



justice

and the **United Nations Convention
on the Rights of the Child**



A guide for people who work for or with children and youth

Copies of this publication are available from:
Canadian Coalition for the Rights of Children
c/o CICH
384 Bank Street
Ottawa, ON
(613) 230-8838 ext. 228
Website: www.rightsofchildren.ca
www.droitsdesenfants.ca

Suggested citation: Canadian Coalition for the Rights of Children (2002).
Justice and the United Nations *Convention on the Rights of the Child*.
Ottawa: Canadian Coalition for the Rights of Children.

Acknowledgements

The Canadian Coalition for the Rights of Children gratefully acknowledges the following: Human Resources Development Canada (HRDC), whose funding allowed the development of this booklet; principal investigator, Dr. Katherine Covell, Children's Rights Centre, University College of Cape Breton, the staff of the Centre, Colleen MacNeil, Johnna O'Leary and Kelly Campbell – in particular Kelly whose research and writing made these booklets possible; project manager Kelli Dilworth, Canadian Institute for Child Health, for her organizational efficiency; and Tara Gough, Canadian Child Care Federation, for her design. We also owe our gratitude to all those who contributed to this final product by completing the survey, attending the workshops and giving us such helpful feedback and encouragement.

The Child, Family and Community Division of HRDC is pleased to have provided financial support and consultation to this project. The views expressed in this publication do not necessarily reflect those of HRDC.

Design explanation !

The graphic shows the letter "i" emphasized in the words "rights of the child." The idea behind this is that the "i" is important in both; each individual right is important, as is the importance of each child entitled to these rights. The "i" also serves as a silhouette of a child. The explanation mark drives home the point that this is an important issue that needs our attention. The mock world that forms the period of the exclamation mark emphasizes that this is an important global issue, one we all have to work together for, and that applies to all the world's children.



Contents

Letter from the CCRC	2
Common Questions about Children's Rights	4
Common Questions about Justice and Children's Rights	11
Index to the CRC Articles	16
Children's Rights Quiz	17



Dear Friend:

During the spring and summer of 2001, the Canadian Coalition for the Rights of Children (CCRC), with funding from Human Resources Development Canada, began a project to spread awareness of the United Nations Convention on the Rights of the Child (CRC). This booklet is one outcome of that project.

The first stage of our project involved assessing existing knowledge of the principles and provisions of the CRC among those who work with or on behalf of children. We contacted 1700 such people or organizations across Canada and found a real eagerness for more information. We developed a prototype information booklet, which was evaluated by representatives of various stakeholders at two one-day workshops held in Ottawa in June of 2001. Modifications to both style and content were made based on their recommendations and a further evaluation was conducted by a specialist in the field. Over the next four months, approximately 400 draft booklets were pilot tested by people in a variety of organizations. Their experiences and recommendations were taken into account when developing this booklet. We are extremely grateful to all the people who so generously gave of their time and expertise.

This booklet is one of seven that were developed to provide an overview of the CRC for people who work with and on behalf of children in the following areas:

- child care
- education
- health care
- justice
- protection
- recreation
- resource and support programs

For copies of these booklets, contact the CCRC or download them from the CCRC website. We hope that they will be a useful reference for you.

Our aim is, with your help, to improve the lives of children and in so doing to work together toward building a culture of peace.

Sincerely,

**Board of Directors 2002,
Canadian Coalition for the Rights of Children**

Sandra Griffin (President), Canadian Child Care Federation
Valerie Fronczek (Vice President), Society for Children and Youth of BC
Dawn Walker (Secretary), Canadian Institute of Child Health
Lisa Wolff (Treasurer), UNICEF Canada
Robin Acton, Canadian Association for Community Living
Dr. Katherine Covell (principal investigator), Children's Rights Centre,
University College of Cape Breton
Kate MacDonald, Breakfast for Learning, Canadian Living Foundation
John Popiel, Christian Children's Fund of Canada
Erin Smith, Save the Children
Dr. Philip Cook (special advisor), Institute for Child Rights and Development,
University of Victoria
Brent Parfitt (special advisor), Deputy Ombudsman

What are children's rights?

Children's rights are described in the United Nations *Convention on the Rights of the Child* (CRC). The CRC describes three categories of rights.

- Rights of *provision*, for example, the right to adequate education and health care.
- Rights of *protection*, for example, the right to be protected from abuse and neglect.
- Rights of *participation*, for example, the right to be heard in matters affecting the child.

What is the United Nations Convention on the Rights of the Child?

On November 20, 1989, the United Nations General Assembly unanimously adopted the *Convention on the Rights of the Child*, the most comprehensive treaty for the protection and support of children in existence today. It reaffirms the fact that children, due to their vulnerability, need special care and protection, defined in terms of rights. The CRC has been ratified by more countries than any other human rights treaty in history. Canada is one of 191 nations that have signed and ratified the CRC, demonstrating our government's commitment to recognize the fundamental human dignity of our children, and to ensure their well being and healthy development. (The USA and Somalia are the only 2 countries that have not ratified the CRC.)

How does the CRC define a child?

The CRC defines a child as every person under the age of 18, unless under a particular law the age of majority is attained earlier.

