

HEALTH AND HUMAN RIGHTS RESOURCE GUIDE



FXBCENTER
FOR HEALTH & HUMAN RIGHTS

HARVARD SCHOOL OF PUBLIC HEALTH | HARVARD UNIVERSITY

HEALTH AND HUMAN RIGHTS RESOURCE GUIDE

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Health and Human Rights Resource Guide

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Fifth Edition, November 2013

Cover photograph courtesy of Sven Torfinn - Panos for the Open Society Foundations, "A paralegal nurse named Mercy and a lawyer named Johnson, both with Nyeri Hospice in Nyeri, Kenya talk with Elizabeth (center) about her health and property. She has cancer and is cared for by her granddaughter Caroline (to her left). She wants to ensure her granddaughters can inherit her property even though other relatives are trying to claim it."

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CHAPTER 6



CHILDREN'S HEALTH AND HUMAN RIGHTS

“ By giving high priority to the rights of children, to their survival and to their protection and development, we serve the best interest of all humanity. ”

— *A World Fit for Children*

Health and Human Rights Resource Guide

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Cover photograph courtesy of Angela Duger, “Family in Northern Lao PDR”

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INTRODUCTION

This chapter will introduce you to key issues and resources in children's health and human rights. Several issues herein are touched upon in other chapters. For more information on children, adolescents, and HIV, please see Chapter 2 on HIV, AIDS and Human Rights. For more information on children, adolescents, and indigenous and minority health please see Chapter 7 on Minority Health and Human rights. This chapter is organized into six sections that answer the following questions.

1. How is children's health a human rights issue?
2. What are the most relevant international and regional human rights standards related to children's health?
3. What is a human rights-based approach to advocacy, litigation and programming?
4. What are some examples of effective human rights-based work in the area of children's health?
5. How can I find additional resources about the health and human rights of children?
6. What are key terms related to children's health rights?

I. HOW IS CHILDREN'S HEALTH A HUMAN RIGHTS ISSUE?

What are children's health rights?

Under international human rights law, children are entitled “to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.” This right is articulated in Article 24 of the 1989 UN Convention on the Rights of the Child (CRC), which is the most widely ratified international human rights instrument¹ and consolidates all previous treaties on the rights of children.² The right to health for children has long been understood as an “inclusive” right, which extends beyond protection from immediately identifiable infringements such as limitations on access to health care or services, and includes the wide range of rights and freedoms that are determinate to children's health, such the rights to non-discrimination, access to health-related education and information, and freedom from harmful traditional practices.³ The realization of a child's right to health also requires access to underlying conditions for health, such as “safe water and adequate sanitation, adequate nutritious food and housing, [and] healthy occupational and environmental conditions.”⁴

The CRC and its Optional Protocols articulate the rights of children (from the perspective of the child “rights-holder”) as well as the responsibilities of State Parties (“duty-bearer”). The CRC is legally binding on all signatories, and also establishes a framework for protection of health rights that are not explicitly provided for in the Convention, for example, the rights of children affected by HIV.⁵ The CRC defines a child as “every human being below the age of eighteen years.”⁶ Such a definition includes adolescence, commonly understood to be between the ages of 10 and 19 years.⁷ Consequently, the CRC imposes on State Parties a legally binding obligation to give effect to the child-specific health rights of *all* children, including adolescents, up to 18 years of age.⁸

- 1 To date, 193 State Parties have ratified the CRC. The United States of America and Somalia have signed but not ratified the Convention; for the status of signatures, ratifications, and accessions, see: United Nations General Assembly (UNGA), *Convention of Rights of the Child* (1989). http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.
- 2 UN General Assembly, *Geneva Declaration on the Rights of the Child*, G.A. Res. 1386 (XIV), 14 U.N. GAOR Supp. (No. 16) at 19 UN Doc. 1/4354. U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354, art. 4. www.unicef.org/lac/spbarbados/Legal/global/General/declaration_child1959.pdf.
- 3 UN Office of the High Commissioner of Human Rights (OHCHR) and World Health Organization (WHO), *The Right to Health*, Fact Sheet No. 31. www.ohchr.org/Documents/Publications/Factsheet31.pdf.
- 4 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14*, para. 45, in Nolan A, Yamin AE and Meier BM, *Submission on the Content of a Future General Comment on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (art. 24)* (OHCHR). http://www2.ohchr.org/english/bodies/crc/calls/submissions/CRC_received.htm.
- 5 UN Office of the High Commissioner of Human Rights, “Committee on the Rights of the Child – General Comments.” <http://www2.ohchr.org/english/bodies/crc/comments.htm>.
- 6 A particular country's laws may define majority at an earlier age. To date, 193 State Parties have ratified the CRC. The United States of America and Somalia have signed but not ratified the Convention. UN General Assembly, *Convention on the Rights of the Child (CRC)*, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989); 28 I.L.M. 1448 (1989). www.ohchr.org/english/law/crc.htm.
- 7 World Health Organization, *The second decade: improving adolescent health and development* (2001). www.who.int/maternal_child_adolescent/documents/frh_adh_98_18/en/index.html.
- 8 UN Committee on the Rights of the Child (CRC Committee), *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, CRC/GC/2003/4 (2004). <http://tb.ohchr.org/default.aspx?Symbol=CRC/GC/2003/4>.

What are the issues and how are they human rights issues?

The fundamental right to health of children, as with adults, stems from the basic human needs that must be met in order for every individual to achieve the highest attainable standard of health, regardless of sex, race, ethnicity, ability, religion, political belief, or economic or social conditions. However, children's health rights differ from those of adults in "important normative ways."⁹ Children of all ages are uniquely vulnerable to violations of their health rights due to "the biological and socially constructed characteristics of childhood."¹⁰ This includes their developing physical and mental capacity, their dependence on adults to meet their health needs, and their changing social roles and influences, especially during the onset of puberty. As a result, children have a reduced ability to protect themselves and are more vulnerable to negative consequences of violations of their right to health:

*The physical and psychological effects that children suffer... will generally be greater than those experienced by adults due to their lower level of physical and mental development. This is true both in relation to (a) the immediate impact that violations of the right to health may have on a child's physical and psychological state, and (b) the long-term detrimental effects on the child's development and future capacity for autonomy resulting from such a violation.*¹¹

Because children rely on adults for their growth and development, they have historically been treated as passive beings requiring "positive intervention on their behalf to ensure the realization of their rights."¹² As such children are "an anomaly in the liberal legal order" which otherwise views rights-holders as autonomous individuals capable of exercising free choice.¹³ A central concern of children's health right advocates is therefore to promote children's agency and capacity for autonomy.¹⁴ A key component is including children, particularly during adolescence, in decision-making processes about their health, not only with respect to their individual health but also at the systematic level of health policy and service delivery.¹⁵

International and regional human rights instruments protecting the health rights of children have articulated respect for what are known as the "four Ps": "participation by children in decisions affecting them; protection of children against discrimination and all forms of neglect and exploitation; prevention of harm to them; and provision of assistance to children for their basic needs."¹⁶ The participation of children must be meaningful and should proceed "in a manner consistent with their evolving capacities."¹⁷ This requires careful balancing of child protection considerations with efforts to promote the agency and decision-making potential of all children.

9 Nolan A, Yamin AE and Meier BM, *Submission on the Content of a Future General Comment on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (art. 24)* (OHCHR). http://www2.ohchr.org/english/bodies/crc/calls/submissionsCRC_received.htm.

10 Nolan A, "The Child's Right to Health and the Courts," in Harrington J and Stuttaford M, eds., *Global Health and Human Rights: Legal and Philosophical Perspectives* (London: Routledge, 2010).

11 Ibid.

12 Ibid.

13 Ezer T, "A Positive Right to Protection for Children," *Yale Human Rights and Development Law Journal* 7 (2004): 1-2.

14 Nolan A, "The Child's Right to Health and the Courts," in Harrington J and Stuttaford M, eds., *Global Health and Human Rights: Legal and Philosophical Perspectives* (London: Routledge, 2010).

15 Nolan A, Yamin AE and Meier BM, *Submission on the Content of a Future General Comment on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (art. 24)* (OHCHR). http://www2.ohchr.org/english/bodies/crc/calls/submissionsCRC_received.htm.

16 Zeldin W, "Children's Rights: International Laws," Law Library of Congress. www.loc.gov/law/help/child-rights/international-law.php#f9. citing Van Bueren, G, *The International Law on the Rights of the Child* (Dordrecht/Boston/London, Martinus Nijhoff Publishers, 1995).

17 UN Committee on the Rights of the Child, *General Comment No. 12: The right of the child to be heard, CRC/C/GC/12* (2009). <http://www2.ohchr.org/english/bodies/crc/comments.htm>.

Right to Life, Survival and Development

In 2011, there were an estimated 7.6 million deaths of children under 5,¹⁸ with more than 70 percent due to preventable causes such as diarrhoea, pneumonia, and malnutrition.¹⁹ Another 200 million children under 5 do not achieve their full developmental potential due to poverty, inequality, and inadequate opportunities for learning.²⁰ Adolescents, in particular, experience a high burden of neuropsychiatric disorders (including depression and substance abuse), violence and accidents, maternal conditions, and infectious disease.²¹ Reducing the mortality and morbidity of children and adolescents is a key priority of the international community.²² Article 6 of the CRC imposes on States a positive obligation to “improve perinatal care for mothers and babies, reduce infant and child mortality, and create conditions that promote the wellbeing of all young children during this critical phase of their lives.”²³ This obligation is further elaborated in Article 24, which secures the right to the highest attainable standard of health.

The health of children also reflects more broadly on the social and economic conditions in a community.²⁴ In 2011, a child born in the developing world was eight times more likely to die in childhood than her counterpart in the developed world.²⁵ Similarly, children living in countries with greater socioeconomic inequality have poorer health outcomes, with mortality associated with income inequality.²⁶ Both the CRC Committee and the CESCR regularly express concern over failed or insufficient efforts by State parties to reduce child mortality, and have also drawn attention to disparity among certain groups of children such as indigenous children,²⁷ or children living in rural or remote areas²⁸ who are more vulnerable to violations of their right to life, survival and development.

Right to Non-Discrimination

Freedom from discrimination in access to health care, nutrition, adequate standards of living, and education, ensures that all children are equally positioned to attain their maximum level of health and development. However, given their relative dependence on others to realize their human rights, children are at heightened risk of discrimination. Children can face discrimination based on their age and status in society, but also as members of particular groups. Children belonging to minority groups, indigenous communities, and girls generally are more likely to suffer discrimination in accessing their right to health.

18 UNICEF, *State of the World's Children 2012: Children in an Urban World* (2012): 83. www.unicef.org/sowc2012/fullreport.php.

19 UNICEF, “Reduce Child Mortality,” *Millennium Development Goals*. www.unicef.org/mdg/childmortality.html.

20 Walker SP et al, “Inequality in early childhood: risk and protective factors for early child development,” *The Lancet* 378 (2011): 1325–38.

21 Sawyer S et al, “Adolescence: a foundation for future health,” *The Lancet* 379 (2012): 1630–40; Gore FM et al, “Global burden of diseases in young people aged 10–24 years: a systematic analysis,” *The Lancet* 377 (2011): 2093–102.

22 UN Inter-Agency and Expert Group on MDG Indicators, *The Millennium Development Goals Report* (2010). www.un.org/millenniumgoals/pdf/MDG%20Report%202010%20En%2015%20-low%20ores%2020100615%20-.pdf#page=28.

23 UN Committee on the Rights of the Child, *General Comment No. 7: Implementing Child Rights in Early Childhood*, CRC/C/GC/7/Rev.1 (2006).

24 UN Inter-agency Group for Child Mortality Estimation, *Levels & Trends in Child Mortality*, Report 2011 (2011). www.who.int/maternal_child_adolescent/documents/childmortality_booklet_2011.pdf.

25 Nolan A, “The Child’s Right to Health and the Courts” in J Harrington and M Stuttford, eds., *Global Health and Human Rights: Legal and Philosophical Perspectives* (Routledge, 2010): 135-162. www.routledge.com/books/details/9780415479387.

26 Viner RM et al, “Adolescence and the social determinants of health,” *The Lancet* 379 (2012): 1641–52.

27 UN Committee on the Rights of the Child, *Concluding Observations (COs) on Costa Rica - CRC/C/CRI/CO/4*, para. 29 (2011); *Panama CRC/C/PAN/CO/3-4*, para. 54 (2011).

28 UN Committee on the Rights of the Child, *Concluding Observations on Argentina, CRC/C/ARG/CO/3-4*, para. 57 (2010); *Egypt, CRC/C/EGY/CO/3-4*, para. 62 (2011); and *Bukina Faso, CRC/C/BFA/CO/3-4*, para. 54 (2010).

