights of the Child, 2003. CRC/C/129/Add.5. Geneva: United Nations.
- Fisher, A. et al., 1999. *Respect! A report into how well Article 12 of the UN Convention on the Rights of the Child is put into practice across the UK*. London, UK: Article 12.
- Fottrell, D. ed., 2000. *Revisiting children's rights: 10 Years of the UN Convention on the rights of the child*. The Hague, Netherlands: Kluwer Law International.
- Fountain, S., 2006. *Our right to be protected from violence: Activities for learning and taking action for children and young people*. Geneva: Secretariat of the United Nations Secretary-General's Study on Violence.
- Freedom of Association and Protection of the Right to Organize Convention (No. 87), 1948.



Freeman, M.D.A., 1997. *The moral status of children. Essays on the rights of the child*. The Hague, The Netherlands: Martinus Nijhoff Publishers.

Gabhainn, N. & Sixsmith, J. 2005. *Children's understandings of well-being*. Dublin: National Children's Office, Department of Health.

Geneva Convention relative to the Treatment of Prisoners of War, 1949.

Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part), 1949.

Global Initiative to End All Corporal Punishment of Children, 2005. *Ending legalised violence against children. Report for South Asia regional consultation – the UN Secretary General's study on violence against children, Islamabad, Pakistan, 2005*. London, UK: Global Initiative to End All Corporal Punishment of Children.

Goggins, P., 2006. *House of Commons Written Answers*, Hansard, 2 Nov 2006: Column 655W.

Goldstein, J. & Keohane, R.O., eds. 1993. *Ideas and foreign policy: Beliefs, institutions, and political change*. USA: Cornell University Press.

Graham, K. ed., 1982. *Contemporary political philosophy*. Cambridge, UK: Cambridge University Press.

Hammarberg, T., 2007. *Children have the right to be heard and adults should listen to their views*. The 2007 Council of Europe Korczak lecture, Warsaw, 20 November, 2007. Strasbourg: Council of Europe.

Hammarberg, T., 1996. *Making reality of the rights of the child the UN Convention: What it says and how it can change the status of children worldwide*. Stockholm: Rädda Barnen.

Hammarberg, T. & Newell, P. 2007. 'Closed court – how children are not getting a fair hearing' CRIN review, November 2007.

Harber, C., 2004. *Schooling as violence: how schools harm pupils and societies*. London, UK: RoutledgeFalmer.

Hart, R.A., 1992. *Children's participation: from tokenism to citizenship*. Florence, Italy: UNICEF International Child Development Centre.

Heissler, K., 2001. *Background paper on good practices and priorities to combat sexual abuse and exploitation of children in Bangladesh*. Dhaka, Bangladesh: UNICEF.

Himes, J. R., 1993. *The United Nations Convention on the Rights of the Child: Three essays on the challenge of implementation*. Florence, Italy: UNICEF International Child Development Centre.

Hodgkin, R. & Newell, P., 2007. *Implementation handbook for the Convention on the Rights of the Child*. New York, USA: UNICEF.

Holmes, L. McDermid, S. Jones, A. & Ward, H., 2009. *How social workers spend their time: an analysis of the key issues that impact on practice pre-and post implementation of the childrens' integrated system. Report to the Department for Children, Schools and Families*. Loughborough, UK: Centre for Child and Family Research, Loughborough University.

Hopkins, E., 1994. *Childhood transformed: working-class children in nineteenth-century England*. Manchester, UK: Manchester University Press.

Human Rights Committee, 2004. *General comment no. 31 [80] Nature of the general legal obligation imposed on States Parties to the Covenant: 26/05/2004*. CCPR/C/21/Rev.1/Add.13.

Human Rights Committee, 1992. *General comment no. 20. Replaces general comment 7 concerning prohibition of torture and cruel treatment or punishment*.

Human Rights Committee, 1989. *General comment no. 17. Rights of the child (Art. 24)*.

Human Rights Council, July 2008. *Report of the Human Rights Council on its seventh session A/HRC/7/78*.

India eNews, 2009. Children's diaries: corporal punishment must stop, [internet] 19 April. Available at: <http://www.indiaenews.com/education/20090419/192425.htm> [Accessed on 30 June 2009].