To ratify means to approve and sanction formally. Canada ratified the CRC in 1991.

Why do we need the CRC in Canada?

Overall, Canadian laws, policies and practices provide relatively well for children's rights. Nonetheless, many children in Canada live in poverty. Some Canadian children receive inadequate health care and experience poor nutrition, and some are abused or exploited. Also, a substantial number of Canada's refugee and immigrant population are children who are living with the long-term trauma of war or civil conflict. The CRC, then, is a valuable means of emphasizing the continuing need to protect children from conditions that compromise their healthy development, and to provide optimal conditions to ensure their well-being.

The CRC also articulates the need for meaningful participation of children in matters that affect them. Canadian children are given few opportunities for input in decisions that affect them in their families, schools and communities. The CRC encourages meaningful opportunities for youth participation and acknowledges the value of participation as a necessary part of healthy development.

But we have a Charter over Rights in Canada; why do we need something more?

The *Canadian Charter of Rights and Freedoms*, as well as other international human rights treaties and provincial human rights legislation, applies to all adults and in many cases to children. However, these human rights documents and laws do not deal with the rights of children in a clear and systematic way. Nor do they recognize the unique developmental needs of children. The CRC is important as it clearly recognizes children as independent rights-bearing persons and focuses on the specific needs of children for healthy development.



For more information about the status of children's rights in Canada see:

Canada's NGO Report to the UN General Assembly Special Session on Children, www.rightsofchildren.ca

How Does Canada Measure Up? www.rightsofchildren.ca

Covell, K. & R. Brian Howe (2001). *The Challenge of Children's Rights for Canada*. Wilfrid Laurier University Press. ISBN: 0 88920 380 6

Convention on the Rights of the Child: Second Report of Canada. Canadian Heritage, 15 Eddy Street, Hull, Quebec, K1A 0M5; Phone (819) 997-0055

Online version of the United Nations Convention on the Rights of the Child, www.unhchr.ch/html/menu3/b/k2crrc.htm

For a youth-friendly version, Say It Right! The Unconventional Canadian Youth Edition of the United Nations Convention on the Rights of the Child. Available through CCRC, c/o Canadian Institute of Child Health, Suite 300, 384 Bank Street, Ottawa, Ontario, K2P 1Y4.

Does the CRC address responsibilities?

With rights come responsibilities. The CRC outlines the following responsibilities:

- *For governments:* to support families and communities, and to respect and provide for the rights of children through laws, policies and special programs.
- *For parents:* to provide for the rights and best interests of their children.
- *For society:* to respect the rights of children and to support programs that provide for children's rights.
- *For children:* to respect the rights of others. (Studies show that the more children know about their own rights, the more likely they are to respect the rights of others.)

How is the CRC interpreted?

Four principles serve to guide interpretation of the CRC:

1. *The best interests principle.* The CRC requires that the best interests of the child be a primary consideration in all decisions that affect children (*Article 3*).
2. *Non-discrimination.* All children, regardless of their ethnocultural, socioeconomic, or health status must have their rights respected and be protected from any form of discrimination (*Article 2*).
3. *Life, survival and development.* Every child has the inherent right to life, survival and optimum development (*Article 6*).
4. *Participation.* Children must be given the opportunity to express their views and have those views considered in all matters that affect them, in accordance with their evolving capacities (*Articles 12, 13, 14 and 15*).

What does the CRC mean for parents?

The CRC recognizes the fundamental importance of the family to healthy child development (*Preamble*, and *Articles 3, 5, 9, 14 and 18*).

The CRC addresses children's participation. Does this mean we're supposed to let children make all of their own decisions?

No. *Article 12* requires that children be given meaningful and age-appropriate opportunities for participation in matters that affect them. However, this does not mean that children should be given absolute decision-making power. Under the CRC, parents and other adults have the responsibility to engage children as active and valued participants in all decisions that affect them, while providing them with advice and appropriate guidance. Adults can provide age-appropriate opportunities for decision-making by encouraging younger children to participate in everyday decisions (such as whether they would prefer milk or juice with their breakfast). As children mature, their capacity for autonomous decision-making increases and greater independence should be encouraged.

Age-appropriate opportunities for participation are essential to healthy child development. When adults are interested in children's thoughts and respect children's opinions, their self-esteem is affected in a positive manner. Also, when children are guided in making positive decisions, they learn skills necessary to become active and responsible members of society.

Does the CRC require protection of children from abuse?

The CRC requires Canada to take all appropriate legislative, administrative, social and educational measures to protect children from all forms of abuse and neglect (*Articles 19, 32, 33, 34, 36 and 37*). The experience of abuse or neglect has a negative effect on children's physical, mental and emotional well-being which may persist over their lifespan. Recognizing the serious and persistent effects of such experiences, the CRC requires that any child who is a victim of abuse,



For more information about the effects of teaching children about their rights, see the following articles:

Covell, K. & Howe, R.B. (1999). The impact of children's rights education: A Canadian study. *International Journal of Children's Rights*, vol. 7, pp. 171-183.