Article 2 of the CRC enshrines this right to non-discrimination of children, and the CRC Committee has articulated its concern over such violations of the right as:

- Social exclusion and discrimination of children from ethnic minority backgrounds or indigenous children, resulting in disparities of health outcomes.²⁹
- A lack of culturally appropriate services, including the availability of social and health services adapted to culture, history and languages of minority and indigenous children.³⁰
- Discrimination against girls that restricts their capacity to contribute positively to society, such as selective abortion, genital mutilation, neglect and infanticide, including through inadequate feeding in infancy.³¹

To fulfil their obligation to non-discrimination of children, States must work “actively to identify individual children and groups of children the recognition and realization of whose rights may demand special measures,” which may require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes.³²

Right to Express Views and Have Them Taken into Account

Children are regularly denied the opportunity to be heard and to express their views freely on matters that affect their health and well-being. Yet the right of children to be heard and to participate is one of the fundamental values of the CRC, as it reiterates the understanding that the child is a fully fledged person having the right to express his or her own views in all matters affecting him and her, and having those views heard and given due weight.³³ It is also a right that is often infringed not only by legislation and policy that imposes age limits on the right to be heard, but also by socio-attitudinal contexts that prevent children from expressing their views in a variety of forums. Under the CRC, States are required to take all appropriate measures to ensure that the child’s “freedom to express views and the right to be consulted in matters that affect him or her is implemented from the earliest stage in ways appropriate to the child’s capacities, best interests, and rights to protection from harmful experiences.”³⁴

The notion of “evolving capacities” is critical to the realization of this right, particularly with regard to health care, and indicates that there is no single point in development at which all children can or cannot form and articulate their views about their well-being or best interests. This recognition demands that parents, and where necessary, communities, provide “appropriate direction and guidance” in a way that does not undermine the ability of the child to exercise his or her rights.³⁵ However, the CRC Committee also goes further and calls on States to introduce legislation or regulations to ensure that children have access to confidential medical counselling and advice without parental consent, irrespective of the child’s age, where this is needed for the child’s safety or well-being.

29 Noting discrimination against Roma children in Bulgaria, Serbia, and Italy in particular with regard to access to education, health care and housing. UN Committee on the Rights of the Child, *CRC/C/SR.1318, para. 24* (2008); *CRC/C/SRB/CO/1, para. 25* (2008); *CRC/C/ITA/CO/3-4, para. 24* (2012).

30 Calling on Panama to ensure that indigenous and Afro-Panamanian girls and boys receive health services and education adapted to their culture, history and languages. CRC Committee, *Concluding Observations on Panama, CRC/C/PAN/CO/3-4, para. 81* (2011).

31 UN Committee on the Rights of the Child, *General Comment No. 7: Implementing Child Rights in Early Childhood, CRC/C/GC/7/Rev.1* (2006). On examining the gender discrimination against girls and incidence of child marriage, prostitution, and sexual abuse in India: Singh K and Kapur D, “Law, Violence and the Girl Child,” *Health and Human Rights Journal* 5, no. 2 (2001). www.hhrjournal.org/archives-pdf/4065363.pdf.bannered.pdf.

32 UN Committee on the Rights of the Child, *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child*, arts. 4, 42, and 44; para. 6, *CRC/GC/2003/5* (2003).

33 UN Office of the High Commissioner for Human Rights, *Manual on Human Rights Reporting* (1997): 427. www.ohchr.org/Documents/Publications/manualhrren.pdf.

34 UN Committee on the Rights of the Child, *General Comment No. 7: Implementing Child Rights in Early Childhood, CRC/C/GC/7/Rev.1* (2006). <http://www2.ohchr.org/english/bodies/crc/comments.htm>.

35 Convention on the Rights of the Child, art 5. See also Viner RM et al, “Adolescence and the social determinants of health,” *The Lancet* 379 (2012): 1641–52.

If access to advice and information is conditioned on age, children cannot realize their right to make and freely express informed decisions. As such, and in terms of health care, Article 12 of the CRC obligates State Parties to provide all children with information about proposed treatments and their effects and outcomes, including in appropriate formats and accessible to children with disabilities.³⁶ The CRC Committee has explained that in order for adolescents to be able to safely and properly exercise this right “public authorities, parents and other adults working with or for children need to create an environment based on trust, information sharing, the capacity to listen and sound guidance that is conducive for adolescents’ participating equally including in decision-making processes.”³⁷

Right to Information; Right to Sexual and Reproductive Health and Education, including HIV

Children often lack adequate access to information and services necessary to ensure sexual health, including information related to HIV prevention and care. Critical to youth attaining the highest standard of health and developing in a well-balanced manner is having access to adequate information upon which to understand and make appropriate decisions concerning their well-being. Though children are guaranteed the right to such information under international human rights law,³⁸ often neither health information nor health services are made available, particularly with regard to sexual health. Access to sexual and reproductive services is particularly necessary for the well-being of adolescents, as adolescence is the period when many children begin to explore their sexuality.³⁹ And with 3.4 million children under the age of 15 living with HIV, and teenage pregnancies claiming the lives of young mothers and their children at a substantially higher rate than older mothers, the responsibility of states to provide comprehensive education and information about sexual and reproductive health as well as opportunities to develop the skills necessary for HIV prevention is urgent and critical.⁴⁰

Where children are denied appropriate health services, including child-sensitive and confidential counselling services, and access to contraceptives, States have failed to uphold their obligation to develop preventive health care. States are responsible for ensuring that sex-education programs exist both inside and outside of school settings, and that efforts are made to raise awareness about the prevention of early pregnancy and the control of sexually transmitted diseases including HIV. The International Guidelines on HIV/AIDS and Human Rights emphasize that “the provision of these services [counseling, testing, and prevention measures] to children/adolescents should reflect the appropriate balance between the rights of the child/adolescent to be involved in decision-making according to his or her evolving capabilities and the rights and duties of parents/guardians for the health and well-being of the child.”⁴¹ As such, states must also make efforts to empower parents with information about sexual health and HIV transmission, and effective measures should be taken to counter stigma and discrimination faced by children and families infected and affected by HIV.

36 UN Committee on the Rights of the Child, *General Comment No. 12: The right of the child to be heard*, CRC/C/GC/12 (2009). <http://www2.ohchr.org/english/bodies/crc/comments.htm>.

37 UN Committee on the Rights of the Child, *General Comment No. 4: Adolescent Health*, CRC/C/GC/4 (2003). <http://www2.ohchr.org/english/bodies/crc/comments.htm>.

38 Convention on the Rights of the Child, arts. 24, 13, and 17.

39 UNICEF, *Progress for Children: A report card on adolescents* (2012). www.childinfo.org/files/PFC2012_A_report_card_on_adolescents.pdf.

40 World Health Organization, “Treatment of children living with HIV.” www.who.int/hiv/topics/paediatric/en/index.html.

41 UNAIDS, *International Guidelines on HIV/AIDS and Human Rights: 2006 Consolidated Version* (2006). http://data.unaids.org/Publications/IRC-pubo7/jc1252-internguidelines_en.pdf.

Right to Education

Today, 67 million children remain out of school. In sub-Saharan Africa alone, 10 million children drop out every year.⁴² Ensuring universal access to primary education, a cornerstone for the development of individuals and communities, was recognized as one of eight UN Millennium Goals in 2000 (goals which all UN Member States have agreed to try to achieve by 2015). Education ends cycles of poverty and disease, and equips boys and girls with the necessary skills to confront challenges, adopt healthy lifestyles, and “take an active role in social, economic and political decision-making as they transition to adolescence and adulthood.”⁴³ Education is guaranteed to all children as a fundamental human right in the Universal Declaration for Human Rights (UDHR), the CRC, and the International Convention on Economic, Social and Cultural Rights (ICESCR). Additionally, the International Convention on the Elimination of Racial Discrimination (ICERD) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) both secure and emphasize the right of equal access to education for all.

And yet, millions of children are denied the right, with certain children (girls, children in remote areas, children from minority groups and children with disabilities) more likely to be excluded from both primary and secondary education. Under international law, states bear the responsibility for ensuring the realization of this right, and advocates have developed “right to education indicators” which aim to measure the extent to which States fulfill their legal human rights obligation. The indicators are divided into four interrelated categories: availability, accessibility, acceptability and adaptability.⁴⁴

*First, availability examines whether education is generally available. Second, accessibility focuses on the various obstacles in accessing education. Third, acceptability evaluates the various aspects of the content of education. Fourth, adaptability examines whether education is adapted to the needs of various categories of persons.*⁴⁵

According to both the CRC and the ICESCR, primary education should be compulsory and available free to all;⁴⁶ and thus, any legislation or State policy that restricts access for any child, either by the imposition of school fees, or failure to provide schools in certain areas or for certain populations, is a violation of the availability and accessibility of this fundamental right.⁴⁷ UN human rights treaty bodies have found violations of the acceptability of education where education is not provided in an appropriate language,⁴⁸ or where the curriculum fails to include education programs on the culture of ethnic, linguistic, or religious minority groups.⁴⁹ As the right to education is also guaranteed to traditionally excluded groups such as minorities, children with disabilities, and children in detention, States must ensure that schooling options can be adapted to meet their unique needs.

Freedom from Abuse, Torture and Ill-Treatment

All children have a right to health and to be free from violence, abuse and neglect, yet each year, millions of children are victims of violence, abuse, and neglect, with far-reaching harm to their physical and mental health and development. Children in every country in the world are threatened by violence, where it is

42 UNICEF, “Basic Education and Gender Equality: The Big Picture.” www.unicef.org/education/bege_59826.html.

43 UNICEF, “Basic Education and Gender Equality: Introduction.” www.unicef.org/education/index_1.php.

44 Right to Education Project, “Right to Education Indicators.” www.right-to-education.org/node/860; the 4A framework was developed by Katarina Tomaševski, the former UN Special Rapporteur on the right to education.

45 de Beco G, *Right to Education Indicator based on the 4 A framework: Concept Paper*, (The Right to Education Project, 2009). www.right-to-education.org/sites/r2e.gn.apc.org/files/Concept%20Paper.pdf.

46 Convention on the Rights of the Child, art. 28; International Covenant on Economic, Social and Cultural Rights, arts. 13 and 14.

47 UN Committee on the Rights of the Child, *Concluding Observations on Panama*, CRC/C/PAN/CO/3-4, para. 62 (a) (2011).

48 Committee on the Elimination of Racial Discrimination (CERD), *Concluding Observations on Norway*, CERD/C/NOR/CO/19-20 (2011); *Denmark*, CERD/C/DNK/CO/18-19 (2010); *Vietnam*, CERD/C/VNM/CO/10-14 (2012).

49 UN Committee on the Rights of the Child, *Concluding Observations on Costa Rica*, CRC/C/CRI/CO/4, paras. 67, 69 (2011).

often socially approved, and frequently legal and State sanctioned.⁵⁰ In 2006, the UN conducted the first global study on all forms of violence against children in various settings: family, school, alternative care institutions, detention centers and communities. It found that States often fail to take sufficient measures to protect children from domestic violence, corporal punishment, and/or other forms of abuse and neglect, and that such maltreatment is often justified by adults as “tradition” or “disguised as ‘discipline.’”⁵¹

Though accurate statistics are hard to ascertain, the UN study estimated that there were 53,000 childhood homicides in 2006.⁵² Child deaths from maltreatment only represent a small fraction of the problem of child abuse and neglect, with some international studies having shown that, in some parts of the world, between a quarter and a half of all children report severe and frequent physical abuse.⁵³ In 2002, 150 million young girls suffered forced sexual intercourse or other forms of sexual violence.⁵⁴ And among their peers, children with disabilities are particularly vulnerable to abuse and neglect.

Preventing such abuse and violence against all children is a positive obligation of States. Article 19 of the CRC instructs, “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” Children have a right to increased protection from maltreatment given the vulnerabilities inherent in their age and dependence on adults for care and security. As such, in cases of abuse, the child explicitly “has the right to the protection of the law against such interference or attacks.”

The CRC Committee considers the absence of legislation protecting children from domestic violence to be a violation of the obligation of States under Article 19. State Parties are often called to implement legislation that criminalizes domestic violence,⁵⁵ and absolutely prohibits corporal punishment in all settings. In General Comment 8, the CRC Committee emphasizes that “eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties.”⁵⁶

Preventing physical and psychological abuse and violence against children has rightfully become a key priority of the international community, particularly as such maltreatment is associated with risk factors and risk-taking behaviors later in life.⁵⁷ According to some studies, these include “violent victimization and the perpetration of violence, depression, smoking, obesity, high-risk sexual behaviours, unintended pregnancy, and alcohol and drug use. Such risk factors and behaviors can lead to some of the principal causes of death, disease and disability: as heart disease, sexually transmitted diseases, cancer, and suicide.”⁵⁸

50 UN General Assembly, *Report of the independent expert for the United Nations study on violence against children*, A/61/299 (2006).

51 Ibid. at 5.

52 Ki-Moon B, *Children and the Millennium Development Goals: Progress towards a World Fit for Children* (UNICEF, 2006): 53. www.unicef.org/publications/files/Children_and_the_MDGs.pdf.

53 World Health Organization and International Society for Prevention of Child Abuse and Neglect, *Preventing Child Maltreatment: A guide to taking action and generating evidence* (2006). http://c.ymcdn.com/sites/www.ispcan.org/resource/resmgr/docs/preventing_child_maltreatment.pdf.

54 Ki-Moon B, *Children and the Millennium Development Goals*, 59.

55 UN Committee on the Rights of the Child, *Concluding Observations on Algeria*, CRC/C/DZA/CO/3-4, para. 45 (2012), and *Burkina Faso*, CRC/C/BFA/CO/3-4, para. 50 (2010).

