

Research to Practice Series

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Child rights and their implementation in a practice setting

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Children and young people have the same human rights as all adults and also specific rights that recognise their unique needs. Children are neither the property of their families nor are they helpless objects needing charity. They are human beings and are therefore entitled to their own rights.

All practitioners can support children and young people to know and understand their rights through daily meaningful opportunities to exercise their rights as individuals, in their families and their communities.

In this Research to Practice issue #29, we give some background on child rights, the obligations of states that are signatories to treaties on child rights and how they can be the foundations of practice for practitioners who support children and young people and create daily difference in their lives.

This issue explores different elements of the United Nations Convention on the Rights of the Child, Australia's reporting obligations for child rights and how to embed child rights in practice.



1: What are human rights?

Human rights are the rights and freedoms that are shared by all people throughout all their lives as the entitlements that give them the dignity to be human and experience what life offers. Human rights are shared by all humans, wherever we live, whatever our nationality, gender, race, colour, culture, religion, language, or any other status.

The protection of human rights has become an important political and moral issue over the last hundred years. The definition, scope and understanding of human rights is part of an ongoing international conversation.

Of course, human rights are not absolute – they are not untouchable or sacred. Sometimes they can be restricted or limited - for example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law. The right to privacy can be limited if there is significant risk or danger that permits police to search private premises. The right to freedom of movement can be restricted during a public health emergency such as the COVID-19 pandemic.

But each of these situations still require legislative authority and proper process. And these examples also remind us of the balance that is required – to ensure that authority is not exceeded and that there remains respect for basic human rights and processes to protect them.

Recognition of human rights creates obligations for those who hold power over us. Nations assume obligations under international law to respect, to protect and to fulfil human rights. Governments should meet those obligations by providing due process and protections for us as citizens and human beings. At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

Do children and young people have human rights?

Children and young people are human beings, and so they have all the human rights that adults have.

Are child rights also human rights?

The simple answer is yes. Children and young people have all the human rights that adults have, and international law recognises that children and young people require additional protections as a result of their status and development - from birth to infancy to childhood and through adolescence to adulthood. These additional protections in 'child rights' are part of the broader human rights system.

The United Nations Convention on the Rights of the Child

In 1990 the United Nations created the most comprehensive treaty for the rights of children and young people: the United Nations Convention on the Rights of the Child. The Convention has been signed by nearly every nation in the world and takes into account rights that are necessary for the full human experience of childhood from birth through to adulthood.

It brings together many of the human rights of children and young people that are set out in the other international human rights treaties. This Convention sets out these rights more completely and looks at them more clearly while considering the experience and needs of children and young people.

The Convention also looks at the environment that a child needs to develop to their full potential. And it recognises that family, community and government share responsibility for children and young people. As with other human rights treaties, it gives special status (and protections) to the family as the preferred place in which children and young people are cared for and can develop.

The Convention also recognises that children and young people require special protection to ensure their survival and development and, that due to their age and maturity levels, they may be at risk of neglect, exploitation and abuse.

Fast facts about the Convention

- Fastest treaty to come into force
- Signed by nearly every nation in the world
- 42 Articles listed in the Convention
- Australia ratified the Convention on the Rights of the Child on 17 December 1990

Australia's role in reporting

The Convention can be used in many of the same ways as other treaties. There has been very limited effort by the Australian Government to incorporate the detail of the Convention into its own laws.

Australia reports on its performance under the Convention to the United Nations Committee on the Rights of the Child. The Committee also invites non-government organisations (NGOs) to report as well. The Australian Child Rights Taskforce (convened by UNICEF Australia) coordinates and supports contributions to this reporting process (www.childrights.org.au). See Section 2 of this paper for more about this process.

Concepts that underpin the Convention

There are four concepts which underpin the Convention and the child rights approach. These concepts, or domains, can help to shape practitioners' thinking around their work with children and young people.

Non-discrimination

At the core of this domain is equal opportunity for all and the recognition that many children and young people have less opportunity to enjoy their rights, or are more vulnerable, because of their geography, religion, age, gender or race. The following principles apply:

- All children have the right to grow and develop in a protective, caring, safe and stimulating environment, ideally with their family.
- A child's development includes their physical, mental, spiritual and cultural development.
- Adults need to tailor their response to eliminate the causes of discrimination and disadvantage so that all children have the same opportunity to develop fully.

The best interests of the child

Any decision that may affect a child or young person must always be prioritised in their best interests. This does not mean that they should be considered in isolation to their parents or family situation. In this domain, it is important to consider the following:

- Whenever decisions are made that affect or impact on children's lives, the child's views must be sought.
- The interests of parents, the community or the State must not be the overriding priority. This is an area of complexity as there may be risks or costs to supporting the child's best interests.

