

EDUCATION IN THE SPIRIT OF CHILDREN'S RIGHTS: FROM LEGAL PRINCIPLES TO EDUCATIONAL IMPLICATIONS

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Abstract: *The United Nations Convention on the Rights of the Child (1989) constitutes a fundamental milestone in the consolidation of the international legal framework for the protection and promotion of children's rights, exerting a direct influence on the educational and social policies of the signatory states. The document enshrines four essential guiding principles—non-discrimination, the best interests of the child, the right to life and development, and respect for the views of the child—which underpin child-centered educational approaches. Despite legislative and institutional advancements, significant challenges persist, such as violence against children, inequality, and exploitation in conflict settings. This paper aims to provide a theoretical analysis that highlights the importance of a rights-based education as a means of prevention and empowerment, with a view to ensuring an environment conducive to the comprehensive development of the child.*

Keywords: *children's rights, educational approaches, legal framework, protection.*

Introduction

In contemporary society, it is widely acknowledged that every child is born with the inalienable right to a healthy start in life, to education, and to a safe and protected childhood—fundamental elements that contribute to the development of an active and thriving adult.

Adopted on November 20, 1989, by the United Nations General Assembly, the Convention on the Rights of the Child (CRC) represents a watershed moment in the history of human rights protection. It marked the first time the international community collectively and legally recognized that every child is a holder of inalienable rights, rather than merely an object of protection or charity.

The member states of the United Nations first collectively acknowledged children's rights in the Universal Declaration of Human

Rights, a non-binding resolution adopted by the General Assembly in 1948. The Declaration asserts: *“Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”*

This recognition was further expanded through the unanimous adoption of the Declaration of the Rights of the Child in 1959, which called upon governments, families, and individuals to ensure certain entitlements for children, including adequate legal protection, the right to a name and nationality, access to healthcare, and protection from abuse and exploitation.

The international community also affirmed the special rights of children through the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both of which entered into force in 1976.

The idea for a dedicated Convention on the Rights of the Child was first proposed by the Polish government in 1978, within the context of planning for the International Year of the Child (1979). Over the next decade, a working group under the United Nations Commission on Human Rights (now the Human Rights Council) drafted the text of the Convention. It was formally adopted by the UN General Assembly on 20 November 1989 and entered into force on 2 September 1990.

The United Nations Convention on the Rights of the Child: International Scope and Effects

The Convention defines a child as *“every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”*

The Convention affirms that the best interests of the child must be the primary consideration in all actions concerning children. State Parties undertake to adopt all necessary legislative, administrative, and other measures to ensure children's rights, including: the right to life and development; the right to a name, nationality, and parental care; the right to health and access to medical services; the right to education; protection against abuse, neglect, economic and sexual exploitation; freedom of expression, religion, association, and peaceful assembly; and the prohibition of capital punishment for offences committed before the age of eighteen.

According to the Council of Europe, the Convention provides special protections for orphans, refugees, and children with disabilities. Article 5 acknowledges the role of parents, stating that States Parties shall respect the responsibilities, rights, and duties of parents to provide appropriate direction and guidance.

The Convention includes two Optional Protocols:

- The Optional Protocol on the Involvement of Children in Armed Conflict, which limits the recruitment of minors and mandates the rehabilitation of children involved in hostilities (in force since 12 February 2002);
- The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, which requires the criminalization of such acts and the confiscation of proceeds (in force since 18 January 2002).

Established under Article 43 of the Convention, the Committee on the Rights of the Child consists of 18 independent experts elected for four-year terms. The Committee meets three times a year in Geneva, examines State Parties' reports on the implementation of the Convention, requests additional information, and issues concluding observations. It also adopts general comments to assist States in applying the Convention. States Parties are required to submit an initial report two years after ratification, followed by periodic reports every five years.