56 UN Committee on the Rights of the Child, *General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment*, CRC/C/GC/8, arts. 19; 28, para. 2; and 37, inter alia (2006).

57 Kydd JW, “Preventing Child Maltreatment: An Integrated Multisectoral Approach,” *Health and Human Rights Journal* 6, no. 2 (2003).

58 World Health Organization and International Society for Prevention of Child Abuse and Neglect. *Preventing Child Maltreatment: A guide to taking action and generating evidence* (2006). http://c.ymcdn.com/sites/www.ispcan.org/resource/resmgr/docs/preventing_child_maltreatment.pdf.

Freedom from Economic or Sexual Exploitation

Children have the right to be protected from any form of exploitation that may harm their physical, mental, and social development and interfere with their right to education. There are an estimated 250 million child laborers globally. Worldwide, approximately 1.2 million children and adolescents are trafficked for economic and sexual exploitation each year.⁵⁹ States are responsible for ensuring that children are not exposed to hazardous circumstances that may jeopardize their health, safety, and well-being. The CRC devotes several articles to preventing exploitation, with Article 32 protecting the child from economic exploitation, Article 34 protecting children from sexual exploitation, Article 35 providing protection from trafficking, and Article 36 protecting children against all other forms of exploitation. Where children are recruited into dangerous industries, where minimal ages of employment are lower than ages of compulsory schooling, or where limited action is taken by States to prosecute child traffickers, States are failing to uphold their international human rights obligations.⁶⁰

Children belonging to vulnerable groups are often at heightened risk for exploitation. As such, human rights treaty bodies as well as various independent experts frequently call on States to improve living conditions, educational opportunities, and vocational training programs for such young people so as to mitigate the potential that they may be forced (either directly or indirectly) into dangerous economic or sexual circumstances.⁶¹ States are given some measure of flexibility in determining minimum age of employment,⁶² and both scholars and human rights mechanisms recognize subjectivity in the term “exploitative” and the need to balance regulations with the child’s right to participation and decision-making.⁶³ However, freedom from sexual abuse and exploitation is clearly and fully protected and recent international instruments have established further measures that States should undertake in order to guarantee the protection of all children, and especially those at heightened risk, from any sexual exploitation and all worst forms of child labor.

In 1999, the International Labour Organization, a specialized UN agency responsible for setting and monitoring international labor standards, adopted the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Convention seeks urgent and effective measures to eliminate slavery, child prostitution, child involvement in illicit activities, and any work that is likely to harm the health, safety, or morals of children.⁶⁴ Children are further protected against exploitation by the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC), which entered into force in 2002. The OPSC criminalizes specific acts relating to the sale of children, child prostitution and child pornography, including attempt and complicity. It lays down minimum standards for protecting child victims in criminal justice processes and recognizes the right of victims to seek compensation.⁶⁵

59 International Labour Organization (ILO), *A Future Without Child Labour: Global Report* (2002).

60 UN Committee on the Rights of the Child, *inter alia* *Concluding Observations on Burkina Faso* CRC/C/BFA/CO/3-4, para. 68 (2010); *Singapore* CRC/C/SGP/CO/2-3, para. 62 (2010), para. 62; see also CESCR, *Concluding Observations on Sri Lanka* E/C.12/LKA/CO/2-4 (2010).

61 UN General Assembly, *Recommendations of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography on Greece*, E/CN.4/2006/67/Add.3 (2006) and *the United Arab Emirates*, A/HRC/16/57/Add.2 (2010).

62 International Labour Organization, *Convention No. 138 related to the minimum age of employment*, art 7(1) (1973, entry into force 19 June 1967).

63 For discussion on the subjectivity of “exploitation” and the challenge of defining child labour within a human rights context, see Parker DL and Bachman S, “Economic Exploitation and the Health of Children: Towards a Rights-Oriented Public Health Approach,” *Health and Human Rights Journal* 5, no. 2 (2001).

64 International Labour Organization, *Convention No. 182 on the Worst Forms of Child Labour*, (1999, entry into force on 19 Nov 2000). www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312327.

65 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol. III (2000, entry into force 18 January 2002). <http://www2.ohchr.org/english/law/crc-sale.htm>.

In spite of these efforts, exploitation of children continues to exist on a massive scale, and though child labor is a complex issue, the potential costs of denying children's rights to protection from exploitation are enormous and unacceptable.⁶⁶ In addition to the harm intrinsic to economic and sexual exploitation, children can suffer long-term social, emotional, and cognitive impairments, as well as behaviors that cause disease, injury and social problems.⁶⁷ States are encouraged to take deliberate and swift action to put in place legislative and policy measures that explicitly identifies and prohibits the exploitation of children, and also to employ a holistic framework that aims to guarantee the safe upbringing, well-being, and development of all children.

Freedom from Harmful Traditional Practices

Children are protected under international human rights law from harmful cultural traditions, and all practices that can have a negative affect on their health and well-being. For example, according to a WHO estimate, between 100 and 140 million girls and women in the world have undergone some form of female genital mutilation (FGM).⁶⁸ Though "harmful traditional practices" is a term most frequently associated with FGM and other practices targeting young girls such as forced marriages and preferential treatment of sons, there are many other harmful practices against both boys and girls.⁶⁹ The international community has been historically wary to intervene to prevent harmful traditional practices, viewing such practices as culturally sensitive issues. However, there has been noticeable progress in human rights protection against value or belief-based practices that have an undeniably harmful impact on the child or adolescent victim. The WHO writes:

It is unacceptable that the international community remain passive in the name of a distorted vision of multiculturalism. Human behaviors and cultural values...have meaning and fulfill a function for those who practice them. However, culture is not static but it is in constant flux, adapting and re-forming. People will change their behavior when they understand the hazards and indignity of harmful practices and when they realize that it is possible to give up harmful practices without giving up meaningful aspects of their culture.⁷⁰

A human rights perspective towards harmful traditional practices affirms the rights of children to physical and mental integrity, freedom from discrimination on the basis of age of gender, and to the highest standard of health. Thus, states are required under the CRC, CEDAW, and the International Covenant on Civil and Political Rights (ICCPR) to take action to end such harmful traditional practices. The corresponding human rights treaty bodies hold States accountable for taking measures to prevent such practices and guarantee that culture is not used as a justification for the violation of the health and human rights of children.⁷¹

66 UN Study on Violence against Children, *Chapter 6: Violence against children in places of work*. www.unicef.org/violencestudy/6.%20World%20Report%20on%20Violence%20against%20Children.pdf.

67 UN Study on Violence against Children, *Chapter 1: An end to violence against children*. www.unicef.org/violencestudy/1.%20World%20Report%20on%20Violence%20against%20Children.pdf.

68 UN Study on Violence against Children, *Chapter 3: Violence Against Children in the Home and the Family*, p. 60. www.unicef.org/violencestudy/3.%20World%20Report%20on%20Violence%20against%20Children.pdf.

69 For a list of harmful traditional practices, see UN Committee on the Rights of the Child, *General Comment No. 13 The right of the child to freedom from all forms of violence*, CRC/C/GC/13, art 29 (2011).

70 World Health Organization, *Female Genital Mutilation: A Joint WHO/UNICEF/UNFPA Statement* (1996).

71 Convention on the Rights of the Child, art 24; Convention on the Elimination of Discrimination against Women (CEDAW), arts 5, 16; and International Covenant on Civil and Political Rights, art 7.

What are human rights-based approaches for upholding the health rights of children?

A basic principle of child rights, as guaranteed by the CRC is to secure the best interest of the child. According to Article 3 of the CRC, the best interest of the child is to be a 'primary consideration' in all actions regarding children. The principle thus underlines all human rights-based approaches for the promotion and protection of children's health rights. The best interests of the child are to guide the implementation of the CRC by State Parties, including all "legislative, administrative and other measures" necessary to realize the human rights of children and adolescents.⁷² The following list includes objectives and initiatives that support a child-centered, human rights-based approach that serves to prevent and/or defend against some of the violations detailed in the section above.⁷³

Ensuring Early Childhood Survival, Development and Well-being⁷⁴

Given that most children under 5 die from one or more of five common (and treatable) conditions – diarrheal dehydration, measles, respiratory infections, malaria, or malnutrition, continuing and comprehensive efforts must be made by States to prevent such deaths. Communication of health information to families and care takers is an underlying premise of effective health interventions, particularly to secure the well being of young children. "Communication is vital: conveying to parents the key information about how to manage diarrhoea at home – or how to recognize pneumonia or malaria and seek timely care from someone with medical training – will save many children's lives."⁷⁵ For example, some of the most effective initiatives to reduce malnutrition were those that enabled "families to understand the causes of malnutrition and to take informed action to address them," including the promotion of breast feeding, and addressing key micronutrient deficiencies.⁷⁶

Eliminating Barriers to Education and Maximum Development

Education is also critical to the development of communities, and thus eliminating the cultural, social and economic barriers to education for girls and other vulnerable children (including poor children, children living in remote locations, children with disabilities, and children belonging to minority groups) must be a priority of any child-centered education program. However, simply eliminating barriers is insufficient; States must use strategic planning to ensure realistic progress. For example, eliminating school fees as required by the CRC has made significant impact in access to primary education for children in Eastern/Southern Africa,⁷⁷ where enrollment increased significantly; however, ensuring sustainable and quality education demands acquiring the funds to provide adequate accommodations, supplies, and teachers to these newly enrolled students.

⁷² Convention on the Rights of the Child, art 4.

⁷³ UNICEF, *A World Fit for Children* (2002). www.unicef.org/specialsession/wffc/resource.html.

⁷⁴ UN Committee on the Rights of the Child, *General Comment No. 7 Implementing child rights in early childhood* (2005) CRC/C/GC/7/Rev. 1. (20 September 2006).

⁷⁵ Annan K, *We the Children: Meeting the promises of the World Summit for Children* (UNICEF, 2001): 26. www.unicef.org/specialsession/about/sgreport-pdf/sgreport_adapted_eng.pdf.

⁷⁶ Ibid.

⁷⁷ UNICEF, *Progress for Children: A report card on gender parity and primary education*. (2005). www.childinfo.org/files/PFC05n2en.pdf.

Meaningful Participation of Young People in Decisions Affecting Their Health⁷⁸

A programming approach that is guided by the CRC should create conditions that allow families with children and children themselves to participate more fully in community life and in the development of policies that affect them. Consultation with children should make explicit efforts to include vulnerable children and their families, including children of minority groups, poor children, disabled children, and girls, generally. The goal is not just to increase participation of children in decision making and health promotion but to ensure their meaningful participation. “If programmes are to meet the health needs of children it is vital that they are given some ownership of the programmes by having a voice in planning, implementing and monitoring programme activities.”⁷⁹

Supporting Parents and Strengthening Families

The CRC clearly emphasizes the obligation of governments to support parents and families in their duties as the primary caregivers and protectors of children. Under Article 3, paragraph 2, “States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.” Families have the most potential to protect children and also empower young people with tools and strategies to protect themselves. The need to strengthen family life and support families (particularly those in challenging situations) must therefore be a priority at every stage of intervention and programming. Parents and families should be provided with opportunities (such as trainings and accessible social services) to develop the skills and identify the resources they need to understand and meet their children’s needs and protect them from harm.

⁷⁸ UNICEF, “Child and youth participation resource guide, Participation in programme areas.” www.unicef.org/adolescence/cypguide/index_health.html.

⁷⁹ Child-to-Child Trust, *New directions for child-to-child: Ideas and experiences from a consultation meeting held in Cambridge, England in March 2002* (2003): 29. www.child-to-child.org/publications/c2creport2002.pdf.

Creating National Plans of Action to Ensure the Well-being of Children

In 2002, 180 countries gathered to develop an ambitious ten-year action plan called “A World Fit for Children” (WFFC). Grounded in the principles set forth in the CRC, the WFFC agenda called on all participating countries to create national plans of action (NPAs) that effectively integrated international legal standards and secured the rights of children. Where they are not in place, national strategies are often recommended by the CRC Committee and require such elements as:

1. Time-bound, measurable goals for improving protection of child rights;
2. Cooperation between government and civil society, including children;
3. Child-centered budgets and adequate resources allocation;
4. Communication and campaigns that inform the general public of child rights;
5. Regular monitoring of the situation of children at the national level and engagement with the UN human rights monitoring mechanisms.⁸⁰

A comprehensive approach to child protection and development, ensures that both the root causes and consequences of violations of child rights are considered and meaningfully addressed.

Reshaping National Laws for the Protection of Children's Health Rights

Countries around the world have undertaken reforms to bring their national legislation into closer conformity with the principles and provisions of the CRC. Such efforts that better safeguard the health rights of children include: laws to protect children from discrimination; laws to protect against domestic violence and prohibit corporal punishment; laws prohibiting forced marriage and raising the legal marriage age; and labor laws prohibiting the involvement of children in hazardous employment and other worst forms of child labor.⁸¹ However, changing the law alone is insufficient to guarantee protection if efforts are not made to address the underlying social contexts that require such legislation. Thus, programs committed to achieving substantial changes in the legislative protection of the health and human rights of children must also ensure that children, parents, communities, and enforcement officials are trained and made aware of new regulations and the human rights that warrant such protection.