Covell, K. & Howe, R.B. (2001). Moral education through the 3 Rs: Rights, respect, and responsibility. *Journal of Moral Education*, vol. 30 (1), pp. 31-42.

neglect, exploitation or torture be provided with treatment that will promote both physical and psychological recovery, and social reintegration (*Article 39*).

Are there any special protections for ethnic, religious and linguistic minority groups and for Aboriginal children?

A fundamental principle of the CRC is non-discrimination (*Article 2*). The rights of each child are to be respected. However, there are also special provisions in the CRC for children who are members of indigenous or ethnocultural minority groups. Under *Article 30*, children belonging to any minority or indigenous group have the right to enjoy their own culture, practice their own religion, and use their own language. *Article 31* recognizes the right of children to participate freely in cultural life, and requires governments to encourage the provision of opportunities for participation in cultural activities.

The CRC also provides special protections for Aboriginal and minority children who must be removed from the family. When placing children in alternative care, all efforts should be made to place the child in a culturally similar home (*Article 20*). However, if a culturally appropriate placement is not available, alternative caregivers should guide and encourage children to continue to practice their own culture.

Does the CRC apply to Canadian law?

Canada ratified the UN *Convention on the Rights of the Child* on December 13, 1991. However, upon ratification the articles contained within the CRC did not automatically become part of Canadian law. Ratification of the CRC requires Canada to review domestic laws and practices regarding children and to revise public policy and practice such that the minimum standards set by the CRC are reached over time.

As an international treaty, the CRC is a part of binding international human rights law. As such, Canadian courts have begun to consider the CRC when making decisions affecting children. In addition, Canadian organizations that work with or on behalf of children should use the CRC as a reference point when setting standards. The CRC can serve as an effective tool for child advocates in their work to improve the situation for children.

How has the CRC been used in Canada to defend the rights of children?

The CRC has been used in a number of ways to defend and promote the rights of children in Canada.

- The CRC has been used as an educational tool. For example workshops have been held to inform teachers, child protection workers and police officers about the CRC and the importance of its implementation. Such workshops encourage respect for children's rights, and remind adults of the unique developmental needs of children.
- The CRC has been used effectively as an advocacy tool. For example, child advocates were successful in getting the CRC included in the preamble to the new Youth Criminal Justice Act. This means that the CRC can and should be used by the courts and justice officials when interpreting the Act.
- Recently, the CRC has been used as an interpretive guide in court cases in both the Supreme Court and lower courts of Canada involving children and families. For example, several family court cases have used *Article 3* of the CRC to reinforce the "best interests of the child" standard already present in Canadian law. The CRC has been used in other cases to justify the definition of a youthful offender. Immigration cases have also cited the CRC to prevent the separation of children from their families.



See the following cases for more information on the use of the CRC in Canadian courts:

Young v. Young, [1993] 4 S.C. R. 3. R. v. L. (D.O.), [1993] 4 S.C.R. 419

Francis (Litigation guardian of v. Canada (Minister of Citizenship and Immigration),

- The CRC can be used by each of us to remind governments of their obligations and to encourage them to work towards compliance with the CRC, and to encourage the public to support their efforts.

How is the CRC enforced?

Upon signing the CRC, the Canadian government was required to report its progress to the United Nations Committee on the Rights of the Child. The first report was due two years after ratification, and additional reports are due every five years (*Article 44*). Upon reviewing Canada's reports, the UN Committee makes recommendations for changes in policy and practice, which Canada is expected to consider and to report back on progress in the next report. However, no formal measures exist to enforce the CRC or the Committee's suggestions. The basic method of enforcement is through domestic and international pressure. Groups such as the CCRC support this work through monitoring and reporting on Canada's progress towards meeting these obligations under the CRC (*Article 45*).



What does the CRC say about the rights of young offenders?

The *Preamble* of the CRC recognizes that children, because of their physical and mental immaturity, need special safeguards and care including appropriate legal protection. *Articles 37 & 40* of the CRC recognize rights of general due process for young offenders. The CRC states that children cannot be arrested or imprisoned arbitrarily or unlawfully, and that children cannot be charged for committing acts which are not prohibited by national or international law.

This means that children, like adults, cannot be arrested or held in custody unless they have been charged with committing a crime. If children are charged with committing a crime, they have the right to be informed of the charges against them, to have prompt access to legal assistance, to be presumed innocent, and to not be compelled to give testimony or confess guilt.

Children should be detained or imprisoned only as a measure of last resort, and for the shortest appropriate period of time. While in custody, children have the right to be separated from adult offenders and to maintain contact with their family. If children plead or are found guilty of a crime, they have the right to not be subjected to capital punishment or life imprisonment, to have their decision and sentence reviewed by a higher authority or judicial body, and to have a variety of dispositions available. Throughout all judicial proceedings children have the right to have their privacy fully respected, and to have the free assistance of an interpreter if necessary.

Did You Know...

Rates of youth crime have been steadily decreasing throughout the 1990s. In 1998, youth were charged with Criminal Code offences at a rate of 4,363 per 100,000. This was a drop of 4% since 1997, the seventh consecutive drop in youth crime rates. The proportion of these crimes that were violent offences (20%) fell 1% since 1998, which is the third consecutive decrease in violent youth crime.