Capacity

A key feature of the Convention is the call to consider the rights of the child "in a manner consistent with the evolving capacities of the child" (Article 5). This means that the ways in which rights are protected will change as the child develops. Importantly it recognises the following:

- The child's own understanding and capacity for their own action will develop as the child moves through the various stages of physical and cognitive development.
- A child or young person's capacity cannot be assessed by their age or intelligence. Often capacity is situation specific and depends on a range of factors including children's supports and previous experiences.
- Ideally children and young people should be involved in all kinds of decision making about and for themselves from a young age, ranging from decisions that have a low stake (what to wear for the day) to decisions that have a higher stake (choosing which subjects to study at school). This process gives them practice and confidence to make bigger decisions that have an impact later in life.

Participation

Article 12 states that children and young people should be free to have opinions in all matters affecting them. The foundational understandings for this concept are:

- children are experts in their own lives
- children have the capacity to form their own views and the right to express themselves. Therefore, adults must provide them with full, accessible and age appropriate information about their participation including the purpose, nature and impact of participating.

2: How Australia reports on its child rights obligations

As part of the process to monitor the progress made by countries in implementing the Convention, the United Nations Committee on the Rights of the Child reviews the progress of each State that is party to the Convention. Each State provides reliable and relevant information from a variety of sources that enables the Committee to make recommendations to assist governments to uphold the rights of children.

The reporting cycle

Every five years or so, the Australian Government reports to the Committee on its implementation of the Convention. Civil society – non-government service providers, researchers and advocacy groups, including ACU's Institute of Child Protection Studies – then provides an alternative report to the Committee. UNICEF Australia and the National Children's and Youth Law Centre (now Youth Law Australia), in partnership with over 100 other organisations have created a Child Rights Taskforce to assist this process and provide a unified civil society voice back to the UN. Its report provides independent guidance on the state of Australia's commitment to children and young people, highlighting the areas where the Australian Government needs to focus its attention to improve the lives of all children and young people in Australia.

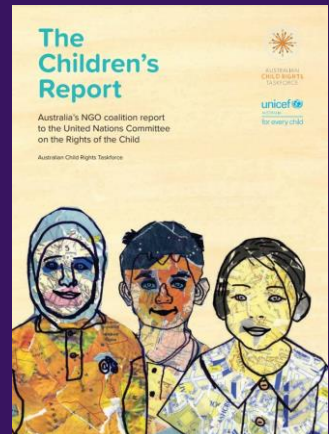
Throughout 2018, the Child Rights Taskforce, led by UNICEF, undertook an extensive national consultation process with children and young people. They also met with a range of experts to gather detailed evidence, to which the Institute contributed. The evidence and findings were submitted to the Committee in the [Children's Report](#).

Other individuals and organisations also provided their own independent submissions. In February 2019, civil society was given the opportunity to present in-person, or via video conference, to the Committee in Geneva.

The Committee examines reports submitted by:

- Governments
- UN agencies (e.g. UNICEF)
- Non-Government Organisations (NGOs)
- National Human Rights Institutions (NHRIs)
- Children and young people

Australia has just completed the 5th cycle of treaty reporting to the Committee.



Presenting to the United Nations Committee on the Rights of the Child

Presenting to the Committee is a complex and potentially challenging task – particularly for countries where there is little respect for children’s rights. Unlike in Australia, some countries have a very real risk of consequences for speaking up and criticising governments. The risks can be potentially life threatening. Therefore, the identity of participants is protected throughout the process, and their engagement with the Committee is supported by an intermediary organisation based in Geneva, called Child Rights Connect.

Child Rights Connect

The role is to support child rights advocates, including children and young people themselves, to use the reporting cycle as an advocacy tool. Child Rights Connect have created a companion guide for children and young people willing to tell the Committee about how children and young people’s rights are respected in their country – and to support children as active defenders of human rights in their country.

Reporting to the Committee for the 5th reporting cycle involved several stages.

1. Australian children and young people presented their views to the committee. They participated via an online link.
2. Taskforce representatives and other organisations gave their evidence, in person, or via video link. The Committee then asked a rapid-fire list of questions. Taskforce members in Geneva met for 20 minutes to consider how to respond, and coordinate who would speak to which questions for the allocated hour.
3. Informed by the evidence from civil society, the Committee then published a [list of issues](#) that they want the Australian Government to address.
4. The Australian Government sent a Delegation to appear before the UN Child Rights Committee. View the [webcast and audio recording of the delegation responding to the committee](#).
5. After considering all the material, the Committee then released their [Concluding Observations](#) for Australia on 3 October 2019.

Which child rights issues does Australia need to address?

After the recommendations were published, the National Children’s Commissioner at that time, Megan Mitchell, noted the following observation in her ‘scorecard’ report – see below or [read the full report](#) or [contact us](#) for more information.