⁸⁰ UNICEF, “Follow-up: National plans of action,” *United Nations Special Session on Children 8-10 May 2002*. www.unicef.org/specialsession/followup_npa/index.html; National Children's Alliance, *The National Children's Alliance and A Rights Based Approach: Setting the Context for Discussion and Action* (2003). www.nationalchildrensalliance.com/nca/pubs/2003/National_Plan_of_Action.pdf.

⁸¹ Annan K, *We the Children: Meeting the promises of the World Summit for Children* (UNICEF, 2001): 76. www.unicef.org/specialsession/about/sgreport-pdf/sgreport_adapted_eng.pdf.

2. WHICH ARE THE MOST RELEVANT INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS RELATED TO CHILDREN'S HEALTH?

How to read the tables

Tables A and B provide an overview of relevant international and regional human rights instruments. They provide a quick reference to the rights instruments and refer you to the relevant articles of each listed human right or fundamental freedom that will be addressed in this chapter.

From Table 1 on, each table is dedicated to examining a human right or fundamental freedom in detail as it applies to children's health rights. The tables are organized as follows:

Human right or fundamental freedom	
Examples of Human Rights Violations	
Human rights standards	<p>UN treaty body interpretation</p> <p>This section provides general comments issued by UN treaty bodies as well as recommendations issued to States parties to the human right treaty. These provide guidance on how the treaty bodies expect countries to implement the human rights standards listed on the left.</p>
Human rights standards	<p>Case law</p> <p>This section lists case law from regional human rights courts only. There may be examples of case law at the country level, but these have not been included. Case law creates legal precedent that is binding upon the states under that court's jurisdiction. Therefore it is important to know how the courts have interpreted the human rights standards as applied to a specific issue area.</p>
<p>Other interpretations: This section references other relevant interpretations of the issue. It includes interpretations by:</p> <ul style="list-style-type: none"> • UN Special Rapporteurs • UN working groups • International and regional organizations • International and regional declarations 	

The tables provide examples of human rights violations as well as legal standards and precedents that can be used to redress those violations. These tools can assist in framing common health or legal issues as human rights issues, and in approaching them with new intervention strategies. In determining whether any human rights standards or interpretations can be applied to your current work, consider what violations occur in your country and whether any policies or current practices in your country contradict human rights standards or interpretations.

Human rights law is an evolving field, and existing legal standards and precedents do not directly address many human rights violations. Through ongoing documentation and advocacy, advocates can build a stronger body of jurisprudence on human rights and children's health.

Abbreviations

In the tables, we use the following abbreviations to refer to the fourteen treaties and their corresponding enforcement mechanisms:

Treaty	Enforcement Mechanism
Universal Declaration of Human Rights (UDHR)	None
International Covenant on Civil and Political Rights (ICCPR)	Human Rights Committee (HRC)
International Covenant on Economic, Social, and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)
Convention on the Rights of the Child (CRC)	Committee on the Rights of the Child (CRC Committee)
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Discrimination Against Women (CEDAW Committee)
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Committee on the Elimination of Racial Discrimination (CERD)
Convention Against Torture (CAT)	Committee Against Torture (CAT Committee)
African Charter on Human and Peoples' Rights and Protocols (ACHPR)	African Commission on Human and Peoples' Rights (ACHPR Commission)
African Charter on the Rights and Welfare of the Child (ACRWC)	African Committee of Experts on the Rights and Welfare of the Child (ACRWC Committee)
[European] Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	European Court of Human Rights (ECtHR)
1996 Revised European Social Charter (ESC)	European Committee of Social Rights (ECSR)
American Convention on Human Rights (ACHR)	Inter-American Court of Human Rights (IACHR)
American Declaration of the Rights and Duties of Man (ADRDM)	Inter-American Court of Human Rights (IACHR)
Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO Con)	International Labour Organization (ILO)

Also cited are the former Commission on Human Rights (**CHR**) and various UN Special Rapporteurs (**SR**) and Working Groups (**WG**).

Table A: International Human Rights Instruments and Protected Rights and Fundamental Freedoms

	UDHR	ICCPR	ICESCR	CEDAW	ICERD	CRC
Life	Art. 3	Art. 6(1)				Art. 6(1)
Non-Discrimination and Equality	Art. 1, Art. 2	Art. 2(1), Art. 3	Art. 2(2), Art. 3	Art. 2, All	Art. 2, Art. 5, All	Art. 2
Have Views Respected						Art. 12
Expression and Information	Art. 19	Art. 19(2)				Art. 13, Art. 17
Abuse, Torture, and Ill-Treatment*	Art. 5	Art. 7				Art. 37(a)
Disabilities	Art. 25					Art. 2, Art. 23
Health	Art. 25		Art. 12	Art. 12	Art. 5(e)(iv)	Art. 24
Education	Art. 26		Art. 13	Art. 10	Art. 5(e)(v)	Art. 28, Art. 29
Sexual or Economic Exploitation			Art. 10(3)	Art. 6		Art. 32, Art. 34
Harmful Traditional Practices						Art. 24(3)

*See also Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2.

Table B: Regional Human Rights Instruments and Protected Rights and Fundamental Freedoms

	Africa: ACHPR	Europe: ECHR	Europe: ESC	Americas: ADRDM	Americas: ACHR
Life	Art. 4	Art. 2		Art. I	Art. 4
Non-discrimination and Equality	Art. 2, Art. 19	Art. 14	Art. E	Art. II	Art. 1(1)
Have Views Respected					
Expression and Information	Art. 9	Art. 10		Art. IV	Art. 13
Abuse, Torture, and Ill-Treatment	Art. 5	Art. 3			Art. 5(2)
Disabilities	Art. 18(4)		Art. 15		
Health	Art. 16		Art. 11, Art. 13	Art. XI	
Education	Art. 17			Art. XII	
Sexual or Economic Exploitation	Art. 5	Art. 4			
Harmful Traditional Practices					

Table I: Children's Health and the Right to Life, Survival and Development

Examples of Human Rights Violations
<ul style="list-style-type: none"> • High rates of maternal, neonatal and under-five mortality rates. • Ill-treatment, abandonment or even infanticide of children motivated by traditional beliefs. • High rates of child and adolescent suicide and self-harm. • Allowing the death penalty to be imposed for crimes committed by individuals under the age of 18. • Failing to protect children from violence (e.g. Mapiripán Massacre).

Human Rights Standard	Treaty Body Interpretation
<p>CRC 6(1): States Parties recognize that every child has the inherent right to life. (2) States Parties shall ensure to the maximum extent possible the survival and development of the child.</p> <p>CRC 24(2): States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality.</p>	<p>CRC, General Comment 5(12): The Committee expects States to interpret “development” in its broadest sense as a holistic concept, embracing the child’s physical, mental, spiritual, moral, psychological and social development. Implementation measures should be aimed at achieving the optimal development for all children. CRC/GC/2003/5 (Nov. 27, 2003).</p> <p>CRC, General Comment 9(31): The inherent right to life, survival and development is a right that warrants particular attention where children with disabilities are concerned. In many countries of the world children with disabilities are subject to a variety of practices that completely or partially compromise this right . . . States parties are urged to undertake all the necessary measures required to put an end to these practices, including raising public awareness, setting up appropriate legislation and enforcing laws that ensure appropriate punishment to all those who directly or indirectly violate the right to life, survival and development of children with disabilities. CRC/C/GC/9 (Feb. 27, 2007).</p> <p>CRC Committee: Expressing concern of high rates of infant mortality in Djibouti CRC/C/DJI/CO/2 (CRC, 2008), para. 29; neonatal deaths and premature births in Georgia CRC/C/GEO/CO/3 (CRC, 2008) para. 44; and maternal, neonatal and under-five mortality rates in Algeria CRC/C/DZA/CO/3-4 (CRC, 2012), para. 57; Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012) para. 49; Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010) para. 54; and Argentina CRC/C/ARG/CO/3-4 (CRC, 2010) para. 57.</p> <p>CRC Committee: Recommending that Madagascar take all necessary measures to stop the ill-treatment, rejection and abandonment of twins, including through legislation and increased awareness-raising in the society at large, which should involve traditional leaders. CRC/C/MDG/CO/3-4 (CRC, 2012), para. 28.</p> <p>CRC Committee: Expressing serious concern and recommending immediate action to avoid any future massacres of albino children in Burundi, including to investigate, prosecute and condemn the perpetrators of such crimes. CRC/C/BDI/CO/2 (CRC, 2010), para. 34.</p> <p>CRC Committee: Urging research on suicide risk factors among children, both in the families of children affected and the education system in Korea. CRC/C/KOR/CO/3-4 (CRC, 2012), para. 30.</p> <p>CRC Committee: Recommending Argentina to take effective measures to prevent child suicides and self-inflicted injuries in detention. CRC/C/ARG/CO/3-4 (CRC, 2010), para. 37.</p>

Table I(cont.)

Human Rights Standard	Treaty Body Interpretation
<p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p> <p>(2) The steps to be taken by the States Parties . . . to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child.</p>	<p>CESCR, General Comment 14(14): “The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child” (Art. 12.2 (a)) may be understood as requiring measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information. E/C.12/2000/4 (August 11, 2000).</p> <p>CESCR, General Comment 14(52): Violations of the obligation to fulfill occur through the failure of States parties to take all necessary steps to ensure the realization of the right to health. Examples include the failure . . . to reduce infant and maternal mortality rates. E/C.12/2000/4 (August 11, 2000).</p> <p>CESCR: Expressing concern over high maternal, infant and under-five mortality rates in Angola E/C.12/AGO/CO/3 (CESCR, 2009), para. 36; Democratic Republic of Congo E/C.12/COD/CO/4 (CESCR, 2009) para. 34; Kenya E/C.12/KEN/CO/1 (CESCR, 2008) para. 32; and Morocco E/C.12/1/ADD.55 (CESCR, 2000), para. 29.</p> <p>CESCR: Recommending that Benin “step up its efforts to prevent and halt killings of so-called “witch children” by including provisions in criminal law to suppress this practice and organizing campaigns to heighten awareness of its criminal nature among local authorities, doctors, midwives and the population at large.” E/C.12/BEN/CO/2 (CESCR, 2008), para. 40.</p>
<p>ICCPR 6(1): Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.</p>	<p>HRC: Noting the very high maternal and infant mortality rates in Democratic Republic of Congo and Mali and calling for efforts to increase access to health services. CCPR/C/COD/CO/3 (HRC, 2006), para. 14, CCPR/CO/77/MLI (HRC, 2003), para. 14.</p>
<p>ICCPR 6(5): Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age.</p>	<p>HRC: Repeating to Sudan that the Covenant does not allow the death penalty to be imposed for crimes committed by individuals under the age of 18, and permits no derogation from that article. CCPR/C/SDN/CO/3 (HRC, 2007), para. 20.</p>
<p>CEDAW 12(2): States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.</p>	<p>CEDAW Committee: Calling on the Lao People's Democratic Republic to prioritize reducing maternal and infant mortality rates by developing the midwifery workforce and making the services of skilled birth attendants available and accessible, including emergency obstetric delivery services, and by granting free services where necessary. CEDAW/C/LAO/CO/7 (CEDAW, 2009).</p> <p>CEDAW Committee: Noting with concern that the maternal and infant mortality rates in Timor-Leste are extremely high. CEDAW/C/TLS/CO/1 (CEDAW, 2009).</p>

Table I(cont.)

Human Rights Standards	Case Law
<p>ACHR 4(1): Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.</p> <p>ACHR 19: Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.</p>	<p>IACHR: Finding that Colombia violated the right of children under Article 19 of the American Convention, in combination with the rights to life, humane treatment and freedom of movement and residence under Articles 4(1), 5(1) and 22(1), by failing to protect the children of Mapiripán before, during and after the massacre and in connection with the displacement of many such children. Mapiripán Massacre v. Colombia, Series C No. 134 (September 15, 2005).</p>

Table 2: Children's Health and the Right to Non-Discrimination

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Discrimination against Roma children, indigenous children, and children of other minority communities with regard to access to health care, education and housing. • A lack of culturally appropriate services, including social and health services and education, resulting in the discrimination against minority children. • Disparities in health outcomes of children on the basis of ethnic, racial, religious or geographic lines.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 2(1): States Parties shall 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 his or her 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.</p>	<p>CRC, General Comment 5(12): This non-discrimination obligation requires States actively to identify individual children and groups of children the recognition and realization of whose rights may demand special measures . . . Addressing discrimination may require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes. CRC/GC/2003/5 (November 27, 2003).</p> <p>CRC Committee: Noting persistent discrimination against Roma children in Bulgaria, Serbia, and Italy, in particular with regard to access to education, health care and housing. CRC/C/SR.1318 (CRC, 2008), para. 24, CRC/C/SRB/CO/1 (CRC, 2008) para. 25, CRC/C/ITA/CO/3-4 (CRC, 2012) para. 24.</p> <p>CRC Committee: Noting that the social exclusion and structural discrimination of the Roma population in Finland leads to an increase in substance abuse and mental health problems, and a poor standard of living for Roma children. CRC/C/FIN/CO/4 (CRC, 2011), para. 25.</p> <p>CRC Committee: Recommending that Panama take all necessary steps to address and prevent the marginalization and discrimination of indigenous and Afro-Panamanian girls and boys; that they receive health services and education adapted to their culture, history and languages; and that they enjoy an adequate standard of living. CRC/C/PAN/CO/3-4 (CRC, 2011) para. 81.</p> <p>CRC Committee: Expressing concern that Batwa children in Burundi suffer from discrimination in relation to the enjoyment of their rights, including the rights to health care, food, survival and development. CRC/C/BDI/CO/2 (CRC, 2010), para. 78.</p> <p>CRC Committee: Expressing concern that there are growing disparities affecting indigenous children in Costa Rica with regard to access to health care, especially in rural and coastal areas. Child mortality of indigenous children is twice as high as the national average. CRC/C/CRI/CO/4 (CRC, 2011), para. 29.</p> <p>CRC Committee: Calling on Syria to repeal legal provisions that discriminate against girls, and take all the necessary measures to eliminate societal discrimination against them through public educational programs, including campaigns organized in cooperation with opinion leaders, families and the media to combat the stereotyping of gender roles. CRC/C/SYR/CO/3-4 (CRC, 2012) para. 32.</p> <p>CRC Committee: Recommending that Norway “make every effort to ensure that children from ethnic minority backgrounds and indigenous children have equal access to all children's rights, including access to welfare, health services and schools . . .” CRC/C/NOR/CO/4 (CRC, 2010).</p> <p>CRC Committee: Recommending that the Philippines “implement policies and programmes in order to ensure equal access for indigenous and minority children to culturally appropriate services, including social and health services and education.” CRC/C/PHL/CO/3-4 (CRC, 2009).</p>