Over two decades ago, the international community united to condemn and act against the use of children in armed conflict. Since then, thousands of children have been released through Action Plans mandated by the UN Security Council and other initiatives aimed at ending the recruitment and use of children by armed forces. However, serious challenges persist in protecting children affected by armed conflict. According to the United Nations, in 2023, violence against children in armed conflict reached extreme levels, with a shocking 21% increase in grave violations. There was an unprecedented 35% rise in killings and maimings of children, driven by devastating crises in Israel and the Occupied Palestinian Territories (particularly Gaza), Burkina Faso, the Democratic Republic of the Congo, Myanmar, Somalia, Sudan, Syria, and Ukraine, among others. Recruitment and use of children by armed forces remain among the most widespread grave violations of children's rights during conflicts. In 2023, 8,655 children were reported to have been recruited and used by parties to conflict. While boys are disproportionately affected, girls are also at risk, often facing forced marriage or sexual exploitation. Children with disabilities face additional dangers, necessitating inclusive protection measures. Regardless of their role, children involved in armed conflict are subjected to unimaginable cruelty, with severe consequences for their physical and mental well-being. Since the establishment of the Children and Armed Conflict mandate 29 years ago, more than 200,000 children have been released from armed forces and groups, including through UN efforts.

The right of children to protection from violence is enshrined in the Convention on the Rights of the Child. Nevertheless, according to data provided by Amnesty International, one billion children experience some form of emotional, physical, or sexual violence each year, and one child dies from violence every seven minutes.

Violence against children transcends cultural, social, and educational boundaries. It occurs in institutions, schools, and homes. Peer-to-peer violence—particularly bullying and cyberbullying—has become a significant concern. Children exposed to violence often live in isolation, loneliness, and fear, unsure where to seek help, especially when the perpetrator is a close relation. Factors such as gender, disability, poverty, nationality, or religious background increase the risk of violence, with the youngest children being especially vulnerable due to limited means of expression and help-seeking.

In 2006, the UN issued a set of recommendations to end violence against children. Since then, notable progress has been made, including the enactment of laws in many countries prohibiting physical, psychological, and sexual violence, and offering support to victims; the implementation of awareness campaigns highlighting the harmful impact of violence; and efforts to combat bullying, sexual violence, and harmful practices. The inclusion of a dedicated target (16.2) within the 2030 Agenda for Sustainable Development further signals global commitment to ending all forms of violence against children.

For 15 years, the Millennium Development Goals (MDGs) served as a crucial framework for addressing numerous issues affecting children, youth, and their families. Significant progress was achieved in reducing preventable child deaths, increasing school enrollment, reducing extreme poverty, and expanding access to clean water and nutrition. However, progress was uneven, and many of the world's most pressing challenges—such as inequality, inclusive economic growth, child protection, and climate change—remained inadequately addressed.

With the adoption of the Sustainable Development Goals (SDGs) in September 2015, world leaders pledged to end poverty by 2030. However, as reported by Save the Children (2020), without significantly intensified efforts, this goal will be difficult to achieve. Children are more than twice as likely as adults to live in extreme poverty—with nearly 90% residing in Sub-Saharan Africa and South Asia—more likely to remain out of school, and more likely to be subjected to child labor. These inequalities and risks not only violate children's rights and jeopardize their future, but also perpetuate intergenerational cycles of disadvantage and inequality, undermining the stability of societies and the security of nations.

The year 1990 was historic for the United Nations and its commitment to children's well-being, with the organization of the first World Summit for Children in New York. Convened by UNICEF, the summit brought together an unprecedented number of heads of state to support the cause of children and adopt the Declaration on the Survival, Protection and Development of Children.

Five years later, at the Fourth World Conference on Women held in Beijing, China, world leaders renewed their commitments to the rights of women and girls. In 2002, a special session of the United Nations General Assembly, the first ever dedicated exclusively to children, reviewed progress towards the goals set in 1990.

From the focus on education by the United Nations Educational, Scientific and Cultural Organization (UNESCO), to the International Labour Organization (ILO)'s work on eliminating child labor, from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)'s programs for children and youth, to school feeding and health initiatives supported by the World Food Programme (WFP), and the disease-eradication campaigns of the World Health Organization (WHO), the UN system remains deeply committed to supporting children worldwide.