Under the Young Offenders Act of the 1980s and 1990s, Canada had a record of youth incarceration that was among the highest in the industrialized world; 10-15 times higher than in many European countries, Australia or New Zealand. In 1999, there were 4000 young people in jail in Canada on any given day – an increase of 26% since 1987.

STOP and Think

The government has faced much criticism for failing to enforce child support orders.

Custodial parents sometimes have extreme difficulty obtaining child support from non-custodial parents, and the public has been demanding that the government intervene with measures such as garnisheeing wages and revoking licenses.

Sometimes custodial parents prevent the non-custodial parent from seeing the child if he or she is not paying child support. In this case, courts can order the custodial parent to allow the child to see the non-custodial parent. However, this is not a criminal offense, so the custodial parent cannot be fined, and the order usually is not enforced. Withholding visitation usually accomplishes the opposite of what is intended. Researchers have found that the less a non-custodial parent sees the child, the less likely he or she is to pay child support. Think about a child involved in this situation.

What rights are violated if the non-custodial parent is refused visitation?

How could this affect the child?

What other actions could be taken to encourage and ensure that non-custodial parents pay child support?

Canada is also required to establish a minimum age below which children are presumed to not have the capacity to break the law. In Canada, the minimum age is currently twelve. Children under twelve who commit offences are treated according to provincial child protection legislation.

Does the CRC say anything about incarcerating young offenders?

Article 40 discourages a focus on punishment. The CRC states that young offenders should be treated in a manner that promotes their reintegration into society. As such, the emphasis of dispositions of young offenders should be on treatment and rehabilitation.

Toward this end, the CRC requires Canada to ensure, where possible, that alternatives to judicial proceedings are used. In cases where judicial proceedings are necessary, a variety of dispositions other than incarceration should be available. These can include supervision orders, counseling, probation, foster care, education and vocational training programs. A primary consideration in determining how the child is dealt with is that the disposition be proportionate to both the child's circumstances and the offense, and be appropriate to the child's well-being.

Holding a child in secure custody may sometimes be necessary. *Article 37* states that every child who is deprived of his or her liberty should be treated in a manner that takes into account the needs of persons his or her age. Children who are incarcerated should be able to maintain contact with family members and parents on a regular basis (*Articles 37 & 9*). They should also be permitted to maintain contact with friends (*Article 15*) and to engage in play, leisure, recreational activities, cultural life and the arts (*Article 31*). Children who belong to a minority group should be able to enjoy their own culture, to practice their own

religion, to use their own language (*Articles 14 & 30*) and to continue their education (*Article 28*).

Children who are incarcerated should be separated from adult offenders (*Article 37*). However, when signing the CRC Canada made a reservation with respect to this point, stating that it cannot always guarantee that children will be detained separately from adults.

Why do children become involved in criminal activity?

Researchers have identified numerous predictors of adolescent offending, such as parental rejection, neglect, abuse and harsh physical punishment. In addition, many young offenders were exposed to prenatal toxins, such as alcohol, nicotine, or other drugs. Exposure to toxins, abuse, rejection and harsh punishment can actually alter the way a child's brain develops, creating non-compliance, aggression, impaired decision-making, and difficulty with impulse control, empathy and rational thought.

This suggests that these are children whose rights have been violated. If *all* children's rights were truly respected, we would have many fewer youth involved with crime. The National Crime Prevention Council of Canada suggests that the most effective way to prevent crime is to ensure healthier children, stronger families, better schools and more cohesive communities. A focus on prevention and early identification programs would do much to lessen juvenile crime.

Children who offend are often victims, and have the right to treatment which promotes their physical and psychological recovery, and their social reintegration (*Article 39*). Canada's new *Youth Criminal Justice Act* is more focused on rehabilitation and reintegration.

STOP and Think

The CRC makes it clear that the treatment of young offenders should focus on rehabilitation and that incarceration should be used as a last resort. The new Youth Criminal Justice Act places greater emphasis on extra-judicial measures like alternative measures programs, consistent with children's rights and the goal of rehabilitation. However, the new Act also allows for expanded use of adult sentences for children as young as 14, and it allows for expanded access to youth records and public identification. A major concern of child advocates and non-governmental organizations is that, despite statistics that show a decrease in youth crime, the new Act attempts to appease public demands for punitiveness and harsher sentences.

What rights does this new Act provide better than the Young Offenders Act?

What rights might be violated by the new Act?

Do you think the new Act will prevent youth crime?

How can the government, non-governmental organizations and police change public perception of young offenders?



FYI

For more information about parenting plans see:

· Covell, K. (1999). Promoting Parenting Plans: A New Role For the Psychologist as Expert in Custody Disputes, in Expert Evidence, vol. 7, pp. 113-126.

· Tompkins, R. (1995). Parenting Plans: A Concept Whose Time Has Come, in Family and Conciliation Courts Review, volume 33 (3), pp. 298-307.

· Divorce and Parenting Consumer Information Pamphlet prepared by the Washington State Bar Association, 2101 Fourth Avenue, Fourth Floor, Seattle, WA, 98121-2330; visit www.wsba.org/com/pamphlets/parenting.html.