Australia needs to take urgent measures to protect children and young people in the following circumstances:

- experiencing violence
- living in out-of-home care
- experiencing to mental health issues
- subject to environmental damage and climate change
- are refugees, seeking asylum and in situations of migration
- do not have access to administration of justice.

The Committee provided other detailed recommendations to guide Australia’s governments in more fully respecting and protecting the rights of children and young people.

3: How to embed child rights in practice

We can approach all our work with children and young people using a child rights lens. This does not mean that practitioners need to know by heart each of the 42 articles listed in the Convention. But practitioners are encouraged to be familiar with the concepts that underpin the articles and reflect on them when working with children and young people.

Keeping Kids Central Toolkit

The Institute of Child Protection Studies has been involved in research to develop our understanding of child safety by understanding the importance of respecting the child's own experience and perceptions of safety. So, as well as seeking to balance protection and participation, taking a child rights approach also calls for an ongoing commitment to analyse and identify best practice in the different settings in which we work and live with children and young people.

The Institute has developed the tool Keeping Kids Central to support a child-centred approach to practice. The principles underlying Keeping Kids Central are based on and aligned to the Convention Articles.

Keeping Kids Central principles

1. **Keep me safe:** Children and young people's safety and wellbeing are of primary importance.
2. **I'm one of a kind:** Children and young people are individuals with unique needs and wishes.
3. **My family is special:** Children and young people are usually best supported within their family and every effort should be made to assist families to support their children.
4. **Make it fun:** Environments surrounding children and young people need to be child friendly and provide them with opportunities to develop and grow.
5. **Keep me in the loop:** Children and young people need to be provided with information and given opportunities to participate in decision-making processes that affect their lives.
6. **Who else matters?** The best outcomes are often achieved in partnership with others who can assist children, young people and their families in an ongoing way.

The following section of the paper examines each of the Keeping Kids Central principles and explores how to adopt a child rights approach in your work with children and young people.

Each page highlights a Keeping Kids Central principle plus:

- relevant Articles from the Convention
- practice tips
- link to an activity from the Keeping Kids Central Toolkit.

Simplified Articles from the UN Convention on Rights of the Child are from the [Children and Young People's Commissioner Scotland](#) website.

1. Keep me safe: My safety and wellbeing are of primary importance

UN Convention on the Rights of the Child

Article 3: Adults must do what is best for me

Article 19: I have the right to be protected from being hurt or badly treated

Article 34: Nobody should touch me in ways that make me feel uncomfortable, unsafe or sad

Article 25: If I am not living with my family, people should keep checking I am safe and happy

How you can keep me safe

- Understand the multiple risk and protective factors that contribute to my safety and increase vulnerability
- Be explicit about what 'the right to be safe' means for me and other children in the organisation
- Create multiple opportunities for me to raise my concerns or questions about what makes me feel and be safe
- Articulate and reinforce to me the elements that create safe relationships when possible, adopt a multidisciplinary approach to supporting vulnerable children



Activity 1F: Helping Hands

Use to help me to identify who are the adults I can trust and who I can go to for support.



2. I'm one of a kind: I am an individual with unique needs and wishes

UN Convention on the Rights of the Child

Article 2: All children have these rights, no matter who I am: my address, language, religion, gender, culture, wealth, or family status

Article 8: I have the right to an identity. No one should take this away from me

Article 30

I have a right to speak my own language and to follow my family's way of life

How you can support me to know I'm one of a kind

- Uphold my dignity and that of other children
- Support me to learn acceptable behaviour
- Advocate for my views and opinions to be heard and valued within the learning environment, my family and my community
- Utilise and share quality resources that are diverse, culturally sensitive and responsive
- Know, learn and understand the history of Australia's first people
- Commit to ongoing professional learning on cultural awareness and diversity
- Respect my values, beliefs, culture and religion
- Support me to know, enjoy, understand and express my culture, religion, language and beliefs



Activity 2B: I'm a Star

Use to find out about my needs and wishes, build rapport and identify my strengths.



3. My family is special: Because I am usually best supported within my family every effort should be made to assist my family to support me

UN Convention on the Rights of the Child

Article 4: The Government should make sure my rights are respected

Article 5: The Government should respect the right of my family to help me know about my rights

Article 9: I have a right to live with a family who cares for me

Article 18: I have the right to be raised by my parent(s) if possible

How you can support me to know my family is special

- Connect with my family
- Recognise and respect my family as having the key responsibility for my upbringing
- Positively regard my family and our cultural values
- Support family connections with relevant local services that support safe environments for children
- Learn more about their own culture and the cultures of the children and families within the community
- Listen to and value my family's views and opinions and show that our views have been acted on



Activity 3C: Common Ground

Use to highlight my family strengths that can be built upon or used to help my family plan, and for you to gain insights into family dynamics, relationships and roles.