General Principles Governing the Protection and Promotion of the Rights of the Child

The Convention establishes a comprehensive framework of principles and norms intended to guide all actions concerning children—from governmental policies and national legislation to individual attitudes and behaviors within the family, school, and broader society. Among the full spectrum of rights enshrined in the Convention, four fundamental principles emerge as essential guiding lines designed to ensure the coherence, applicability, and accurate interpretation of all its provisions:

- The principle of non-discrimination and equal opportunities (Article 2);
- The principle of the best interests of the child (Article 3);
- The right to life, survival, and development (Article 6);
- The principle of respect for the views of the child (Article 12).

These four principles reflect a profound vision of the child's dignity, autonomy, and need for age-appropriate and developmentally appropriate protection. They are universally applicable to all children, irrespective of race, religion, gender, social status, or any other characteristic, and seek to place the child at the center of political, social, and legal concerns. The importance of these principles lies not

only in their function as minimum standards for the treatment of children but also in their role in guiding the practical application of individual rights. Without adherence to these principles, children's rights would remain theoretical, lacking tangible impact in everyday life.

Given their foundational role, each of these four principles warrants close examination. The following sections will explore the meaning of each principle, its significance in the protection of children's rights, and the ways in which it shapes the interpretation and implementation of all other provisions of the Convention.

3.1. *The Right to Life, Survival, and Development*

The right to life is a fundamental right from which all other individual rights derive. According to the European Court of Human Rights (2022), the right to life enshrined in Article 6 of the Convention on the Rights of the Child (CRC) is considered the foundation of all other rights of the child, as without life, survival, and an adequate framework for development, no other rights could be effectively implemented. This right extends beyond the mere protection of the child's physical existence; it also encompasses the assurance of an environment conducive to the child's optimal development, enabling the full realization of their human potential.

Article 6 of the CRC states that "States Parties recognize that every child has the inherent right to life" and that "States Parties shall ensure to the maximum extent possible the survival and development of the child." This highlights the essence of the obligations assumed by the signatory states, compelling them to adopt measures to protect and promote life, ensure children's survival in safe conditions, and facilitate their physical, intellectual, emotional, and social development. The notion of "life" in this context goes beyond mere biological existence and includes the right to a life free from violence and discrimination, in which the child has access to the necessary resources for healthy growth. "Survival" refers not only to the prevention of premature death, but also to proactive measures to reduce child mortality and promote a healthy environment. "Development," in turn, includes access to education, economic opportunities, and protection from exploitation and abuse.

States that have signed and ratified the CRC are therefore obliged to adopt both legislative and administrative measures to protect the right to life, survival, and development of all children. These obligations fall into two main categories: negative obligations and positive obligations. Negative obligations refer to prohibitions that prevent states from endangering the life of the child. For example, protecting minors from capital punishment, prohibiting torture and inhuman or degrading

treatment are clear obligations to be respected by all state parties. Additionally, states must take action to prevent and combat child sexual abuse and exploitation, ensure protection during armed conflicts, and adopt laws prohibiting forced child labour.

Positive obligations focus on the implementation of active policies to guarantee the right to life and development. These include measures to reduce infant mortality through access to healthcare services, the implementation of nutrition and vaccination programmes, the promotion of free and accessible education, and the development of legal frameworks to shield children from any form of economic or social exploitation. Moreover, states must adopt targeted policies to address the needs of children in vulnerable situations, such as refugee children or those with disabilities.

Despite significant progress in the field of child rights protection, the effective implementation of the right to life, survival, and development continues to face serious challenges. In conflict zones, children are often victims of violence, forced recruitment, and exploitation. According to recent reports of the European Parliament (2024), the conflicts in Syria, Ukraine, and other regions have severely affected children, exposing them not only to physical risks but also to deep psychological trauma. In such contexts, ensuring survival and development is extremely difficult, and protection measures are not always applied at scale.