Inter-agency Working Group on Children's Participation, 2008. *Children as active citizens. Commitments and obligations for children's civil rights and civic engagement in East Asia and the Pacific*. Bangkok, Thailand: Inter-Agency Working Group on Children's Participation (IAWGCP): ECPAT International, Knowing Children, Plan International, Save the Children Sweden, Save the Children UK, UNICEF and World Vision.

International Covenant on Civil and Political Rights, 1966.

International Covenant on Economic, Social and Cultural Rights, 1966.

International Save the Children Alliance, 2005. *UN Study on Violence against Children. Ending physical and humiliating punishment of children. Making it happen.* Stockholm: The International Save the Children Alliance.

Inter-Parliamentary Union and UNICEF, 2007. *Handbook for Parliamentarians no. 13, 2007. Eliminating violence against children.* Switzerland: Inter-Parliamentary Union and UNICEF.

Inter-Parliamentary Union and UNICEF Regional Office for South Asia, 2007. *Regional Parliamentary guide no. 1, 2007. Improving the protection of children in conflict with the law in South Asia. A regional parliamentary guide on juvenile justice.* Inter-Parliamentary Union and UNICEF Regional Office for South Asia.

James, A. & Prout, A., 1997. *Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood.* London, UK: Falmer Press.

John, M., 2003. *Children's rights and power: charging up for a new century.* London, UK: Jessica Kingsley Publishers.

Joint Committee on Human Rights, 2008. *A Bill of Rights for the UK? Twenty-ninth report of session 2007-08.* London, UK: The Stationery Office Limited.

Keeves, J.P. & Watanabe, R., eds., 2003. *International handbook of educational research in the Asia-Pacific Region.* The Netherlands: Kluwer Academic Publishers.

Key, J., 2009. 'Referendum: safeguards to give parents comfort'. New Zealand Government press release, 24 August 2009.

Kirby, P. with Bryson, S., 2002. *Measuring the magic. Evaluating and researching young people's participation in public decision making.* London, UK: Carnegie Young People Initiative.

Kränzl-Nagl, R. & Zartler, U., 2009 *Children's participation in school and community. European perspectives* in Percy-Smith, B. & Thomas, N., eds. 2009. *A handbook of children and young people's participation. Perspectives from theory and practice.* London, UK: Routledge.

- Kunkel, D. & Gantz, W., 1992. 'Children's television advertising in the multichannel environment.' *Journal of Communication*, v42 n3 pp134-52 Sum 1992.
- Kwast, E., and Laws, S. 2006. *United Nations Secretary-General's study on violence against children*. Adapted for children and young people. UNICEF and WHO.
- Lansdown, G., 2005. *The evolving capacities of the child*. Florence, Italy: UNICEF Innocenti Research Centre.
- Lansdown, G., 1995. *Taking part: children's participation in decision making*. London, UK: IPPR.
- Lao People's Democratic Republic, 2007. Presidential Decree on the Promulgation of the Law on the Protection of the Rights and Interests of Children.
- Lardner, C. 2001. *Youth participation – a new model*. Edinburgh, UK: Clarity.
- Larsson, G., 2008. 'Swede offers rights solution to indiscipline in schools', 7 November 2008. Amnesty UK press release.
- Lee, N., 2001. *Childhood and society: growing up in an age of uncertainty*. Buckingham, UK: Open University Press.
- Lewis, S., 1998. Statement by Mr. Stephen Lewis, deputy executive director of UNICEF, 18 June 1998.  
Available at: <http://www.un.org/icc/speeches/618ucf.htm>  
[Accessed on 29 June 2009].
- Linda, D., 2007 'Homelessness, aid and returning home' in Connors, J. et al eds., 2007. *18 candles: the Convention on the Rights of the Child reaches majority*. Switzerland: Institut International des Droits de l'Enfant (IDE).
- Machel, G., 1996. *Promotion and protection of the rights of children. Impact of armed conflict on children*. A/51/306. New York: UN.
- Marshall, K., 1997. *Children's rights in the balance: The participation-protection debate*. Edinburgh, UK: The Stationery Office.
- M'Bow, A-M., 1979. Address by Amadou-Mahtar M'Bow at the opening of the World Conference "For a peaceful and secure future for all children". Trade Union House, Moscow, 7 September 1979. [Online] Available at: <http://unesdoc.unesco.org/images/0003/000353/035309eb.pdf>  
[Accessed on 15 April 2009].

