

Questions and Answers on the UN Convention on the Rights of the Child (UNCRC)

What is the UNCRC?

In 1989 the United Nations General Assembly adopted the Convention on the Rights of the Child in recognition of the specific rights and vulnerabilities of children and to promote greater protection of children around the world. Ireland, which ratified the Convention in 1992, is among 193 States that have ratified the Convention. In doing so, Ireland committed itself to promote, protect and fulfil the rights of children as outlined in the articles of the Convention.

With just the US, Somalia and South Sudan yet to ratify the Convention, it is the most widely-accepted human rights treaty in the world. Every five years, the progress of each State in implementing the Convention is examined by the UN Committee on the Rights of the Child.

Why do we need the UNCRC?

The Convention provides benchmarks or signposts that help States make better decisions and achieve more successful outcomes for children and their families. There are four principles which underpin the implementation of all other rights contained in the Convention:

- Protection against discrimination (Article 2) – which includes discrimination against a child on the basis of the child's parentage
- The best interests of the child (Article 3) – the State is required to ensure that in all matters affecting a child, the best interests of that child are a primary consideration
- The right to survival and development (Article 6) – the State is required to ensure the child's survival and development to the greatest extent possible
- Listening to the child (Article 12) – that in decisions affecting them, the views of the child are considered
- Other key rights contained in the Convention include the rights to:
 - protection from abuse and neglect (Article 19)
 - health and health services (Article 24)
 - be adopted (Article 21)
 - to live free from poverty (Article 27)
 - education (Article 28 and 29)
 - play, rest and leisure (Article 31)

How is the child defined in the UNCRC?

The UNCRC defines the child as a person under 18 years of age.

Is the role of parents and the family protected under the UNCRC?

Parents and families are central to a child's life. The rights of parents and children are inextricably linked. In most cases, a child's rights are vindicated by his or her parents. A children's rights perspective recognises that children are individuals and are not the property or possession of an adult.

The UN Convention on the Rights of the Child clearly sets out the importance of relationship between children's rights and the child's family. The Convention:

- explicitly recognises the family as the "fundamental group of society and the natural environment for the growth and wellbeing of...children" (Preamble)
- acknowledges that parents have the "primary responsibility" for their child's upbringing and development (Article 18)
- affirms that the family itself requires protection and assistance to fulfil its responsibilities and places a duty on States to support parents in rearing their children (Article 18)
- states that children have a right to know and be cared for by their parents (Article 7)
- explicitly discourages the separation of children from their families (Article 9)
- provides that where children are separated from their parents, the State has an obligation to try to ensure contact between them is maintained in accordance with the best interests of the child (Article 9.3)
- provides for the principle of evolving capacity which means that the State must respect the rights of parents to exercise the rights of young children on their behalf and that this responsibility is gradually transferred to the child as their capacity develops. It also provides for parents to guide their children in the exercise of their rights (Article 5)

Article 12 says that children have the right to express their views in all matters affecting them. Does this mean that children can now tell their parents what to do?

No. The intention of Article 12 is to encourage adults to listen to the opinions of children and involve them in decision-making. It gives a participatory rather than a decision-making role in matters affecting them. This is to be given due weight that is appropriate to the child's age and maturity. The UNCRC encourages parents, judges, social workers, childcare workers and other adults responsible for children to consider the child's view and to use that information to make decisions that will be in the child's best interests.

Does the UNCRC raise issues that children are too young to understand?

The interest of children in rights issues and the way in which parents handle these issues, will vary according to the age of the child. Helping children understand their rights does not mean pushing them to make choices with consequences they are too young to appreciate or understand. The UNCRC encourages parents to deal with rights issues with their children "... in a manner consistent with the evolving capacities of the child ..." (Article 5). The issues which are discussed, the way parents answer questions or the methods of discipline they use, will differ depending on the age of the child.

Does the UNCRC replace the laws in a particular country?

When countries ratify the UNCRC, they agree to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the UNCRC. This implies assessing their social services, legal, health and educational systems, as well as funding for these services to ensure that they are in line with the provisions of the Convention. Governments are then obliged to take all the necessary steps to ensure that the minimum standards set by the UNCRC in these areas are being met. This may involve changing existing laws or creating new ones. Such legislative changes are not imposed from outside, but come about through the same process by which any law is created or reformed within a country. When Ireland committed itself to the UNCRC, it voluntarily undertook a binding obligation under international law to ensure that the terms of the treaty would be honoured. This means ensuring that all the rights guaranteed are accorded to all persons within the State to which the treaty applies. Article 41 of the UNCRC states that, where a country has higher standards or provisions than those set forth in the UNCRC, the higher standards always prevail.