On another level, the gap between developed and developing countries affects the capacity to implement measures aimed at securing the right to life, survival, and development. In Sub-Saharan Africa and South Asia, child mortality rates remain alarmingly high, and access to quality education and healthcare is limited. In these regions, poor living conditions, armed conflict, and lack of infrastructure continue to sustain these inequalities.

Climate change also significantly impacts the future of children worldwide. Extreme weather events—such as droughts, floods, and hurricanes—disproportionately affect children, who are not only more vulnerable to their immediate effects but also to long-term consequences on health, education, and food security.

The right to life, survival, and development is not limited to biological survival but implies the assurance of a holistic development that responds to the full spectrum of a child's needs—physical, emotional, intellectual, and social. The development of the child must be regarded as a comprehensive process that includes quality education, protection from abuse and exploitation, access to healthcare services, and a secure family and social environment.

In conclusion, the right to life, survival, and development, as codified in Article 6 of the CRC, constitutes an essential foundation for the entire architecture of children's rights. This right guarantees not only protection against premature death but also the provision of a framework in which children can grow and thrive in a holistic and dignified manner.

3.2. *The Principle of the Best Interests of the Child*

The principle of the best interests of the child represents one of the essential foundations of the Convention on the Rights of the Child (CRC). Article 3 stipulates that "*in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.*" This principle reflects the global commitment to protecting and promoting children's fundamental rights in accordance with their specific developmental needs and conditions.

The overall purpose of determining and assessing the best interests of the child is to ensure the full and effective exercise of all rights recognized by the United Nations Convention on the Rights of the Child (UNCRC) and the child's comprehensive development. According to the Committee on the Rights of the Child, the concept of the best interests is dynamic and includes three elements (Lievens, E., 2023):

- A substantive right, whereby the best interests of the child are evaluated and prioritized when decisions or measures affecting children are made;
- A fundamental legal interpretative principle, whereby the interpretation that most effectively serves the child's interests is chosen;
- A procedural rule, whereby the decision-making process must include an assessment of the possible effects (positive or negative) of the decision on the child or children involved.

All decisions and actions that directly or indirectly affect children must take into account the best interests of the child. States are required to conduct such an assessment of the child's interests when adopting legislation related to the rights of this age group. Private actors, companies, or non-governmental organizations must do the same when making decisions regarding products and services used by children.

Taking into account the best interests of the child involves balancing the interests of all parties involved. For example, the interests of an online service provider must be weighed against those of children, with the child's interests taking precedence, as the Committee on the Rights

of the Child emphasizes that “greater weight must be given to what serves the child best.” However, the evaluation of the best interests is flexible and must consider the specific circumstances, needs, and diversity of the particular group of children or children in general. For instance, it includes consideration of the child’s safety and protection from violence and exploitation and requires the assessment of future risks and harms. Furthermore, decisions concerning children must be motivated, justified, and explained. When conducting a best interests assessment, it is essential to involve children and listen to their views. Depending on the decision or action in question, organizations should engage with the individual child or consult a representative sample of children, taking into account their evolving capacities.

Several challenges may arise when trying to identify and prioritize the best interests of the child. These challenges include conflicts between the interests of different parties involved, difficulties in realistically assessing the impact of a decision on a child, as well as the lack of clear mechanisms for implementing and monitoring this principle. Additionally, in many situations, the best interests of the child may conflict with other fundamental principles, such as respecting parental rights or the economic and political considerations of the state.

Thus, the principle of the best interests of the child constitutes a fundamental pillar of the CRC and an indispensable guide for any decision involving children. It requires that every action or measure affecting them be guided by clear reasoning that places the child’s well-being first. Although the application of this principle can be complex, its importance cannot be underestimated, as it is essential for the protection of children’s rights and for promoting their healthy and balanced development.

