

THE CONVENTION ON THE RIGHTS OF THE CHILD

WHAT PARENTS IN CANADA NEED TO KNOW



There are many different understandings—and some misunderstandings—about what “children’s rights” mean and what they are. In part, this is because there are different sources of rights. In Canada, there are rights set out in national and provincial laws and in the *Canadian Charter of Rights and Freedoms*, for example. There are also universal rights recognized in international treaties that apply to Canadians, which should be explicitly recognized in domestic laws. Many of these rights apply to people of all ages; some are specific to children, recognizing their particular vulnerability or developmental stage.

The Convention on the Rights of the Child, adopted by the United Nations in 1989, is a treaty that spells out the basic human rights to which children everywhere are entitled. Founded on guiding principles that include giving the best interests of children priority consideration in any decisions that affect them, the Convention incorporates the following categories of rights:

- The right to life, survival and development of their full potential
- The right to protection from influences that are harmful, including abuse, neglect and exploitation
- The right to participation, including freedom to express opinions and participation in family, cultural and social life.

The Convention protects these rights by setting minimum standards that governments at all levels in each country must meet in providing legal protections and health care, education, and other social services to the country’s children. Governments are required to report periodically to an independent UN committee and to their citizens on their progress in providing for and protecting these rights, and thereby pursue progressive and continuous improvement. The Convention is less about what children can and should be able to have or do (e.g., the perception of some that “kids are out of control”), and more about governments’ responsibilities to provide a supportive framework for families and children. The Government of Canada “ratified” (agreed to) the Convention in 1991, and therefore has responsibilities to ensure domestic laws, policies, services and other decisions affecting children promote and respect their rights to survival, development, protection and participation.

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WHY DO WE NEED THE CONVENTION ON THE RIGHTS OF THE CHILD?

The Convention makes clear the idea that a basic quality of life should be the right of all children, rather than a privilege enjoyed by a few.

Although many nations have laws relating to children's welfare and rights, the reality is that most countries do not yet sufficiently protect or provide for the range of children's Convention rights (domestic laws, policies and services leave some rights for some children unrealized). Children suffer from poverty, homelessness, abuse, neglect, preventable diseases, unequal access to education, and justice systems that do not recognize their individual needs; children of minority groups are often particularly affected. These are problems that occur in both industrialized and developing countries.

The Convention on the Rights of the Child and its acceptance by virtually every country has heightened recognition of the fundamental human dignity of all children and the urgency of ensuring their well-being and development.

WHO WROTE THE CONVENTION ON THE RIGHTS OF THE CHILD?

Over a 10-year period, the standards in the Convention on the Rights of the Child were negotiated by governments, non-governmental organizations, human rights advocates, lawyers, health specialists, social workers, educators, child development experts and religious leaders from all over the world. The result is a consensus document that takes into account the importance of tradition and cultural values for the protection and harmonious development of the child. It reflects the principal legal systems of the world and acknowledges the specific needs of developing countries.

More countries have ratified the Convention than any other human rights treaty in history. One of 192 countries that have agreed to fulfill children's rights in accordance with the Convention, Canada ratified it in 1991.

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HOW DOES THE CONVENTION DEFINE A 'CHILD'?

The Convention defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood as younger than 18. In some cases, governments define their own benchmark ages—such as the age of starting employment; in other cases, the Convention defines the benchmark age—such as not allowing life imprisonment or capital punishment for those under 18 years of age. In Canada, provincial and federal laws vary in their definition of the age thresholds for various rights. The basic principle is that all children should be equally protected and provided for in a nation's laws and services up to age 18 (e.g., in access to child welfare care and services, in protection from dangerous and exploitative labour, etc.) but gradually introduced to particular expressions of freedoms as their age and capacity evolves (e.g., to access information, to participate in decisions affecting them). In practice, balancing protection and participation is a challenge for governments, courts, public institutions like schools, and parents. The Convention's four guiding principles are a useful lens used independently or together to help resolve the tensions in achieving this balance: they are the rights to survival and optimal development; to consideration of the best interests of the child (or children) as a priority; to express their views on matters affecting them; and to be treated equitably.

WILL THE CONVENTION ON THE RIGHTS OF THE CHILD REPLACE THE LAWS IN A PARTICULAR COUNTRY?

When countries ratify the Convention, they agree to review their laws relating to children and revise them to provide for and protect all the Convention rights, for all children up to age 18. This involves countries assessing their laws, policies and social services such as health and education, as well as levels of funding for these services. It involves putting in place particular governance mechanisms to ensure children are sufficiently considered in these processes. Such mechanisms include a strategy for children, making the Convention part of domestic law, setting an agenda for law reform, conducting impact assessments of government decisions for their potential effects on children, training professionals in children's services, and setting up independent ombudspersons or advocates for children, among others. These areas of effort are continuous and progressive—not one-off activities.

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HOW CAN I USE THE CONVENTION AS PART OF MY FOUNDATION FOR RAISING MY CHILD?

The Convention places primary responsibilities on governments to uphold children's rights in laws, policies and services. Yet it also expressly recognizes that parents have the most important role in bringing up their children and promotes support for parents in fulfilling that role. At the same time, the Convention reflects a view of children as neither the property of their parents nor citizens of a country that can be ignored by governments. They are individuals and members of a family and a nation, with rights and responsibilities appropriate to their stage of development, to be exercised under the guidance of their parents appropriate to their evolving capacities.