Table 2 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICERD 2: States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.</p> <p>ICERD 5: In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (e) (iv) The right to public health, medical care, social security and social services.</p>	<p>CERD: Recommending that Costa Rica make strenuous efforts to combat child mortality in the indigenous communities (art. 5 (iv)). A/62/18 (CERD, 2007).</p> <p>CERD: Expressing concern that discrepancies still remaining in Israel between infant mortality rates and life expectancy rates of Jewish and non-Jewish populations, and fact that minority women and girl children are often most disadvantaged. CERD/C/ISR/CO/13 (CERD, 2007).</p> <p>CERD: Expressing concern that the Roma community in Romania continue to be the targets of racial stereotyping and racial discrimination in access to education and in the quality of education — including through segregation of Roma children — as well as in access to housing, care, health services, social services and employment. CERD/C/ROU/CO/16-19 (CERD, 2010).</p> <p>CERD: Expressing concern that children from indigenous or tribal groups in Suriname continue to experience discrimination in, inter alia, access to education, health and public services. CERD/C/SUR/CO/12 (CERD, 2009).</p>
<p>CEDAW 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.</p>	<p>CEDAW Committee: Noting the multiple forms of discrimination faced by Roma women and girls in Romania, who remain marginalized with regard to their education, health, housing, employment, and participation in political and public life. CEDAW/C/ROM/CO/6 (CEDAW, 2006), para. 26.</p>
<p>ICESCR 2(2): The States Parties to the present Covenant undertake to guarantee the rights enunciated in the present Covenant shall be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status.</p>	<p>CESCR: Recommending that Benin consider amending the Personal and Family Code with a view to guaranteeing full equality between children born in and out of wedlock and remove the phrase “legitimate children” from legal language. E/C.12/BEN/CO/2 (CESCR, 2008).</p> <p>CESCR: Expressing concern that despite legislative changes designed to ensure equal treatment of children, de facto discrimination against children born out of wedlock is widespread in Uruguay. E/C.12/URY/CO/3-4 (CESCR, 2010).</p>

Table 3: Children's Health and the Right to Have His or Her Views Respected

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Failing to enshrine the child's right to express his or her own views and the opportunity to be heard into domestic law and policy. • Socio-attitudinal contexts that prevent children from expressing their views.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 12(1): States Parties shall assure to the child who is capable of forming his or her 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.</p> <p>CRC 12(2): For this purpose, the child shall in particular 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.</p>	<p>CRC General Comment 5(12): If consultation is to be meaningful, documents as well as processes need to be made accessible. But appearing to “listen” to children is relatively unchallenging; giving due weight to their views requires real change. Listening to children should not be seen as an end in itself, but rather as a means by which States make their interactions with children and their actions on behalf of children ever more sensitive to the implementation of children's rights. CRC/GC/2003/5 (November 27, 2003).</p> <p>CRC Committee: Recommending that Bhutan: (a) Promote and facilitate, within the family and in schools as well as in judicial and administrative proceedings, respect for the views of children and their participation in all matters affecting them, in accordance with their ability to form their own views and in accordance with their age and maturity; (b) Develop a systematic approach to increase public awareness of the participatory rights of children and encourage respect for the views of children within the family, school, care institutions, monasteries, community and the administrative and judicial system; CRC/C/SR.1369 (CRC, 2008) para. 30.</p> <p>CRC Committee: Expressing concern that there has been little progress in the United Kingdom in enshrining Article 12 in education law and policy. CRC/C/GBR/CO/4 (CRC, 2008).</p> <p>CRC Committee: Expressing concern that socio/traditional-attitudinal context in the Republic of Korea and Singapore limit, or prevent, children from expressing their views on a wide range of issues that affect them within the family, schools, institutions, judicial system and society at large. CRC/C/KOR/CO/3-4 (CRC, 2012) para. 34, CRC/C/SGP/CO/2-3 (CRC, 2010) para. 33.</p>

Other Interpretations

Charter of Fundamental Rights of the European Union (24) 1 Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

Table 4: Children's Health and the Right to Information

Examples of Human Rights Violations
<ul style="list-style-type: none"> Limited access to health information, particularly reproductive health for adolescents. Information is disseminated in a language that most children do not understand. Official censorship on media that restricts the right of children to appropriate information.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 13: The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.</p>	<p>CRC General Comment 12(100): Children, including young children, should be included in decision-making processes, in a manner consistent with their evolving capacities. They should be provided with information about proposed treatments and their effects and outcomes, including in formats appropriate and accessible to children with disabilities. CRC/C/GC/12 (July 20, 2009).</p> <p>CRC General Comment 12(81): Freedom of expression relates to the right to hold and express opinions, and to seek and receive information through any media. It asserts the right of the child not to be restricted by the State party in the opinions she or he holds or expresses. As such, the obligation it imposes on States parties is to refrain from interference in the expression of those views, or in access to information, while protecting the right of access to means of communication and public dialogue. CRC/C/GC/12 (July 20, 2009).</p> <p>CRC Committee: Recommending increased information and education with respect to adolescent sexual and reproductive health in the United Kingdom CRC/C/GBR/CO/4 (CRC, 2008), para. 61; Bhutan CRC/C/SR.1369 (CRC, 2008), para. 55; Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), para. 47; Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 52; and Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 63.</p> <p>CRC Committee: Expressing concern that in Algeria sexual and reproductive health services for adolescents are scarce and that sexual and reproductive health education remains underdeveloped. The Committee is also concerned that knowledge of HIV transmission and prevention is low among adolescents. CRC/C/DZA/CO/3-4 (CRC, 2012), para. 59.</p> <p>CRC Committee: Noting with concern that in Syria there is limited availability of youth-friendly reproductive health services and that knowledge among adolescents about reproductive health, sexually transmitted diseases, including HIV/AIDS, and the health consequences of tobacco, alcohol and drugs consumption is inadequate. CRC/C/SYR/CO/3-4 (CRC, 2012), para. 65.</p> <p>CRC Committee: Recommending that Bulgaria take all necessary measures to address the incidence of drug, alcohol, tobacco, and other substance use among children by, inter alia, providing children with accurate and objective information about toxic substance use, including tobacco use. CRC/C/BGR/CO/2 (CRC, 2008), para. 50.</p> <p>CRC Committee: Recommending that Panama undertake steps to reduce the greater risk of HIV/AIDS among indigenous children, including by providing culturally sensitive sex education and information on reproductive health, reduce the greater risk of HIV/AIDS among teenagers by providing reproductive health services especially aimed at them and by expanding their access to information on prevention of sexually transmitted diseases, and that it direct programs at children with HIV/AIDS. CRC/C/PAN/CO/3-4 (CRC, 2011), para. 59.</p> <p>CRC Committee: Expressing concern that indigenous children and children of Afro descendants in Venezuela do not receive sufficient information relevant to their needs. CRC/C/VEN/CO/2 (CRC, 2007), para. 41.</p> <p>CRC Committee: Expressing concern that children in Burkina Faso still have a limited access to appropriate information which is mainly disseminated only in French, a language that most children do not understand. CRC/C/BFA/CO/3-4 (CRC, 2010), para. 36.</p>

Table 4 (cont.)

Human Rights Standards	Case Law
<p>ESC 11: With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia: (2) to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health.</p>	<p>ECSR: Holding that the situation in Croatia is not in conformity with Article 11§2 of the Charter, because Croatian schools do not provide comprehensive or adequate sexual and reproductive health education for children and young people. The Committee stated that governments that have signed the European Social Charter are obliged to provide scientifically-based and non-discriminatory sex education to young people that does not involve censoring, withholding or intentionally misrepresenting information such as on contraception. <i>International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia</i> Complaint No. 45/2007, 30 March 2009.</p>

Table 5: Children's Health and the Freedom from Abuse, Torture and Ill-Treatment

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Failure to criminalize corporal punishment against children in schools and homes. • Insufficient measures taken to protect children from domestic violence, abuse and neglect, including the absence of legislation and/or a national framework for protection. • Torture and ill-treatment of children in detention by police and security forces. • Sexual violence and abuse of children, particularly girls.

Table 5 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CRC 19(1): States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</p>	<p>CRC Committee: Recommending that states take practical steps, including enacting legislation, to prohibit corporal punishment. It should likewise encourage non-violent forms of discipline as alternatives to corporal punishment in the education system, and should conduct public information campaigns to explain its harmful effects. Bhutan CRC/C/SR.1369 (CRC, 2008), para. 38, Djibouti CRC/C/DJI/CO/2 (CRC, 2008) para. 36, Georgia CRC/C/GEO/CO/3 (CRC, 2008) para. 32, Serbia CRC/C/SRB/CO/1 (CRC, 2008) para. 47, Panama CRC/C/PAN/CO/3-4 (CRC, 2011) para. 46, Syria CRC/C/SYR/CO/3-4 (CRC, 2012), para. 53, Italy CRC/C/ITA/CO/3-4 (CRC, 2012), para. 34, Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 57, Singapore CRC/C/SGP/CO/2-3 (CRC, 2010), para. 39.</p> <p>CRC Committee: Noting with great concern that children in Burkina Faso are commonly beaten, whipped, insulted and humiliated by their teachers. CRC/C/BFA/CO/3-4 (CRC, 2010), para. 40.</p> <p>CRC Committee: Expressing concern that the rate of bullying at schools in the Republic of Korea has increased in occurrence and severity. CRC/C/KOR/CO/3-4 (CRC, 2012), para. 44.</p> <p>CRC Committee: Expressing concern about high levels of domestic violence against children, and especially girls in Algeria CRC/C/DZA/CO/3-4 (CRC, 2012), para. 45; Argentina CRC/C/ARG/CO/3-4 (CRC, 2010), para. 53; Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 50; Burundi CRC/C/BDI/CO/2 (CRC, 2010), para. 41; and Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 53.</p> <p>CRC Committee: Expressing concern about the lack of child protection mechanisms against abuse in Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 50; Italy CRC/C/ITA/CO/3-4 (CRC, 2012), para. 43; and Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 45.</p> <p>CRC Committee: Expressing concern that there is still no specific provision in domestic legislation in Algeria or Burkina Faso that criminalizes domestic violence. CRC/C/DZA/CO/3-4 (CRC, 2012), para. 45, CRC/C/BFA/CO/3-4 (CRC, 2010), para. 50.</p> <p>CRC Committee: Regretting that there is no mandatory obligation for professionals working with children in Singapore to report abuse of children. CRC/C/SGP/CO/2-3 (CRC, 2010) para. 50.</p>
<p>CRC 37 (a): No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.</p>	<p>CRC Committee: Expressing deep concern that many children in Syria are reported to have died as a result of torture and mutilation they were subjected to while being detained in connection with the protests. It is also deeply concerned that children are still reported to be detained and at risk of torture. CRC/C/SYR/CO/3-4 (CRC, 2012), para. 50.</p> <p>CRC Committee: Noting with deep regret the acknowledgment by Egypt in its report that violations of the right of the child to protection from torture and ill-treatment still occur. CRC/C/EGY/CO/3-4 (CRC, 2011), para. 122.</p> <p>CRC Committee: Expressing serious concern at the lack of concrete measures taken by Burkina Faso on the conditions of detention of children in police stations and the methods used by law enforcement officials. CRC/C/BFA/CO/3-4 (CRC, 2010), para. 38.</p> <p>CRC Committee: Expressing concern at allegations of torture and ill-treatment by police against children in Argentina CRC/C/ARG/CO/3-4 (CRC, 2010), para. 41; and against Roma children in the Ukraine CRC/C/15/ADD.191 (CRC, 2002), para. 36.</p>