3.3. The Principle of Equality of Opportunity and Non Discrimination

Equality and non-discrimination constitute fundamental values of human rights, acquiring an even greater significance in the context of child protection. Article 2 of the Convention on the Rights of the Child (CRC), adopted by the United Nations General Assembly on November 20, 1989, mandates that States Parties ensure that all rights set forth in the Convention apply to every child without discrimination of any kind. The CRC is the first international treaty to provide comprehensive and specific legal protection for children, and the principle of non-discrimination is one of its four guiding principles, alongside the best interests of the child (Art. 3), the right to life, survival, and development (Art. 6), and respect for the child’s views (Art. 12) (UNICEF, 2021).

Specifically, Article 2 of the CRC states: “*States Parties undertake to respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or their parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*” This wording provides a broad and comprehensive framework of protection, prohibiting both direct and indirect discrimination and reaffirming the obligation of States to guarantee equal rights to all children.

In practice, discrimination against children can take various forms:

- Direct discrimination, when children are explicitly treated differently (e.g., unequal access to education for girls in certain regions);
- Indirect discrimination, when seemingly neutral rules have adverse effects on specific groups of children (e.g., school regulations that do not consider the needs of children with disabilities);
- Systemic discrimination, often embedded in cultural or institutional structures (e.g., marginalization of Roma or refugee children).

These forms of discrimination affect not only access to services but also children’s sense of belonging and dignity, influencing their psychosocial development.

Equality of opportunity and non-discrimination are essential for the effective exercise of all other rights enshrined in the CRC. Without adherence to this principle, a child risks exclusion or marginalization due to factors beyond their control—such as gender, ethnicity, disability, family economic status, or place of birth (Save the Children, 2020).

The UN Committee on the Rights of the Child has consistently emphasized that the principle of non-discrimination entails not only equal treatment but also equitable treatment, recognizing the need for special measures to support children in vulnerable situations (UN Committee, General Comment No. 5, 2003). Thus, equality means not only the absence of discrimination but also equal access to opportunities and effective protection of rights.

One of the most visible areas for applying the principle of non-discrimination is education. Children from minority groups, Roma children, children with disabilities, or those from impoverished families are often excluded or have limited access to quality education. Article 28 of the CRC must be interpreted in close connection with Article 2 to ensure that the right to education is fulfilled without discrimination. Discrimination also affects access to healthcare for

children living in rural areas, refugees, migrants, or ethnic minorities. States have the obligation to provide culturally and linguistically appropriate services and to eliminate administrative and economic barriers. Article 23 of the CRC explicitly recognizes the need for additional support for children with disabilities. Non-discrimination in this context means not only integration but full inclusion in social, educational, and cultural life.

Although the principle of non-discrimination is firmly established in international law, its implementation often remains inadequate. Major causes include: lack of political will; discriminatory cultural attitudes (e.g., towards girls or minority children); insufficient statistical data to monitor inequalities effectively; and underfunding of public services in disadvantaged areas. Additionally, global crises such as the COVID-19 pandemic, mass migrations, and armed conflicts have exacerbated existing disparities, disproportionately affecting vulnerable children.

Article 2 of the CRC provides the normative framework by which equality of opportunity and the prohibition of discrimination become concrete obligations for States. Applying this principle requires more than eliminating unequal treatment; it involves adopting proactive measures to address historical or systemic disadvantages. Respecting non-discrimination is an indispensable condition for the full realization of all other rights and for building an equitable society in which every child, regardless of identity or circumstances, is valued, protected, and supported.

3.4. The Principle of Listening to and Respecting the Child's Opinion

Another fundamental principle enshrined in the CRC is the child's right to freely express their opinion in all matters affecting them and to be duly heard, as stipulated in Article 12 of the Convention. This principle reflects a paradigm shift in the perception of the child—not only as a beneficiary of protection but also as a rights-holder capable of active participation in society.

Article 12 contains two essential paragraphs: “States Parties shall assure to the child who is capable of forming their 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”; and “To this end, the child shall 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.”