For more information on joint custody and access see For the Sake of the Children: Report of the Special Joint Committee on Custody and Access (December 1998) at www.parl.gc.ca/infocomdoc/36/1/sjca/studies/reports/sjcarp02-e.htm.

What does the CRC say about adoption?

Article 21 of the CRC requires that Canada ensure that the best interests of the child is a primary consideration in all adoption proceedings. Adoption in Canada is regulated and authorized by provincial authorities.

However, when Canada signed the CRC it made a reservation with Aboriginal adoptions out of respect for Aboriginal cultural traditions and family practices.

Over the past decade there have been increasing numbers of international adoptions. Children adopted from other countries have the right to the same safeguards as children adopted within Canada.

What does the CRC say about parental separation or divorce?

The CRC recognizes that parents may choose to live separately and must make a decision about their child's place(s) of residence (*Article 9*). In this case, children have the right to maintain personal relations and direct contact on a regular basis with both parents, unless this is not in the child's best interests. Children, then, should not be denied access to a parent unless there is clear evidence that the parent has been neglectful or abusive and that there is a continuing risk of harm to the child.

Children should also be able to have input into decision-making during separation or divorce, and their views should be given due weight based on their age and maturity. *Article 12* recognizes children's right to express their views in all matters that affect them, particularly in judicial and administrative proceedings.

The negative impact of separation or divorce can be lessened when children's views are sought and taken into account. Children's acceptance of and adaptation to custody decisions tend to be less stressful when they have participated in decisions about their custody arrangements. Child advocates have suggested that

lawyers and judges should support the recommendation of the Special Joint Committee on Child Custody and Access that the *Divorce Act* of Canada be amended to require parenting plans.

What does the CRC say about children's participation in judicial proceedings?

Under *Article 12*, children have the right to express their views in all matters that affect them, particularly in judicial and administrative proceedings. Therefore, children should be able to participate, either directly or through a representative, in proceedings such as juvenile justice, adoption, divorce and custody. Canada has done well in providing for children's participation rights in the area of juvenile justice.

Canada has not done as well in providing for children's participation rights in other areas. The UN Committee recommended in 1995 that Canada should take steps to ensure that children have the opportunity to be heard in judicial and administrative proceedings, and that fuller respect be given to the views of the child. In many cases, whether the child's views are heard and to what extent, depend on the discretion of the court. It is important that judges and lawyers try to ensure that the views of the child are taken into account in any proceeding affecting the child. It would be beneficial if there were widespread support for changes to legislation that would provide greater participation of children in legal proceedings.



FYI

For more information on the CRC and its use in Canadian courts, see: Yolles, V. (1998). The United Nations Convention on the Rights of the Child: A practical guide to its use in Canadian courts. Toronto, ON: UNICEF Canada. ISBN #: 092156418X



Some jurisdictions in Canada such as British Columbia provide for open adoption in which children generally can be given information about birth parents. Other jurisdictions have systems of closed adoption in which birth parent information is generally confidential.

Which of these systems do you think is more consistent with the best interests of the child?



Most parents who divorce settle the issue of child custody without court intervention. However, the number of divorces is great enough that the absolute numbers of children involved in custody disputes each year is high – and it is increasing. The number of children caught in custody disputes in Canada increased from 47,000 in 1994 to 60,000 in 1997.

Index to the CRC Articles

Issue	Key Articles
Aboriginal	8, 30, 31
Access to Information	17
Adoption	21
Alternative Care	20
Armed Conflict	38
Best Interests	3
Child Care	3, 18
Children's Rights Education	42
Children with Disabilities	23
Definition of a Child	1
Drugs	33
Economic Exploitation	32
Education	28, 29
Family Upbringing (State Help, Childcare)	18
Family Reunification	10
Freedom of Association and Assembly	15
Freedom of Expression	13
Freedom of Thought, Conscience & Religion	14
Government Responsibility	4
Life, Survival & Development	6
Health	24
Justice	36, 37, 40
Language	30
Minorities (ethnic, religious or linguistic)	30
Name, Nationality & Identity	7, 8
Non-Discrimination	2
Parental Guidance	5, 14
Participation	12
Play & Leisure	31
Privacy	16
Protection from Abuse & Exploitation	19, 32, 34, 36, 37
Recovery & Reintegration	39
Refugee Children	22
Review of Treatment	25
Sale & Traffic of Children	35
Separation from Parents	9, 20, 25
Sexual Exploitation	34
Social Security/Social Insurance	26
Standard of Living	27
Supremacy of Higher Standards	41
Transfer Abroad	11

Children's Rights Quiz

Test your knowledge of the CRC! Read each of the following statements and decide if you think they are true or false. Then turn to page 28 to see how you did!