Table 5 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR (10): The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.</p>	<p>CESCR: Calling on Brazil to implement measures against child sexual abuse, especially the abuse of girls; to properly investigate instances of abuse and neglect of children within a child-sensitive inquiry; to provide support services to children in legal proceedings; and for the physical and psychological recovery and social reintegration of the victims of rape and other sexual abuse or violence. E/C.12/BRA/CO/2 (CESCR, 2009).</p> <p>CESCR: Noting with concern that corporal punishment is lawful in Ethiopia E/C.12/ETH/CO/1-3 (CESCR, 2012), and not explicitly prohibited by law in Belgium E/C.12/BEL/CO/3 (CESCR, 2008), Turkey E/C.12/TUR/CO/1 (CESCR, 2011), and United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/5 (CESCR, 2009).</p> <p>CESCR: Expressing concern at the high incidence of domestic violence against women and children in India E/C.12/IND/CO/5 (CESCR, 2008), Kazakhstan E/C.12/KAZ/CO/1 (CESCR, 2010), and Latvia E/C.12/LVA/CO/1 (CESCR, 2008).</p> <p>CESCR: Expressing concern that domestic violence is not specifically defined as an offence in the Criminal Code of Peru E/C.12/PER/CO/2-4 (CESCR, 2012), or Poland E/C.12/POL/CO/5 (CESCR, 2009).</p>
<p>ICCPR (7): The right to freedom from torture and cruel, inhuman, and degrading treatment.</p>	<p>HRC: Urging New Zealand to further strengthen its efforts to combat child abuse by improving mechanisms for its early detection, encouraging reporting of suspected and actual abuse, and by ensuring that the relevant authorities take legal action against those involved in child abuse. CCPR/C/NZL/CO/5 HRC, 2009, para. 18.</p>
<p>CEDAW 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women</p>	<p>CEDAW General Recommendation 19: Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men. (11th Session, 1992).</p> <p>CEDAW Committee: Calling on Algeria to strengthen the mechanisms and procedures for ensuring that refugee women and girls are not subjected to sexual and gender-based violence and abuse, and that victims/survivors have access to shelter, to medical and psychological services, and to law enforcement mechanisms and justice. CEDAW/C/DZA/CO/3-4 (CEDAW, 2012)</p> <p>CEDAW Committee: Expressing concern for the situation of women and girls living in urban slums and informal settlements in Kenya and who are under threat of sexual violence and lack access to adequate sanitation facilities, which exacerbate their risks of being victims of sexual violence and impact negatively on their health. CEDAW/C/KEN/CO/7 (CEDAW, 2011).</p> <p>CEDAW Committee: Calling on Sri Lanka to ensure that crisis centers and shelters where victims of domestic violence can find safe lodging and counseling are available and accessible throughout the country. E/C.12/LKA/CO/2-4 (CESCR, 2010).</p>

Table 5 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CAT 2: Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.</p> <p>CAT 16(1): Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.</p>	<p>CAT Committee: Calling on states to incorporate into domestic legislation a provision prohibiting the use of corporal punishment against children within the family and domestic violence against women. Algeria CAT/C/DZA/CO/3 (CAT, 2008), Benin CAT/C/BEN/CO/2 (CAT, 2008), Chad CAT/C/TCD/CO/1 (CAT, 2009), Djibouti CAT/C/DJI/CO/1 (CAT, 2011), Ethiopia CAT/C/ETH/CO/1 (CAT, 2011), Zambia CAT/C/ZMB/CO/2 (CAT, 2008), Paraguay CAT/C/PRY/CO/4-6 (CAT, 2011), Slovenia CAT/C/SVN/CO/3 (CAT, 2011), and Ireland CAT/C/IRL/CO/1 (CAT, 2011).</p> <p>CAT Committee: Expressing concern that corporal punishment is lawful and frequently used in juvenile prisons in Indonesia CAT/C/IDN/CO/2 (CAT, 2008) and Sri Lanka CAT/C/LKA/CO/3-4 (CAT, 2011).</p> <p>CAT Committee: Expressing concern about juvenile detention centres in Kazakhstan, where there are reports of incidents of self-mutilation by detainees. A/56/44(SUPP) (CAT, 2001).</p> <p>CAT Committee: Urging Cambodia to take effective measures to prevent and combat sexual violence and abuse against women and children, including rape; establish and promote an effective mechanism for receiving complaints of sexual violence and investigate such complaints, providing victims with psychological and medical protection as well as access to redress, including compensation and rehabilitation, as appropriate. CAT/C/KHM/CO/2 (CAT, 2011).</p> <p>CAT Committee: Expressing deep concern that hospitalized patients in Burundi, including children, who are unable to pay their medical expenses are detained in hospitals for several months until they are able to pay, and the conditions under which such patients are held, particularly fact that they are denied food and medical treatment. CAT/C/BDI/CO/1 (CAT, 2007).</p>

Human Rights Standards	Case Law
<p>ECHR 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.</p>	<p>ECtHR: Finding that the law in the United Kingdom that allowed for “reasonable punishment” of children, which was used as an effective defense for the caning of a supposedly “difficult” 9-year old boy by his step-father, failed to protect the child from torture, inhuman or degrading treatment or punishment in violation of Article 3. <i>A. v. United Kingdom</i>, 25599/94 (September 23, 1998). [***Following this and a series of other judgments and decisions, corporal punishment was banned in all United Kingdom schools.]</p> <p>ECtHR: Concluding that the social service system in the United Kingdom that allowed for the appalling long-term neglect and emotional abuse of four very young children/babies by their parents, failed to protect children. The court held there was a violation of Articles 3 and 13 (right to an effective remedy). <i>Z and Others v. United Kingdom</i>, 29392/95 (May 10, 2001).</p> <p>ECtHR: Finding that the beating of a 12-year old boy by police officers in Turkey to induce him to confess to stealing money from his employer (an accusation that was subsequently withdrawn) constituted a violation of Article 3; expressing concern at the impunity of the police officers and the absence of special protection for a minor. <i>Okkali v. Turkey</i>, 52067/99 (October 17, 2006).</p> <p>ECtHR: Finding a violation of Article 3 where a 12-year-old boy was ill-treated by police officers while being held in police custody, after he refused to give his name in an identity check, leaving him with bruises on his thigh and near his right eye. The Court found that the boy had been subjected to inhuman and degrading treatment and that there had been no effective punishment of the police officer responsible, in further violation of Article 3. <i>Ci erhun Öner v. Turkey</i> (no. 2), 2858/07 (November 23, 2010).</p>

Table 5 (cont.)

Other Interpretations

Advisory Opinion of the IACtHR: States parties to the American Convention on Human Rights “are under the obligation ... to adopt all positive measures required to ensure protection of children against mistreatment, whether in their relations with public authorities, or in relations among individuals or with non-governmental entities.” OC-17/2002 (28 August 2002), paras. 87 and 91.

CRC General Comment 8 - The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. CRC/C/GC/8 (2006).

SR Torture: Recommending that **Kazakhstan** ensure that corporal punishment is explicitly criminalized in all parts of the country. A/HRC/7/3/Add.7 (SR Torture, 2008).

SR Torture: Recommending that the Government of **Nigeria** take decisive steps to abolish all forms of corporal punishment, including shariabased punishments. A/HRC/7/3/Add.4 (2007).

SR Torture: Noting with concern that in prisons in **Equatorial Guinea**, as well as in police and gendarmerie custody, women and children are not separated from male adults and are therefore extremely vulnerable to sexual violence and other forms of abuse by guards as well as by co-prisoners. A/HRC/13/39/Add.4 (2010).

SR Violence Against Women: Recommending legal provisions to prevent and combat violence in the family in **Algeria** A/HRC/7/6/Add.2 (2008) and the **Republic of Moldova** A/HRC/11/6/Add.4 (2009).

SR Torture: Expressing serious concern about the greater vulnerability of minors to ill-treatment in police stations and consistent allegations of beatings after arrest, as well as the seemingly excessive use of force and collective punishment after riots and rebellions in detention facilities for minors in **Uruguay**. A/HRC/13/39/ADD.2 (SR Torture, 2009).

United Nations Study on Violence Against Children, A/61/299 (2006).

Table 6: Children's Health and the Rights of Children with Disabilities

Examples of Human Rights Violations

- Limitations in access to education and health care services for children with disabilities.
- Lack of a comprehensive government policy for children with disabilities that considers their overall development needs, including the right to health.
- Discrimination and stigmatization of children with disabilities.
- Limited availability of special education teachers, or lack of training of mainstream teachers.

Table 6 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CRC 23(1): States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>(2): States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>(3): Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.</p>	<p>CESCR General Comment 14(22): Children with disabilities should be given the opportunity to enjoy a fulfilling and decent life and to participate within their community.</p> <p>CRC Committee: Recommending that Bhutan adopt an inclusive education strategy and elaborate a plan of action in order to increase the school attendance of children with special needs and focus on day-care services for these children in order to prevent their institutionalization; and ensure that all children with special needs receive the appropriate care. CRC/C/SR.1369 (CRC, 2008), para. 51.</p> <p>CRC Committee: Regretting the lack of a comprehensive government policy for children with disabilities in the United Kingdom CRC/C/GBR/CO/4 (CRC, 2008), para. 52; Georgia CRC/C/GEO/CO/3 (CRC, 2008), para. 42; and Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 55.</p> <p>CRC Committee: Expressing concern about barriers to and the quality of education for children with disabilities in Algeria CRC/C/DZA/CO/3-4 (CRC, 2012), para. 55; Argentina CRC/C/ARG/CO/3-4 (CRC, 2010), para. 50; Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), para. 43; Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 52; Burundi. CRC/C/BDI/CO/2 (CRC, 2010) para. 50; Korea CRC/C/KOR/CO/3-4 (CRC, 2012), para. 51; Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 47; Serbia CRC/C/SRB/CO/1 (CRC, 2008), para. 48.</p> <p>CRC Committee: Expressing concern about barriers to and the quality of health care for children with disabilities in Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), para. 43; and Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 47.</p> <p>CRC Committee: Concerned with the non-universal health care insurance for children with disabilities in Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 60; and Argentina CRC/C/ARG/CO/3-4 (CRC, 2010), para. 50.</p> <p>CRC Committee: Remaining concerned at the reported treatment of children with disabilities in some social care institutions in Serbia, in which severe and long-term forms of restraint and seclusion have reportedly taken place, and it is concerned that such practices could amount to ill-treatment or even torture. CRC/C/SRB/CO/1 (CRC, 2008), para. 35.</p>

Other Interpretations

Convention on the Rights of Persons with Disabilities.

CRC General Comment 9: The Rights of Children with Disabilities. CRC/C/GC/9 (2006).

Table 7: Children's Health and the Right to the Highest Attainable Standard of Health

Examples of Human Rights Violations
<ul style="list-style-type: none"> • High levels of infant, under-five and maternal mortality rates due to limited access to health services. • The low level of vaccination rates, due in part to the lack of health workers. • Wide disparity in the provision of health services, particularly in rural areas.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 24(1): States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>(2): States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution . . .</p>	<p>CRC General Comment 12(101): States parties need to introduce legislation or regulations to ensure that children have access to confidential medical counseling and advice without parental consent, irrespective of the child's age, where this is needed for the child's safety or well-being. Children may need such access, for example, where they are experiencing violence or abuse at home, or in need of reproductive health education or services, or in case of conflicts between parents and the child over access to health services. The right to counseling and advice is distinct from the right to give medical consent and should not be subject to any age limit.</p> <p>CRC Committee: Expressing concern that maternal, neonatal and under-five mortality rates, remain at very high levels in Algeria, CRC/C/DZA/CO/3-4 (CRC, 2012), para. 57; Argentina CRC/C/ARG/CO/3-4 (CRC, 2010), para. 57; Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 49; Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 54; and noting the disparities in maternal mortality in Egypt CRC/C/EGY/CO/3-4 (CRC, 2011); Italy CRC/C/ITA/CO/3-4 (CRC, 2012), para. 47.</p> <p>CRC Committee: Noting with concern the legislative provisions in Georgia and Bulgaria which stipulate that a child under the age of 16 who wishes to see a doctor must be accompanied by a parent; and urging the State parties to take legislative measures to ensure to all children under the age of 16 free and confidential access to medical counsel and assistance with or without parental consent. CRC/C/SR.1342 (CRC, 2008), paras. 47, CRC/C/BGR/CO/2 (CRC, 2008) para. 47.</p> <p>CRC Committee: Expressing concern at high levels of malnutrition of children in Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 49; Algeria CRC/C/DZA/CO/3-4 (CRC, 2012), para. 57; Burundi CRC/C/BDI/CO/2 (CRC, 2010), para. 52; Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 54; Bhutan CRC/C/SR.1369 (CRC, 2008), para. 52; Panama CRC/C/PAN/CO/3-4 (CRC, 2011), para. 54.</p> <p>CRC Committee: Noting with concern that many children living in remote or rural areas have limited access to medical care resulting in considerable variations in children's health status in Georgia CRC/C/GEO/CO/3 (CRC, 2008), para. 44; Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), para. 45; Serbia CRC/C/SRB/CO/1 (CRC, 2008), para. 50; Syria CRC/C/SYR/CO/3-4 (CRC, 2012), para. 63; Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 62; Panama CRC/C/PAN/CO/3-4 (CRC, 2011), para. 54; Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 57; in Korea. CRC/C/KOR/CO/3-4 (CRC, 2012), para. 53 and Burundi CRC/C/BDI/CO/2 (CRC, 2010), para. 52.</p> <p>CRC Committee: Noting discriminatory practices in health provision in Bulgaria CRC/C/SR.1318 (CRC, 2008), para. 45 and in Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 57.</p>