An analysis of this article reveals two fundamental dimensions: the child's right to be heard, and the obligation of adults and authorities to take the expressed views into consideration.

Article 12 is often regarded as the "cornerstone of child participation" (Lansdown, 2005), emphasizing that participation is not a privilege but a universal right. Being heard involves not merely a formal act but an active recognition of the child as a participant in the decision-making processes affecting them. The UN Committee on the Rights of the Child, in General Comment No. 12 (2009), stresses that the implementation of Article 12 requires a change of mindset among adults: the child is no longer a passive object of protection but an active agent with their own voice, experience, and judgment.

In the educational system, respecting the child's opinion involves promoting dialogue and active participation within schools, either through consultative bodies (e.g., student councils) or involvement in classroom-level decision-making. Active participation contributes to the development of self-confidence, civic spirit, and responsibility (Hart, 1992).

In the legal domain, Article 12 is essential in cases concerning custody, guardianship, adoption, or special protective measures. Modern legislation mandates that minors be heard in an appropriate setting, respecting the best interests of the child (UNICEF, 2007).

Listening to the child's opinion does not imply granting absolute decision-making power but integrating the child's reasoning into family decision-making processes. It is crucial that parents balance the need for protection with the promotion of autonomy (Lansdown, 2011).

The effective implementation of Article 12 faces several obstacles, such as traditional cultural attitudes that perceive children as "unprepared" or "unimportant"; lack of training among professionals (educators, judges, social workers) in hearing and assessing children's views; and the risk of manipulation or undue influence of the child's opinion by adults.

Article 12 of the CRC highlights the recognition of the child as a social actor. Effective application of this right requires not only legal will but also cultural and institutional change. Respecting the child's opinion contributes to strengthening democracy, equity, and an inclusive society, with this article representing a pivotal paradigm in children's rights by transforming the child from a passive beneficiary into an active social participant.

Conclusion

The United Nations Convention on the Rights of the Child, adopted in 1989, marks a pivotal moment in the recognition of children as holders of inalienable rights, rather than merely as beneficiaries of protection. The document establishes international standards concerning children's survival, development, protection, and participation, significantly influencing national legislations and educational policies. Although substantial progress has been made, issues such as violence against children, social inequality, and the involvement of minors in armed conflicts remain serious challenges. The Convention promotes four fundamental principles: non-discrimination, the best interests of the child, the right to life and development, and respect for the child's views. These principles guide international efforts to build a more equitable and safer world for children.

The fundamental principles enshrined in the UN Convention on the Rights of the Child—namely the best interests of the child, non-discrimination and equal opportunities, and respect for the child's views—constitute the cornerstone of modern child rights protection. These principles ensure that children are recognized not only as vulnerable individuals requiring protection but also as active rights holders with their own voices and agency.

The principle of the best interests of the child demands that all decisions and actions affecting children prioritize their welfare and holistic development, acknowledging their evolving capacities and specific needs. This requires careful, context-sensitive assessments and inclusive processes that engage children meaningfully.

Equally, the principle of non-discrimination emphasizes that all children must have equal access to rights and opportunities, regardless of their background, identity, or circumstances. This goes beyond formal equality to include proactive measures to address historical and systemic disadvantages, ensuring that vulnerable and marginalized children are fully included in social, educational, and cultural life.

Finally, the right of the child to be heard and to have their opinions taken seriously fosters a paradigm shift from viewing children as passive recipients of care to recognizing them as active participants in decisions affecting their lives. This participation strengthens democratic values, social justice, and respect for human dignity.

Despite notable progress, challenges remain in fully implementing these principles at national and global levels, due to cultural attitudes, resource constraints, and complex social realities. Continued efforts are required to translate the Convention's commitments into effective policies and practices that uphold children's rights in all spheres of life.

In sum, these principles provide an indispensable framework for safeguarding children's rights and promoting their well-being, development, and participation, ultimately contributing to a more just and inclusive society.

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