1. Almost all countries in the world ratified the CRC in the 1990s.
2. The CRC gives children the right to express and have their opinions heard regarding decisions that affect them.
3. When children are in foster care, the CRC requires that all aspects of their placement be reviewed regularly.
4. The CRC indicates that young people should not have to take jobs that leave little time for social activities.
5. The CRC defines children as all persons up to age 16.
6. The CRC requires the provinces to take measures to encourage school attendance and reduce drop-out rates.
7. The CRC is silent on the issue of protecting children from the illicit use of narcotics.
8. Under the CRC, Canada should provide special protection and assistance to children who are seeking refugee status, regardless of their parents' situation.
9. Under the CRC, children who are sick have the right to participate in decisions about their treatment.
10. The CRC says that school discipline should be consistent with the child's dignity.
11. The CRC upholds the family as the fundamental group of society.
12. The CRC is silent on the issue of privacy for children.
13. The CRC does not address the issue of whether a child has rights prior to birth.
14. The CRC allows for traditional practices that may compromise the health of the child, if the practices are an integral part of the family's cultural heritage.

15. Upon ratification, the CRC became part of Canadian law.
16. The CRC says that governments should take measures to ensure there is child care available to those who need it, as long as they are eligible for it.
17. The CRC requires that the Canadian government provide some international assistance.
18. The CRC recognizes the right of the child to have a voice in community decision-making affecting youth.
19. Implementation of the CRC in Canada is the sole responsibility of the federal government.
20. Under the CRC, it is parents, not governments, who are charged with providing an adequate standard of living for their children.
21. The CRC says that in custody disputes, children have the right to have their views heard and taken into account.
22. Under the CRC, Canadian governments should take measures to ensure that children have access to information that promotes their health and well-being.
23. The CRC does not address the issue of religious freedoms for children.
24. The CRC fails to provide for the due process of young offenders.
25. The CRC says that its principles must be made known to those working with children, although not necessarily to children themselves.
26. Under the CRC, custody of juvenile offenders is to be used only as a last resort.
27. The CRC addresses child prostitution, but is silent on the use of children in pornography.
28. Under the CRC, children have the right to be protected from all forms of physical and mental violence.
29. The CRC requires that children who have experienced any form of abuse, neglect, or exploitation be provided with rehabilitative care.

30. The CRC requires that First Nations or minority children be provided with opportunities to practice their own culture but not necessarily their own language.
31. Under the CRC, children have the right to access information via the internet, subject to parental guidance.
32. The CRC does not address the issue of discrimination against children.
33. Under the CRC, children have the right to have their voices heard in the determination of school rules such as dress codes.
34. The CRC recognizes the right of the child to play and leisure.
35. The CRC has been used by the court as an interpretive guide in legal cases.
36. Under the CRC, children with disabilities have the right to education that helps them achieve self-reliance.
37. The CRC obligates Canadian governments to not only provide health care for pregnant women, but also to teach them the advantages of breastfeeding.
38. The CRC recognizes the right of children who are removed from their biological parents to have input into decisions about their placements.
39. The CRC pits children's rights against parental rights.
40. One problem with the CRC is that it does not take into account the evolving capacities of children.

Now turn the page to find out how you did!



Answers

1. True – According to the Office of the United Nations High Commissioner for Human Rights, 191 countries had ratified the CRC by 1997. This means that the CRC has been ratified by all but two countries — the United States of America and Somalia.
2. True – Article 12 states that children who are capable of forming their own views have the right to express those views freely in all matters that affect them. The views of the child are to be given due weight in accordance with the age and maturity of the child.
3. True – Article 25 recognizes the right of any child who has been placed by authorities for purposes of care or protection to a periodic review of their treatment or placement.
4. True – Under the CRC, children are permitted to work. However, Article 32 recognizes the right of the child to be protected from any work that will be harmful to the child’s physical, mental, spiritual, moral, and social development, and work that does not leave time for social activities will hamper many aspects of the child’s development. In addition, such work is a violation of the child’s right to rest, leisure, play, and recreational activities, which is articulated in Article 31.
5. False – Article 1 defines children as every human being below the age of eighteen years, unless domestic law says otherwise.
6. True – Article 28.1(e) say that countries shall take measures to encourage regular attendance at schools and the reduction of drop-out rates. Because education in Canada is under provincial jurisdiction and the provinces have ratified the Convention, this responsibility becomes a provincial one.
7. False – In fact, the CRC has an article that specifically addresses this issue. Article 33 states that countries must take all appropriate measures to protect children from the illicit use of narcotic drugs and psychotropic substances, and to prevent the use of children in the illicit production and trafficking of such substances.
8. True – Under Article 22.1, any child who is a refugee or is seeking refugee status must receive appropriate protection and humanitarian assistance, whether unaccompanied or accompanied by his or her parents or by any other person. In addition, Article 2 obligates countries to ensure the rights of children without discrimination, including discrimination based on the status of the child’s parents.

9. True – As with question 2, Article 12 states that children who are capable of forming their own views have the right to express those views freely in all matters that affect them, which would include treatment decisions.

10. True – Under Article 22.2 school discipline must be administered in a manner consistent with the child’s human dignity and in conformity with the CRC.

11. True – The CRC clearly recognizes the importance of the family. The fifth and sixth paragraphs of the preamble state that the family is the fundamental group of society and the natural environment for the growth and well-being of children, and that the child should grow up in a family environment. Articles 3.2, 5, and 14.2 recognize the rights and duties of parents or legal guardians to protect children and guide children in the exercise of their rights. Article 9 protects children from separation from their parents, unless such separation is in the child’s best interests, and outlines necessary procedures to allow the child to maintain contact with his or her parents in the event of such separation. Finally, Article 18 articulates the importance of both parents having common responsibilities for the child’s upbringing, and that parents or legal guardians have the primary responsibility for the development of the child.