Table 7 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p>	<p>CESCR: Expressing concern about the high levels of maternal and infant under-five mortality in Madagascar E/C.12/MDG/CO/2 (CESCR, 2009); Nepal E/C.12/NPL/CO/2 (CESCR, 2008) and infant mortality in the Republic of Moldova E/C.12/MDA/CO/2 (CESCR, 2011).</p>

Human Rights Standards	Case Law
<p>African Children's Charter 14(1): Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.</p> <p>(2) State Parties to the present Charter shall undertake to pursue the full implementation of this right:</p> <p>(b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(g) to integrate basic health service programmes in national development plans.</p>	<p>ACHPR Committee: Finding that Kenya violated the right to health of children of Nubian descent, stating that “[t]here is de facto inequality in their access to available health care resources, and this can be attributed in practice to their lack of confirmed status as nationals of the Republic of Kenya. Their communities have been provided with fewer facilities and a disproportionately lower share of available resources as their claims to permanence in the country have resulted in health care services in the communities in which they live being systematically overlooked over an extended period of time.” <i>IHRDA and Open Society Justice Initiative (OSJI) (on behalf of children of Nubian descent in Kenya) v. Kenya</i>. 002/09 March 22, 2011.</p>

Table 8: Children's Health and the Right to Sexual and Reproductive Health and Education, Including on HIV

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Insufficient efforts to provide adolescents to appropriate reproductive health services, including reproductive health education in school. • High rates of unplanned pregnancies among adolescents and the correspondingly high rates of abortion among adolescents in such situations. • High rates of sexually transmitted diseases including HIV, due in part to the lack of awareness of prevention methods and low use of contraceptives. • Limited efforts to combat traditional beliefs that intercourse with a virgin cures HIV infection, which increases the vulnerability of women and, especially, young girls to infection.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 24(1): States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>(2): States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (f) To develop preventive health care, guidance for parents and family planning education and services.</p>	<p>CRC General Comment 3: Consistent with the obligations of States parties in relation to the rights to health and information, children should have the right to access adequate information related to HIV/AIDS prevention and care, through formal channels (e.g. through educational opportunities and child-targeted media) as well as informal channels (e.g. those targeting street children, institutionalized children or children living in difficult circumstances). States parties are reminded that children require relevant, appropriate and timely information which recognizes the differences in levels of understanding among them, is tailored appropriately to age level and capacity and enables them to deal positively and responsibly with their sexuality in order to protect themselves from HIV infection. CRC/GC/2003/3.</p> <p>CRC Committee: Expressing concern at the high rates of teenage pregnancies and recommending increased efforts for adolescent reproductive health services in the United Kingdom CRC/C/GBR/CO/4 (CRC, 2008), paras. 60, 61; Serbia CRC/C/SRB/CO/1 (CRC, 2008), paras. 54, 55; Korea CRC/C/KOR/CO/3-4 (CRC, 2012), para. 58; Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), paras. 51, 52.</p> <p>CRC Committee: Recommending increased information and education on adolescent reproductive health in Bhutan CRC/C/SR.1369 (CRC, 2008), para. 55; Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), para. 58; Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 6; Syria CRC/C/SYR/CO/3-4 (CRC, 2012), para. 65.</p> <p>CRC Committee: Noting with significant concern that the majority of married girls aged 15 – 17 in Egypt never used family planning methods. CRC/C/EGY/CO/3-4 (CRC, 2011), para. 64.</p> <p>CRC Committee: Recommending strengthened preventive efforts on HIV/AIDS through awareness, education and increased programs in Bhutan CRC/C/SR.1369 (CRC, 2008), para. 59; Panama CRC/C/PAN/CO/3-4 (CRC, 2011), para. 59; Syria CRC/C/SYR/CO/3-4 (CRC, 2012), para. 65.</p> <p>CRC Committee: Noting with concern that in Burkina Faso, only 10% of HIV infected children receive medical care because of the lack of available health structures to care for them and the reluctance of families to have their children tested. CRC/C/BFA/CO/3-4 (CRC, 2010), para. 60.</p>

Table 8 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CEDAW 10: States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women: (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning</p>	<p>CEDAW General Recommendation 24 (18): The issues of HIV/AIDS and other sexually transmitted disease are central to the rights of women and adolescent girls to sexual health. Adolescent girls and women in many countries lack adequate access to information and services necessary to ensure sexual health. (20th Session, 1999).</p> <p>CEDAW Committee: Recommending that sex education be widely promoted and targeted at adolescent girls and boys, with special attention to the prevention of early pregnancy and the control of sexually transmitted infections in Egypt CEDAW/C/EGY/CO/7 (CEDAW, 2010); Uzbekistan CEDAW/C/UZB/CO/4 (CEDAW, 2010); Lao People's Democratic Republic CEDAW/C/LAO/CO/7 (CEDAW, 2007); and United Republic of Tanzania CEDAW/C/TZA/CO/6 (CEDAW, 2009).</p> <p>CEDAW Committee: Expressing concern about the high rate of teenage pregnancy in Paraguay and Uganda, which affects the continuation and completion of education for girls. CEDAW/C/PRY/CO/6 (CEDAW, 2011) CEDAW/C/UGA/CO/7 (CEDAW, 2010).</p> <p>CEDAW Committee: Noting that additional efforts are needed to raise awareness, especially among youth, about the risks and effects of HIV, AIDS and other sexually transmitted infections Zambia. CEDAW/C/ZMB/CO/5-6 (CEDAW, 2011).</p> <p>CEDAW Committee: Recommending that Ethiopia provide free antiretroviral treatment for pregnant women living with HIV/AIDS to prevent mother-to-child transmission; and conduct awareness-raising activities to de stigmatize orphans and vulnerable children affected by HIV/AIDS and strengthen the material and psychological support provided to them. CEDAW/C/ETH/CO/6-7 (CEDAW, 2011).</p>
<p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p>	<p>CESCR: Noting with concern that in Kazakhstan, sexual and reproductive health services, particularly for teenagers, are not available and there is a lack of comprehensive sexual and reproductive health education programs for adolescents in the national school curricula that provide them with objective information in accordance with medical and education standards. E/C.12/KAZ/CO/1 (2010).</p> <p>CESCR: Recommending that Bolivia openly address the subjects of sex education and family planning in school curricula in order to help prevent early pregnancies and the spread of sexually-transmitted diseases. E/C.12/BOL/CO/2 (CESCR, 2008)</p>

Human Rights Standards	Case Law
<p>ESC 11: With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia: (2) to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health.</p>	<p>ECSR: Finding a violation of Article 11(2) in light of the non-discrimination clause where sexual education materials in Croatia was scientifically inaccurate, gender stereotyped or outright discriminatory on grounds of sexuality and/or family status; stating that in the positive obligation to provide sexual and reproductive health extends to ensuring that educational materials do not reinforce demeaning stereotypes and perpetuate forms of prejudice which contribute to the social exclusion, embedded discrimination and denial of human dignity often experienced by historically marginalized groups such as persons of non-heterosexual orientation.</p> <p>The reproduction of such state-sanctioned material in educational materials not alone has a discriminatory and demeaning impact upon persons of non-heterosexual orientation throughout Croatian society, but also presents a distorted picture of human sexuality to the children exposed to this material. By permitting sexual and reproductive health education to become a tool for reinforcing demeaning stereotypes, the authorities have failed to discharge their positive obligation not to discriminate in the provision of such education, and have also failed to take steps to ensure the provision of objective and non-exclusionary health education. <i>International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia</i>, Complaint No. 45/2007, 30 March 2009.</p>

Table 8 (cont.)

Other Interpretations

SR Health: Recommending that the **Syrian Arab Republic** develop and implement a consistent, nation-wide sexual and reproductive health education curricula, to be delivered through late primary and early secondary schools. A/HRC/17/25/Add.3 (2011).

International Guidelines on HIV/AIDS and Human Rights 8 (g) States should ensure the access of children and adolescents to adequate health information and education ... [and] **(h)** ... confidential sexual and reproductive health services, including HIV information, counseling, testing, and prevention measures.

Table 9: Children's Health and the Right to Education

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Legislation requiring payment for primary education, or otherwise making primary education not accessible in an equitable manner for all children. • High dropout rates, particularly among children belonging to vulnerable groups, including children from rural areas; children living in economic hardship and deprivation; Roma children and children from other minority groups; refugee and internally displaced children. • Poor conditions of school buildings and facilities, which pose health and safety risks for children.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 28 (1): States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:</p> <p>(a) Make primary education compulsory and available free to all;</p> <p>(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;</p> <p>(c) Make higher education accessible to all on the basis of capacity by every appropriate means;</p> <p>(d) Make educational and vocational information and guidance available and accessible to all children;</p> <p>(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.</p>	<p>CRC General Comment 1(9): Education must also be aimed at ensuring that ... no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life. Basic skills should include ... the ability to make well-balanced decisions, to resolve conflicts in a nonviolent manner, and to develop a healthy lifestyle [and] good social relationships. CRC/GC/2001/1 (April 17, 2001).</p> <p>CRC Committee: Expressing concern at the quality of education in Bhutan CRC/C/SR.1369 (CRC, 2008), para. 61; Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), paras. 67, 69; and Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 74.</p> <p>CRC Committee: Noting the lack of non-formal, vocational education options for Bhutan CRC/C/SR.1369 (CRC, 2008), para. 61; Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), paras. 58 (b)(h); Panama CRC/C/PAN/CO/3-4 (CRC, 2011), para. 62 (a).</p> <p>CRC Committee: Expressing concern at the dropout levels in Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), paras. 58 (b)(h); Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 74; Italy CRC/C/ITA/CO/3-4 (CRC, 2012), para. 59; and Serbia CRC/C/SRB/CO/1 (CRC, 2008), para. 60(d); Syria CRC/C/SYR/CO/3-4 (CRC, 2012), para. 71(a); and Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 57.</p> <p>CRC Committee: Expressing concern at the rate and quality of education for indigent/minority children in Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), paras. 67, 69; Italy CRC/C/ITA/CO/3-4 (CRC, 2012), para. 59; and Serbia CRC/C/SRB/CO/1 (CRC, 2008), para. 60(d).</p> <p>CRC Committee: Calling attention to the highly competitive nature of the education system in Singapore, which may impose undue stress and prevent children from developing to their full potential. CRC/C/SGP/CO/2-3 (CRC, 2010), para. 58.</p>

Table 9 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 13: Everyone has the right to education. Primary education should be compulsory and free to all.</p> <p>ICESCR 14: Those States where compulsory, free primary education is not available to all should work out a plan to provide such education.</p>	<p>CESCR: Expressing concern about the high dropout and repetition rates in Peru E/C.12/PER/CO/2-4 (CESCR, 2012); and Germany E/C.12/DEU/CO/5 (CESCR, 2011).</p> <p>CESCR: Recommending increased efforts to ensure effective access to education by Roma children and other vulnerable groups in Italy CERD/C/ITA/CO/16-18 (CERD, 2012); Slovakia E/C.12/SVK/CO/2 (CESCR, 2012).</p> <p>CESCR: Expressing concern to Israel that Palestinian children living in the Occupied Palestinian Territory are not able to enjoy their right to education, as a consequence of restrictions on their movement, regular harassment by settlers of children and teachers on their way to and from school, attacks on educational facilities, and sub-standard school infrastructure. E/C.12/ISR/CO/3 (CESCR, 2011).</p>
<p>ICERD 5: States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:</p> <p>(e)(v) The right to education and training.</p>	<p>CERD: Expressing concern that, in some regions of Spain, there are “ghetto” schools for migrant and Gypsy children. CERD/C/ESP/CO/18-20 (CERD, 2011).</p> <p>CERD: Recommending that Norway find appropriate solutions for integrating children from Roma and Romani communities into the educational system to ensure that they benefit fully from all levels of the system, taking into account the community’s lifestyle and including an enhanced teaching provision in their language. CERD/C/NOR/CO/19-20 (CERD, 2011).</p> <p>CERD: Recommending that Denmark provide a general educational policy to cover all groups and take appropriate measures to assess whether people of other ethnic groups require mother-tongue teaching. CERD/C/DNK/CO/18-19 (CERD, 2010).</p> <p>CERD: Recommending that Vietnam take vigorous measures to ensure equal enjoyment of the right to education by, inter alia, increasing the financial assistance provided for students from economically disadvantaged families in all communities, and improving the quality of teaching and the curriculum. Furthermore, the State party should: increase the provision of bilingual education programs for ethnic minority children and of training in local languages for Kinh teachers in ethnic minority areas; recruit more ethnic minority teachers; allow ethnic minority languages to be taught and used as a medium of instruction in schools; and support education programs on the culture of ethnic minority groups. CERD/C/VNM/CO/10-14 (CERD, 2012).</p>
<p>CEDAW 12: State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.</p>	<p>CEDAW Committee: Recommending measures to ensure equal access to education and ensure retention of girls in school in Turkey CEDAW/C/TUR/CO/6 (CEDAW, 2010) and Mauritius CEDAW/C/MUS/CO/6-7 (CEDAW, 2011).</p> <p>CEDAW Committee: Recommending that Montenegro adopt temporary special measures to increase enrolment and completion rates of Roma, Ashkali and Egyptian girls and boys. CEDAW/C/MNE/CO/1 (CEDAW, 2011).</p>

Other Interpretations

SR Education: encouraging **Mexico** to strengthen the services for families who migrate within the country, known as day laborers (jornaleros). In order to provide them with opportunities to obtain quality education, the school terms should be brought into line with the farming seasons, and the coverage should be expanded to include secondary education; it is also essential to harmonize the education service with the work obligations of working parents and young people. A/HRC/14/25/ADD.4 (SR Education, 2010).