Media Monitoring Project, 2004. *Children: Dying to make the news*. South Africa: The media monitoring project in partnership with Save the Children Sweden and UNICEF.

Miller, A., 1991. *Breaking down the wall of silence. To join the waiting child*. London, UK: Virago Press.

Miller, J., 2007. *Children as change agents: a review of child participation in periodic reporting on the CRC*. Mississauga, Canada: World Vision.

Ministry of Health and Social Affairs, 2004. *Strategy to implement the UN Convention on the Rights of the Child*. Stockholm: Ministry of Health and Social Affairs.

Ministry of Health and Social Affairs and the Ministry for Foreign Affairs, 2001. *Ending corporal punishment. Swedish experience of efforts to prevent all forms of violence against children – and the results*. Stockholm: Ministry of Health and Social Affairs/Ministry for Foreign Affairs.

Moreira, M. E., (n.d.) Human rights in Ecuador's new constitution [internet]. Available at: [www.humanrightsmoreira.com/dhnceingles.htm](http://www.humanrightsmoreira.com/dhnceingles.htm) [Accessed on 30 June 2009].

Murray, M. & Osborne, C., 2009. *Safeguarding disabled children: Practice guidance*. London, UK: Department for Children, Schools and Families.

Newell, P., 2009. Speech delivered at the Council of Europe launch of platform for children's rights that took place in Strasbourg – June 2, 2009. Available at: [http://www.coe.int/t/transversalprojects/children/Events/ILauchPlatformNewell\\_en.asp](http://www.coe.int/t/transversalprojects/children/Events/ILauchPlatformNewell_en.asp) [Accessed on 30 June 2009].

Newell, P., 2008. *Legal frameworks for combating sexual exploitation of children*. Florence, Italy: UNICEF Innocenti Research Centre.

Newell, P., 2007. *International justice for children. Children's use of international and regional human rights complaint/communications mechanisms. Background paper*. Strasbourg: Building a Europe for and with children, Council of Europe.

Newell, P., 1993. *The UN Convention and children's rights in the UK*. London, England: National Children's Bureau.

NGO Group for the Convention on the Rights of the Child, 2009. *Achieving a communications procedure for the Convention on the Rights of the Child*. Geneva: NGO Group for the Convention on the Rights of the Child.

NGO Network for the Rights of the Child, 2004. *Report by Swedish children, young persons and adults to the UN Committee on the Rights of the Child in Geneva*. Stockholm: NGO Network for the Rights of the Child.

Northern Ireland Human Rights Commission, 2009. *A Bill of Rights for Northern Ireland. Advice to the Secretary of State for Northern Ireland*. Northern Ireland, UK: NIHRC.

Noyes, P., 2009. Daily Mail 'Physically punishing a child with a smack (or a kick) is NOT against the law, says senior woman judge', *MailOnline* [internet] 1 August 2009.

Available at: <http://www.dailymail.co.uk/news/article-1203506/Physically-punishing-child-NOT-law-High-Court-draws-line-discipline-physical-abuse.html> [Accessed on 26 September 2009].

NSPCC, 2004. *A pocket history of the NSPCC*. London, NSPCC.

O'Donnell, D., 2009. *The right of children to be heard: children's rights to have their views taken into account and to participate in legal and administrative proceedings*. Florence, Italy: UNICEF Innocenti Research Centre.

Office of the Minister for Children and Youth Affairs, 2008. *State of the nation's children. Ireland 2008*. Dublin, Ireland: Office of the Minister for Children and Youth Affairs, Department of Health and Children.

O'Kane, C., 2007. 'Supporting the development of children's groups and networks in Afghanistan: reflections on practice and possibilities.' *Children, Youth and Environments* 17(1): pp222-237.

O'Neill, K., 2007. *Getting it right for children: a practitioners' guide to child rights programming*. London, UK: Save the Children UK.

Owen, S., 2009. *Prohibiting all corporal punishment in Southeast Asia and the Pacific*. Bangkok, Thailand: Save the Children Sweden.