DOES THE CONVENTION ON THE RIGHTS OF THE CHILD TAKE RESPONSIBILITY FOR CHILDREN AWAY FROM THEIR PARENTS, AND GIVE MORE AUTHORITY TO GOVERNMENTS?

Definitely not. In fact, the Convention upholds the primary role of parents in children's lives. The Convention states that governments must respect parents' responsibility to provide appropriate guidance to their children, including guidance as to how children should exercise their own rights. And it places responsibility on governments to protect and help families in fulfilling their essential role as nurturers.

When parents help their children to understand their rights and responsibilities, and to respect the rights of others, they cultivate optimal child development and lay the groundwork for responsible adulthood.

They prepare their children, as the preamble to the Convention says, to live: "...in the spirit of peace, dignity, tolerance, freedom, equality and solidarity."

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ARTICLE 12 OF THE CONVENTION SAYS THAT CHILDREN HAVE THE RIGHT TO EXPRESS THEIR VIEWS IN ALL MATTERS AFFECTING THEM. HOW DOES THAT FIT WITH MY AUTHORITY AND RESPONSIBILITY IN DOING WHAT'S BEST FOR MY CHILDREN?

The intent of this article is to encourage adults to listen to the opinions of children and involve them in decision-making about matters that affect them – not to give children authority over adults. Article 12 does not interfere with parents' rights and responsibility to express their views and make decisions on matters affecting their children in their best interests.

The Convention also realizes that children's freedom of expression and participation must be appropriate to their evolving level of maturity or capacity. Most adults will naturally give the views of adolescents greater weight than those of preschoolers and offer more opportunities for them to exercise their rights to participate, whether in family, legal or administrative decisions.

WHAT DOES THE CONVENTION SAY ABOUT THE RIGHTS OF CHILDREN CONCERNING RESPECT FOR THEIR PARENTS?

The Convention is explicit about the fact that children not only have rights, but also the responsibility to respect the rights, freedoms and reputations of others, especially their parents. Rather than creating conflict between the rights of parents and the rights of children, the Convention encourages communication and mutual respect within families.

DOES THE CONVENTION HAVE ANY JURISDICTION OVER HOW PARENTS TEACH RELIGION OR MORALS TO THEIR CHILDREN?

The Convention respects the rights and duties of parents in providing religious and moral guidance to their children. Religious groups around the world have expressed support for the Convention.

The Convention states that one of the aims of education should be the development of respect for the child's parents, and their values and culture.

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WHAT DOES THE CONVENTION SAY ABOUT HOW PARENTS DISCIPLINE THEIR CHILDREN?

The Convention makes it clear that children shall be protected from all forms of mental or physical violence or maltreatment. Forms of discipline involving violence, such as striking or spanking, are contrary to children's rights to develop and be protected from harm. The Convention recognizes the importance of discipline that is non-violent, appropriate to the child's level of development, and takes the best interests of the child into consideration. In most countries, laws are already in place that specifically define punishments considered excessive or abusive. It is up to each government to review these laws in light of the Convention. In Canada, federal and provincial laws specify different conditions and thresholds for the use of force in the punishment of children, in legislation related to criminal conduct, education and child welfare/protection. The Convention does not specify what discipline techniques parents should use, but it strongly supports parents in providing guidance and direction to their children.

WHAT DOES THE CONVENTION SAY ABOUT CHILDREN WORKING, EITHER OUTSIDE OR WITHIN THE HOME?

The Convention protects children from economic exploitation and from work that is hazardous to their health or interferes with their education. It is not intended to regulate smaller details of home life, such as how children are expected to help out at home in ways that are safe and appropriate for their age.

Children's help can also be essential in the running of a family farm or business. However, if they involve their children in such work, parents must be aware of child labour laws in their jurisdiction. The Convention requires that such laws addressing the tasks children perform in a family business—and in any form of work—ensure minimum standards of safety and suitability for children's age/level of development.

When these conditions are met, helping their parents at home, in a business or maintaining a part-time job can be a way for children to learn new skills and about the increasing responsibilities they will have as they grow older.

Children's work should not jeopardize any of the other rights guaranteed by the Convention, including the rights to education, health, protection from harm, rest, leisure, play and recreation.

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HOW CAN YOUNG CHILDREN BE EXPECTED TO UNDERSTAND THE ISSUES RAISED BY THE CONVENTION?

Children's interest in rights issues, and the way in which parents handle those issues, will vary depending on the age of the child. Helping children to understand their rights does not mean pushing them to make choices with consequences they are too young to handle. The Convention encourages parents to deal with rights issues with their children "... in a manner consistent with the evolving capacities of the child..." (Article 5).

Parents, who are intuitively aware of their child's level of development, will do this naturally. The issues they discuss, the way in which they answer questions, or the discipline methods they use will differ depending on whether the child is three, nine or 16 years of age.

Ultimately, rights are about relationships: the relationships children have with others (including peers and parents) and the relationship governments have with citizens. Incorporating the concepts and language of the rights and responsibilities people have for one another has been shown to support children's development of self-esteem, empathy, cooperation and an increasingly wider view of their world.

Questions and responses adapted from:

- The Convention on the Rights of the Child: Frequently Asked Questions unicef.org/crc/index_30229.html.
- The Convention on the Rights of the Child. Questions Parents Ask.