12. False – Article 16 specifically recognizes a child’s right to privacy, stating that no child shall be subjected to arbitrary or unlawful interference with his or her privacy.

13. True – There is some mention in the CRC of the prenatal environment. The ninth paragraph of the preamble states that the child needs special safeguards and care before as well as after birth, and Article 24.2(d) obligates countries to ensure appropriate prenatal health care for mothers.

14. False – Although the CRC does stress the importance of culture, Article 24.3 requires States Parties to take effective and appropriate measures toward abolishing traditional practices that are detrimental to the health of children.

15. False – The CRC is a document of international law, but it does not automatically become part of Canadian law upon ratification. However, Article 4 obligates States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the CRC.

16. True – Article 18.3 says that countries shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

17. True – The CRC promotes international assistance and co-operation in numerous areas. Under Article 4, with regard to economic, social, and cultural rights, States Parties are to undertake implementation measures within the framework of international cooperation. In addition, international cooperation is encouraged in areas such as provision of health care (Article 24.4); elimination of illiteracy (Article 28.3); protection of children from abduction and trafficking (Article 35); exchange of information, particularly concerning preventative health care and the care of disabled children (Article 23.4); protection of children from sexual abuse and exploitation (Article 34); and protection and care of children affected by armed conflict (Article 38.4).

18. True – Article 12 states that children who are capable of forming their own views have the right to express those views freely in all matters that affect them, which would include many community decisions.

19. False – It is clear that Canada's federal government plays a major role in implementing the CRC. For example through providing funding to the provinces/territories, through research on child development and children's rights, and through promoting the CRC. Nonetheless, many of the areas addressed by the CRC fall under provincial or territorial jurisdiction. Implementation, then, is a joint responsibility of both levels of government.

20. False – In Articles 3.2, 18.1, and 27.2 the responsibility of parents to provide an adequate standard of living for their children is recognized. However, the CRC also recognizes that parents may need assistance to provide for their children's needs. Article 18.2 obligates countries to provide assistance to parents and legal guardians in the performance of the child-rearing responsibilities, and Article 27.3 specifies that this assistance should come in the form of material assistance and support programs, particularly with regard to nutrition, clothing and housing.

21. True – Article 12 states that children who are capable of forming their own views have the right to express those views freely in all matters that affect them, which would include custody decisions. Article 12.2 also makes specific mention of the child having the opportunity to be heard particularly in judicial and administrative procedures.

22. True – Article 13 articulates the child's basic right to freedom of expression, which includes the freedom to seek, receive, and impart information and ideas of all kinds. In addition, Article 17 and Article 24.2(e) also make specific mention of the child's right to access information aimed at the promotion of social, spiritual and moral well-being and physical and mental health, particularly concerning topics such as child health and nutrition, hygiene, and the prevention of accidents (injuries).

23. False – Under Article 14.1, the child has the right to freedom of thought, conscience, and religion. However, as stated by Article 14.2, parents and legal guardians should provide direction to the child in the exercise of this right, and this should be done in a manner consistent with the child's evolving capacities.

24. False – Articles 37 and 40 address issues that would apply to children in contact with the law. In general, these articles state that all children have the right to be treated with humanity and respect, and to be protected from all forms of torture, capital punishment, life imprisonment, and arbitrary or unlawful deprivation of liberty. Also, all children accused of crimes have the right to be informed promptly of the charges, to receive legal assistance, and to be presumed innocent until proven guilty in a prompt and fair trial.

25. False – Article 42 states that the principles and provisions of the CRC are to be made widely known, by appropriate and active means, to adults and children alike.

26. True – Article 37(b) states that the arrest, detention or imprisonment of a child should be used only as a measure of last resort and for the shortest appropriate period of time.

27. False – Article 34 obligates States Parties to take all appropriate measures to prevent the use of children in pornographic performances and materials, and to protect children from other forms of sexual abuse.

28. True – Under Article 19.1, States Parties must take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence.

29. True – Article 39 obligates States Parties to take appropriate measures to promote physical and psychological recovery and social reintegration of child victims in an environment that fosters the health, self-respect, and dignity of the child.

30. False – Article 30 states that children of ethnic, religious or linguistic minority and indigenous children have the right to use their own language, in addition to the right to enjoy their own culture, and to profess and practice their own religion.

31. True – Article 13 articulates the child’s general right to seek, receive, and impart information through any media of the child’s choice, and Article 17 obligates States Parties to ensure that the child has access to information and material from a diversity of sources. However, Article 17(e) encourages the development of appropriate guidelines to protect the child from information and material that will harm his or her well-being, and Article 5 articulates the parents’ responsibilities to provide the child with direction and guidance in exercising his or her rights, in accordance with the child’s evolving capacities.

32. False – Article 2 states that the rights in the CRC are to be provided for all children without discrimination and requires States Parties to take appropriate measures to protect the child against all forms of discrimination.