Owen, S., 2008. *Save the Children's worldwide day of action against violence 20 October 2008*. Bangkok, Thailand: Save the Children Sweden.

Pais, M.S., 1992. 'The United Nations Convention on the Rights of the Child.' *Bulletin of Human Rights* 91(2): pp75-82.

Percy-Smith, B. & Thomas, N., eds., 2009. *A handbook of children and young people's participation. Perspectives from theory and practice*. London, UK: Routledge.

Petcharamesree, S., Maloney, M., Chamsanit, V. & Suthisunsanee, S., 2008. *Towards an ASEAN Commission on the promotion and protection of the rights of women and children. Study by the Office of Human Rights Studies and Social Development, Mahidol University, Thailand*. Philippines: Working Group for an ASEAN Human Rights Mechanism.

Pinheiro, P.S., 2006a. *World report on violence against children*. Geneva, Switzerland: United Nations for United Nations Secretary-General's Study on Violence Against Children.

Pinheiro, P.S., 2006b. *Report of the independent expert for the United Nations study on violence against children*. (A/61/299) New York, USA: United Nations General Assembly.

Pinheiro, P. S., 2005. *Pinheiro at British Parliament on corporal punishment*. CRIN release [internet].

Available at: <http://www.crin.org/violence/search/closeup.asp?infoID=6771>  
[Accessed on 28 June 2009].

Plan, 2008. *The global campaign to end violence in schools*. Woking, Surrey, UK: Plan.

Platt, D., 2000. CI (2000)15: *Quality Protects children's participation: "Total Respect": a training pack for front-line staff working with children and young people*. London, UK: Department of Health.

Principles relating to the Status of National Institutions (The Paris Principles). Adopted by General Assembly resolution 48/134 of 20 December 1993.

Protacio-De Castro, E., 2003. *Negotiating trust and power: parenting in the context of conflict resolution*. Bangkok, Thailand: Save the Children Sweden Regional Office for Southeast Asia and the Pacific.

Reddy, N. & Ratna, K., 2002. *Journey in children's participation*. Concerned for Working Children.

- Reid, A. Jensen, B.B. Nikel, J. & Simovska, V., eds., 2008. *Participation and learning: perspectives on education and the environment, health and sustainability*. Dordrecht, Netherlands: Springer.
- Rigby, K., 2003. *Addressing bullying in schools: theory and practice*. Canberra: Australian Institute of Criminology.
- Rigby, K., 1997. 'What children tell us about bullying in schools'. *Children Australia*, 22 (2), pp28-34.
- Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents, November 2008.
- Rome Statute of the International Criminal Court, 1998.
- Santos Pais, M., 1999. *A human rights conceptual framework for UNICEF*. UNICEF International Child Development Centre. The Netherlands: Springer.
- Santos Pais, M., 1992. 'The United Nations Convention on the Rights of the Child'. *Bulletin on Human Rights* 91(2): pp75-76.
- Save the Children, 2009. *Human rights small grants scheme. Improving the capacity of Mongolian children and NGOs to report the implementation of children's rights to the United Nations. Project final report – May 20, 2009*.
- Save the Children, 2001. *Ending corporal punishment of children: Making it happen*. Save the Children.
- Save the Children UK – Indonesia, n.d. *Safe schools research. A child facilitated project in Ambon, Maluku, Indonesia*.
- Shier, H., 2006. Pathways to participation revisited. *Middle Schooling Review (New Zealand)*, 2: pp14-19.
- Shier, H., 2001. 'Pathways to participation: Openings, opportunities and obligations.' *Children and Society*, 15(2): pp107-117.
- South Africa Constitution, 1996.
- Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, 1991, Philippines.



Standing Committee on Education, Training and Young People, 2007. *Inquiry into the eligible voting age. ACT Legislative Assembly*. Canberra, Australia: Standing Committee on Education, Training and Young People.

Swedish Government leaflet to parents, 1979: 'Can you bring up children successfully without smacking and spanking?'

The UN Office at Geneva (17 January 2008) Committee on Rights of Child considers Situation of Children in Timor-Leste. [Online] UN. Available at: [http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/C4A9FB631FF899A9C12573D2005BE204?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/C4A9FB631FF899A9C12573D2005BE204?OpenDocument) [Accessed on 30 June 2009].