4. Make it fun:

My environments need to be child friendly and provide me with opportunities to develop and grow

UN Convention on the Rights of the Child

Article 28: I have the right to a good quality education

Article 29: I have the right to an education which develops my personality, respect for others' rights and the environment

Article 31: I have a right to relax and play

Article 15: I have the right to choose my own friends and join or set up groups, as long as it isn't harmful to others

How you can make it fun for me

- Facilitate safe inclusive environments that support me to communicate my ideas, concerns, aspirations and hopes
- Facilitate a learning environment that will promote opportunities for me to thrive and excel
- Recognise my current capacity and abilities and support me to learn
- Support, promote and advocate for the provision of play-based learning opportunities for me in all settings
- Provide me with wide access to cultural activities
- Give me opportunities and space to play and rest
- Empower me to come up with my own solutions to my problems



Activity 4B: **Gratitude Journals**

Use to help me recognise that some of the good things in life are outside of me, and to affirm positive things in my life.



5. Keep me in the loop: I need to be provided with information and given opportunities to participate in decision-making processes that affect my life

UN Convention on the Rights of the Child

Article 12: I have the right to be listened to and taken seriously

Article 13: I have the right to find out and share information

Article 17: I have the right to get information in lots of ways, so long as it's safe

How you can keep me in the loop

- Listen to me, take me seriously and recognise and respond to my concerns
- Consult with me in decisions about what is best for me
- Encourage me to express myself and my opinions
- Facilitate learning environments that foster opportunities for me to express myself
- Allow me to undertake experiences that develop self-reliance and self-esteem
- Listen to and value my views and opinions and show that my views have been acted on
- Provide me with information relevant to my day-to-day life in consultation with my family and based on my evolving capacity and understanding
- Ask me for my consent, and the consent of my family, when sharing my personal information
- Protect my privacy



Activity 5F: **Rights and Not-Quite-Rights**

Use to help me understand what my rights are in relation to talking to adults.



Kids should always be asked about stuff to do with their lives.

6. Who else matters?

The best outcomes are often achieved in partnership with others who can assist me and my family in an ongoing way

UN Convention on the Rights of the Child

Article 29: My education should help me use and develop my talents and abilities. It should also help me learn to live peacefully, protect the environment and respect other people

How you can help me think about who else matters in my life

- Recognise my agency and my individual and evolving capacity to participate in day-to-day considerations relating to my life
- Recognise me as a successful, competent and capable learner
- Engage me in lifelong learning
- Inform me about my rights and responsibilities as a citizen within my community
- Provide me with information and support to engage in and exercise my civic rights and responsibilities



Activity 6D:
My Supporters
Use to help me identify support people and recognise that I am not alone.



What did participation in the Convention reporting cycle mean for me?



I have been an academic researcher, working on prevention and responses to all forms of child abuse and neglect for over 25 years.

But until recently, I would not have described myself as a child-rights campaigner. And yet, participating in the reporting framework for Australia, showed me two key things: firstly, that safety from interpersonal violence for children and young people is an inherent right. Secondly: framing the need for safeguarding – both prevention and better responses – within the language of rights helped me to see the interconnection between the situation of children and young people in Australia and other children and young people internationally.

It also showed me that more urgent action needs to be taken. Just because we live in a free democracy doesn't mean that Australia is doing its best to uphold children's rights – to safety and security. My participation helped me to frame the work I do in preventing and responding to children's exposure to interpersonal violence – in families, communities and organisations. In doing so, I've discovered a broader group of stakeholders and supporters whose interests align and help us to advocate for change.

Due to the Convention's international legal framework, there is a strong tendency to focus on the government's role in human rights implementation. For example, the Committee generally emphasises each national government's role in its Concluding Observations and general comments. However, progress will not come with a focus on that which is implemented by government solely.

The UN also expects civil society to assist in the implementation of the Convention. Civil society includes children, young people, parents, extended families, other adults, and non-government organisations. Those who work with, and make decisions with children and young people, such as early childhood educators, teachers, health professionals, teachers, judges, lawyers, child welfare/protection case workers and managers.

Professor Daryl Higgins

About the Institute of Child Protection Studies

The Institute of Child Protection Studies (ICPS) at the Australian Catholic University aims to enhance outcomes for children, young people and families through quality research, evaluation, training and community education.

ICPS research strengths include promoting children's participation, strengthening service systems and informing practice, and supporting child-safe communities.

The ICPS Research to Practice Series is supported by a grant from the ACT Community Services Directorate. The grant assists to enhance outcomes for children, young people and families through enhancing the skills and practice of the workforce, increasing awareness in the community, and contributing to evidence-based policy outcomes.

www.acu.edu.au/icps

Visit our website for more information about ICPS research and professional staff

Contact us

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