33. True – Article 12 states that children who are capable of forming their own views have the right to express those views freely in all matters that affect them, which would include school rules.

34. True – Article 31 recognizes children’s right to rest, leisure, play, recreational activities, cultural life, and the arts. Article 31.2 also asks States Parties to encourage the provision of appropriate and equal opportunities for such activities.

35. True – There has been increasing use of the CRC in both the Supreme Court and lower courts to interpret or supplement Canadian law.

36. True – Under Article 23.3, children with disabilities should have access to education, training, health care, rehabilitation, preparation for employment and recreation opportunities in a manner which allows the child to achieve social integration and individual development to the fullest extent possible. In addition, Article 23.1 recognizes the right of children with disabilities to enjoy a full life in conditions that promote self-reliance and facilitate the child’s active participation in the community.

37. True – Article 24.2(e) obligates States Parties to take all appropriate measures to ensure that all segments of society, in particular parents, are informed of and have access to education about the advantages of breastfeeding, and are supported in the use of breastfeeding.

38. True – Article 12 states that children who are capable of forming their own views have the right to express those views freely in all matters that affect them, which would include placement decisions. Article 12.2 also makes specific mention of the child having the opportunity to be heard in judicial and administrative procedures. In addition, Article 9.2 states that, when children are separated from their parents, all interested parties (which would include the child) should have the opportunity to participate in the proceedings and to have their views known.

39. False – Although the CRC focuses on the rights of children, it also recognizes the fundamental importance of the family to healthy child development and addresses the responsibilities of parents to provide for the rights and best interests of their children.

40. False – Article 5 articulates parents’ responsibilities to provide the child with direction and guidance in exercising his or her rights, in accordance with the child’s evolving capacities. Article 12.1 and Article 14.2 also reiterate this principle.

Bibliography

The following publications were useful resources used in the preparation of this booklet:

Canadian Coalition for the Rights of Children (1999). *The UN Convention on the Rights of the Child: How Does Canada Measure Up?* Ottawa, ON: Canadian Coalition for the Rights of Children.

Canadian Coalition for the Rights of Children (2001). *Canada's Non-Governmental Organizations Report*. Ottawa, ON: Canadian Coalition for the Rights of Children.

Canadian Institute of Child Health (2000). *The Health of Canada's Children—Third edition*. Ottawa, ON: Canadian Institute of Child Health.

Covell, K. & Howe, B. (2001). *The Challenge of Children's Rights for Canada*. Waterloo, ON: Wilfrid Laurier University Press.

Society For Children and Youth of British Columbia (1999). *Making Space for Children: Re-thinking and Re-creating Children's Play Environments*. Vancouver, BC: Society for Children and Youth of British Columbia.

UNICEF. *Convention on Children's Rights: A Summary*. Toronto, ON: UNICEF Canada

Board of Directors 2002, CCRC

Sandra Griffin (President)
Canadian Child Care Federation
201-383 Parkdale Avenue
Ottawa ON K1Y 4R4
(613) 729-5289 x229
Fax: (613) 729-3159
sgriffin@cfc-efc.ca

Dawn Walker (Secretary)
Canadian Institute of Child Health
384 Bank Street Suite 300
Ottawa ON K2P 1Y4
(613) 230-8838 x229
fax: (613) 230 6654
dwalker@cich.ca

Robin Acton
Canadian Association for Community
Living
PO Box 1801
Lloydminster SK S9V 1M6
(780) 875-9355
Actonjr@sk.sympatico.ca

Kate MacDonald
Breakfast for Learning
Canadian Living Foundation
49 E Ontario Street
Ottawa ON K1K 1L1
1 800 627-7922 x4217

John Popiel
Operations Manger
Christian Children's Fund of Canada
1027 McNicoll Avenue
Toronto ON M1W 3X2
(416) 495-1174
Fax: (416) 495-9395
jpopiel@ccfcanada.ca

Erin Smith
Save the Children
323 Chapel
Ottawa ON K1N 7Z2
(613) 233-6511
erincita2@hotmail.com

Valerie Fronczek (Vice President)
Society for Children and Youth of BC
1409 Sperling Avenue
Burnaby BC V5B 4J8
(604) 433-4180
Fax: (604) 433-9611
scy@portal.ca

Lisa Wolff (Treasurer)
UNICEF Canada
Canada Square 2200 Yonge Street
Suite 1100 Toronto ON M4S 2C6
(416) 482-4444
Fax: (416) 482-8035
lwolff@unicef.ca

Dr. Katherine Covell (principal investigator)
Director, Children's Rights Centre
PO Box 5300
Sydney NS B1P 6L2
(902) 563-1413
Fax: (902) 562-0119
Kcovell@ucsb.ns.ca

Special Advisors

Dr. Philip Cook
ICRD, Centre for Global Studies
University of Victoria PO Box 1700
Vancouver BC V8W 2Y2
Fax: (250) 472-4830
pcook@uvic.ca

Brent Parfitt
Deputy Ombudsman
PO Box 9039 Stn Prov Govt
931 Fort Street
Victoria BC V8W 9A5
Fax: (250) 387-0198
bparfitt@ombudsman.bc.ca