Timor Leste Constituion, 2001.

Treseder, P., 1997. *Empowering children and young people: Promoting involvement in decision-making*. London, UK: Save the Children UK and Children's Rights Office.

UN, 1996. United Nations Conference on Human Settlements (Habitat II). A/CONF.165/14.

UN, 1990. World Declaration on the Survival, Protection and Development of Children. Agreed to at the World Summit for Children on 30 September 1990. [Online] UN. Available at: <http://www.unicef.org/wsc/declare.htm> [Accessed on 28 June 2009].

UN, 1976. *Report of the world conference of the international women's year. Mexico City*, 19 June - 2 July 1975. Available at: <http://www.un.org/womenwatch/daw/beijing/mexico.html> [Accessed on 28 June 2009].

UN Economic and Social Commission for Asia and the Pacific, 2009. *Perspectives on the commercial sexual exploitation and sexual abuse of children and youth 2009*. UN Economic and Social Commission for Asia and the Pacific.

UN Economic and Social Commission for Asia and the Pacific, 2000. *Youth in the Philippines: A review of the youth situation and national policies and programmes*. UN Economic and Social Commission for Asia and the Pacific.

UN Economic and Social Council, 2005. *Resolution 2005/20. Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*.

UN General Assembly, January 2009. *Resolution adopted by the General Assembly. 63/155. Intensification of efforts to eliminate all forms of violence against women.*

UN General Assembly, 16 November 2007. Third Committee agenda item 66 (a) Promotion and protection of the rights of children. A/C.3/62/L.24/Rev.1.

UN General Assembly, 2005. Resolution adopted by the General Assembly 60/1. 2005 World Summit Outcome. A/RES/60/1.

UN General Assembly, 1985. United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). A/RES/40/33.

UN General Assembly *Third Committee*, November 2009. Resolution adopted by the General Assembly. A/C.3/64/L.21/Rev.1. *Promotion and protection of the rights of children.*

UNICEF, 2009. *A study on violence against girls. Report on the international girl child conference 9-10 March 2009.* The Hague, Netherlands: UNICEF Innocenti Research Centre.

UNICEF, 2008. *Handbook on legislative reform: realising children's rights.* New York, USA: UNICEF.

UNICEF, 2006. Highlights of speeches and young representative's recommendations during the regional symposium to launch the United Nations General-Secretary study report on violence against children, 19 October 2006 [internet]. Available at: [www.unicef.org/.../revised\\_highlight\\_of\\_speeches\\_19\\_oct\\_2006.pdf](http://www.unicef.org/.../revised_highlight_of_speeches_19_oct_2006.pdf) [Accessed on 30 June 2009].

UNICEF, 2005. *Report on the East Asia and Pacific regional consultation on violence against children.* Bangkok, Thailand: UNICEF East Asia and the Pacific Regional Office.

UNICEF and Save the Children East Asia and the Pacific region, 2008. *Taking forward the recommendations of the UN Secretary General's global study on violence against children.* Bangkok, Thailand: UNICEF and Save the Children.

Universal Declaration of Human Rights, 1948.

Van Bueren, G., 1998. *The international law on the rights of the child: International studies in human rights.* Leiden, Netherlands: Brill.

Van Horn, C.E & Schaffner, H.A. eds., 2003. *Work in America. An encyclopedia of history, policy and society*. ABC-CLIO. Santa Barbara, USA.

Vienna Declaration and Programme of Action, 1993.

Wernham, M., Geerinckx, S. & Jackson, E., 2005. *Police training on child rights and child protection: Lessons learned and manual*. London, UK: Consortium for Street Children.

West, A. Chen Xue Mei, Z.Y. Zhang Chun Na, C.Q., 2007. 'From performance to practice: changing the meaning of child participation in China.' *Children, Youth and Environments* 17(1): pp14-32.

West, A., 2003. *At the margins: Street children in Asia and the Pacific*. Asian Development Bank.

What do you think, 2002. *That's my opinion. What do you think? First report by children and young people living in Belgium for the CRC in Geneva*. Belgium: UNICEF.

White, S. C. & Choudhury, S. A. *Children's participation in Bangladesh. Issues of agency and structures of violence* in Percy-Smith, B. & Thomas, N., eds. 2009. *A handbook of children and young people's participation. Perspectives from theory and practice*. London, UK: Routledge.

Willow, C., 2002. *Participation in practice: children and young people as partners in change*. London, UK: The Children's Society.

Willow, C., 1999. *It's not fair! Young people's reflections on children's rights*. London, UK: The Children's Society.

Willow, C., Barnes, A. & Dimmock, S., 2009. Another perspective. *How journalists can promote children's human rights and equality*. London, UK: CRAE.

Willow, C. & Hyder, T., 1998. *It hurts you inside. Children talking about smacking*. London, UK: National Children's Bureau.

Wood, B., Hassall, I. & Hook, G., with Ludbrook, R., 2008. *Unreasonable force. New Zealand's journey towards banning the physical punishment of children*. Wellington, New Zealand: Save the Children New Zealand.

World Declaration on the survival, protection and development of children. Agreed to at the World Summit for Children on 30 September 1990.

World Health Organization, 2006. *Global estimates of health consequences due to violence against children. Background paper for the United Nations study on violence against children*. Geneva: WHO.

World Health Organization, 2002. *World report on violence and health: Summary*. Geneva: WHO.

Worst Forms of Child Labour Convention, 1999 (No. 182)

Yaffa, R., 2003, Our youngest patients' pain – from disbelief to belief? *Pain Management Nursing*, 4(1): pp.40-51.

Young People's Rights Network., 2002. *Report to the pre-sessional working group of the Committee on the Rights of the Child, preparing for examination of the UK's second report under the CRC*. London, UK: Young People's Rights Network.

Young Voice, n.d. *Report on the United Nations Convention on the Rights of the Child*. Wales, UK: Young Voice.

Youthline, n.d., *Digital help: Connecting with young people via txt and online*.

## **Legal judgments**

Campbell and Cosans v. United Kingdom, European Court of Human Rights, 25 February 1982, Application no. 7511/76; 7743/76

MA (Children) [2009] EWCA Civ 853



From a human rights perspective, child protection is the mobilisation of laws, policies and interventions to ensure the maximum realisation of children's rights – for all children in all settings. While the enjoyment – or violation – of particular human rights has a direct and immediate impact on the child's survival and dignity, all of the rights in the Convention on the Rights of the Child affect children's well being and positive development.

This publication aims to rejuvenate the commitment and focus of governments and NGOs towards achieving the full implementation of the Convention on the Rights of the Child. It argues that respect for – and implementation of – the child's right to be heard must underpin everything we do to improve children's lives, because it is this right that categorically defines children as individual people with wishes, feelings and views. Not having the right to be heard is to be in a state of servitude. In adopting the broad agenda of the Convention, this publication warns against associating child protection only with interventions that aim to shield children from certain types or levels of violence and mistreatment in particular settings. Twenty years ago, the Convention set out the comprehensive framework for ensuring the dignity and worth of every child, and the Committee on the Rights of the Child has consistently stressed the indivisibility and inter-connectedness of the treaty's 40+ substantive rights.

Guidance and practical examples are offered throughout this document to show the varied roles children can play in implementing the overarching recommendations of the United Nations Secretary-General's Study on Violence against Children. Building on the Committee on the Rights of the Child's keenly awaited General Comment on the child's right to be heard, the publication considers different conceptions and practical approaches to participation, as well as the choices and challenges facing adults engaged in (or preparing to be engaged in) the implementation of children's rights.

Foreword by Marta Santos Pais, Special Representative of the United Nations Secretary-General on violence against children.

Carolyne Willow has been a children's rights advocate for over 25 years. She started her career as a child protection social worker in local government and has been the national co-ordinator of the Children's Rights Alliance for England since 2000. Carolyne has written a wide range of children's rights publications, including for children and young people. She lives in Nottingham, England, and has two children, aged 10 and 7 years.

## **Save the Children Sweden**

Regional Office for Southeast Asia and the Pacific

14th floor, Maneeya Center, South Building

518/5 Ploenchit Road, Bangkok 10330, Thailand

Tel: +662 684 1046/7

Fax: +662 684 1048

Email: [scs@seap.savethechildren.se](mailto:scs@seap.savethechildren.se)

Web address: <http://seap.savethechildren.se>



**Save the Children**