SR Education: finding that **Paraguay** urgently needs resources to solve infrastructure problems and or drinking water, school meals, culturally diverse teaching materials, teacher training and affirmative measures of all kinds to ensure that the poorest members of the community can get into educational establishments and stay there (the university gives certain indigenous people immediate access but does not meet their needs). A/HRC/14/25/ADD.2 (SR Education, 2010).

Table 10: Children's Health and Freedom from Economic or Sexual Exploitation

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Recruitment of children in domestic services, agriculture, and mining. • The minimum age of employment is lower than the age of compulsory schooling, or lower than international standards. • High incidence of child labour and sex trafficking, with a harmful impact on the education and health of children. • Limited action to combat sexual exploitation and abuse of children, including rare prosecution of traffickers.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 32(1): States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.</p> <p>(2): States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:</p> <p>(a) Provide for a minimum age or minimum ages for admission to employment;</p> <p>(b) Provide for appropriate regulation of the hours and conditions of employment;</p> <p>(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.</p>	<p>CRC Committee: Calling on Bulgaria to introduce monitoring mechanisms to ensure the enforcement of labor laws and protect children from economic exploitation. CRC/C/BGR/CO/2 (CRC, 2008), para. 60.</p> <p>CRC Committee: Expressing concern over the high incidence of child labor in Bhutan CRC/C/SR.1369 (CRC, 2008), para. 66; Syria CRC/C/SYR/CO/3-4 (CRC, 2012), para. 76; Madagascar CRC/C/MDG/CO/3-4 (CRC, 2012), para. 59; Costa Rica CRC/C/CRI/CO/4 (CRC, 2011), para. 73; Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 78; and Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 68.</p> <p>CRC Committee: Expressing concern that in Singapore, the minimum age of employment is lower than the age of compulsory schooling. CRC/C/SGP/CO/2-3 (CRC, 2010), para. 62.</p>
<p>CRC 34: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;</p> <p>(b) The exploitative use of children in prostitution or other unlawful sexual practices;</p> <p>(c) The exploitative use of children in pornographic performances and materials.</p>	<p>CRC Committee: Expressing concern on trafficking and sexual exploitation of children in Austria. CRC/C/OPSC/AUT/1, CRC 2009, para. 16; Burkina Faso CRC/C/BFA/CO/3-4 (CRC, 2010), para. 72; and the lack of physical and psychosocial rehabilitation services for victims in Egypt CRC/C/EGY/CO/3-4 (CRC, 2011), para. 82. CRC Committee: Recommending increased efforts to prevent and combat sexual exploitation, prostitution and child abuse in Bulgaria CRC/C/BGR/CO/2 (CRC, 2008), para. 64 and Bhutan CRC/C/SR.1369 (CRC, 2008).</p> <p>CRC Committee: Recommending that increase protection provided to sexually exploited and trafficked children, who should be treated as victims and not criminalized. Serbia CRC/C/SRB/CO/1 (CRC, 2008), para. 72.</p> <p>CRC Committee: Expressing serious concern at the lack of available CRC Committee: noting with concern that Singapore has taken limited action to combat sexual exploitation and abuse of children, including child sex tourism. CRC/C/SGP/CO/2-3 (CRC, 2010), para. 64.</p>

Table 10 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 10(3): Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law.</p>	<p>CESCR: Noting with concern the prevalence of child labor, and that many are engaged in the worst forms of child labor in Ethiopia E/C.12/ETH/CO/1-3 (CESCR, 2012); India E/C.12/IND/CO/5 (CESCR, 2008); Nepal E/C.12/NPL/CO/2 (CESCR, 2008); Paraguay E/C.12/PRY/CO/3 (CESCR, 2008); Peru E/C.12/PER/CO/2-4 (CESCR, 2012); Philippines E/C.12/PHL/CO/4 (CESCR, 2008); Republic of Moldova E/C.12/MDA/CO/2 (CESCR, 2011); Sri Lanka E/C.12/LKA/CO/2-4 (CESCR, 2010); and Ukraine E/C.12/UKR/CO/5 (CESCR, 2008).</p> <p>CESCR: Expressing deep concern that children work in conditions of bonded labor in India E/C.12/IND/CO/5 (CESCR, 2008), Nepal E/C.12/NPL/CO/2 (CESCR, 2008), and Cambodia E/C.12/KHM/CO/1 (CESCR, 2009).</p> <p>CESCR: Noting with concern that the minimum age for admission to employment is too low in Cameroon and E/C.12/CMR/CO/2-3 (CESCR, 2012); Peru E/C.12/PER/CO/2-4 (CESCR, 2012); and Turkey E/C.12/TUR/CO/1 (CESCR, 2011)</p> <p>CESCR: Calling on States to intensify the efforts to combat trafficking in human beings, especially women and children, for purposes of sexual exploitation and forced labor. Cambodia E/C.12/KHM/CO/1 (CESCR, 2009); Dominican Republic E/C.12/DOM/CO/3 (CESCR, 2010); and Benin E/C.12/BEN/CO/2 (CESCR, 2008).</p> <p>CESCR: Recommending close monitoring of the number of women and children trafficked to, from and through territory each year in Costa Rica E/C.12/CRI/CO/4 (CESCR, 2008); Hungary E/C.12/HUN/CO/3 (CESCR, 2008); Former Yugoslav Republic of Macedonia E/C.12/MKD/CO/1 (CESCR, 2008).</p> <p>CESCR: Noting that in India, trafficking in persons remains a serious problem; women and children belonging to scheduled castes and scheduled tribes make up a large proportion of victims of trafficking and sexual exploitation; victims of trafficking and sexual exploitation, rather than being afforded protection and rehabilitation, are prosecuted under the Immoral Trafficking Prevention Act (ITPA); and that there is no legislation that specifically criminalizes trafficking in persons. E/C.12/IND/CO/5 (CESCR, 2008).</p> <p>CESCR: Noting with concern that in Sri Lanka thousands of children remain sexually abused and exploited including in child sex tourism; perpetrators of child sexual exploitation and abuse, including child traffickers are rarely prosecuted, while child victims may still be excluded from protection of the law and placed on remand for conducting prostitution. E/C.12/LKA/CO/2-4 (CESCR, 2010).</p>
<p>CEDAW 11: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:</p> <p>(f) The right to protection of health and to safety in working conditions.</p>	<p>CEDAW Committee: Expressing concern at the persistence of child labor in Guatemala. CEDAW/C/GUA/CO/7 (CEDAW, 2009).</p> <p>CEDAW Committee: Recommending that El Salvador strengthen efforts to eradicate child labor and support education as a means of empowering girls and boys, so as to ensure that there is a clear understanding of and effective compliance with the minimum working age throughout the State party. CEDAW/C/SLV/CO/7 (CEDAW, 2008).</p>

Table 10 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CEDAW 6: States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.</p>	<p>CEDAW Committee: Calling on State Parties to intensify their efforts to combat all forms of trafficking in Bhutan CEDAW/C/BTN/CO/7 (CEDAW, 2009), Tunisia CEDAW/C/TUN/CO/6 (CEDAW, 2010), Niger CEDAW/C/NER/CO/2 (CEDAW, 2007), Vietnam CEDAW/C/VNM/CO/6 (CEDAW, 2007), Tajikistan CEDAW/C/TJK/CO/3 (CEDAW, 2007); Belarus CEDAW/C/BLR/CO/7 (CEDAW, 2011); and Cape Verde CEDAW/C/CPV/CO/6 (CEDAW, 2006).</p> <p>CEDAW Committee: Expressing concern at the proliferation of sex tourism in Mauritius, essentially generating sexual exploitation of women and girls and augmenting the vulnerability of sex workers. CEDAW/C/MUS/CO/6-7 (CEDAW, 2011).</p> <p>CEDAW Committee: Expressing concern about the low number of prosecutions and the lenient sentences imposed on traffickers in Montenegro; the limited capacity of the competent authorities to identify (potential) victims of trafficking, including women and girls from vulnerable groups; and the lack of victim protection and compensation. CEDAW/C/MNE/CO/1 (CEDAW, 2011).</p> <p>CEDAW Committee: Recommending that Chad amend the Criminal Code so as to include trafficking in persons as an offence, and to consider adopting a comprehensive law against trafficking in persons, in line with the Palermo Protocol, in order to fully implement article 6 of the Convention, and to ensure that perpetrators are prosecuted and punished and victims adequately protected and assisted. CEDAW/C/TCD/CO/1-4 (CEDAW, 2011).</p>

Human Rights Standards	Case Law
<p>ECHR 4(1): No one shall be held in slavery or servitude.</p> <p>(2): No one shall be required to perform forced or compulsory labor.</p>	<p>ECtHR: Holding that France's criminal code did not practically and effectively protect 15-year old Siliadin from slavery and servitude in violation of Article 4 of the ECHR. Siliadin, a 15-year old girl of Togolese origin, arrived in France with Mrs. D, a French national of Togolese origin, on a tourist visa. It had been agreed that Siliadin would work at Mrs. D's home until the cost of her airfare had been reimbursed and that Mrs. D would enroll her in school and take care of her immigration matters. Instead, Mr. and Mrs. D. took Siliadin's passport and forced her to work as an unpaid housemaid. She was later "lent" to Mr. and Mrs. B, who decided to "keep her" as an unpaid housemaid and child caretaker, working 15 hour days, seven days a week. She was not paid, not sent to school and her immigration matters were never handled. The Court found that France had violated Article 4 of the ECHR by not actively protecting its citizens from economic exploitation. <i>Siliadin v. France</i>, Judgement, merits and just satisfaction, 73316/01 (October 27, 2005).</p>

Table 10 (cont.)

Other Interpretations

The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC). The OPSC criminalizes specific acts relating to the sale of children, child prostitution and child pornography, including attempt and complicity. It lays down minimum standards for protecting child victims in criminal justice processes and recognizes the right of victims to seek compensation.

SR on the Sale of Children, Child Prostitution and Child Pornography (SR Sale of Children): regarding the situation of Roma children, authorities in **Greece** are called upon to take specific measures to improve living conditions and possibilities for development of Roma communities to give Roma children alternatives other than work on streets or prostitution, as survival strategies for them and their families. E/CN.4/2006/67/Add.3 (SR Sale of Children, 2006).

SR Sale of Children: Recommending to **Greece** that specialized staff with adequate expertise to work with foreign unaccompanied minors, street children, and victims of trafficking is needed to ensure child's physical and psychological health, protection against exploitation and access to educational and vocational skills and opportunity. E/CN.4/2006/67/Add.3 (SR Sale of Children, 2006).

SR Sale of Children: Calling on the government of the **United Arab Emirates** to urgently regularize the situation of the bidoon children with a view to ensuring that they have access to health and education and thus decreasing their vulnerability to sexual exploitation. A/HRC/16/57/Add.2 (SR Sale of Children, 2010).

SR on Contemporary Forms of Slavery, Including its Causes and Consequences: Recommending that the government of **Romania** a) Develop additional programmes to support the implementation of the legislation relevant to the worst forms of child labor and other exploitative slave-like situations, emphasizing the role of individual state agencies and providing them with the necessary funding; and (b) Take further appropriate and effective measures to ensure equal enjoyment of human rights by Roma by further promoting equal access of Roma children to education, thereby contributing to prevent them from being engaged in the worst forms of child labor, and as well as to right to housing, health care and employment. A/HRC/18/30/Add.1 (SR Slavery, 2011).

ILO Convention No. 138 related to the minimum age of employment:

- Article 2(3). The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
- Article 3(1). The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.
- Article 7(1). National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is: a) Not likely to be harmful to their health or development; and b) Not such as to prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received.

ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Table II: Children's Health and Freedom from Harmful Traditional Practices

Examples of Human Rights Violations
<ul style="list-style-type: none"> • State takes limited measures to prevent harmful traditional practices that are prejudicial to the health and well-being of children. • Female genital mutilation of young girls, and impunity for perpetrators. • Early and forced marriages of children. • Discrimination and abandonment of twins out of traditional belief that they are bad luck.

Human Rights Standards	Treaty Body Interpretation
<p>CRC 24(3): States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p>	<p>CRC Committee: Expressing serious concern at the high prevalence of girls subjected to female genital mutilation (FGM) in Egypt and Burkina Faso, and particularly concerned at impunity for perpetrators. CRC/C/EGY/CO/3-4 (CRC, 2011), para. 68; CRC/C/BFA/CO/3-4 (CRC, 2010), para. 58.</p> <p>CRC Committee: Recommending that Bulgaria closely collaborate with the minority communities and their respective leaders to elaborate effective measures to abolish traditional practices prejudicial to the health and well-being of children, such as early marriage. CRC/C/SR.1318 (CRC, 2008), para. 46.</p> <p>CRC Committee: Recommending that Syria prohibit early and forced marriages and repeal the Personal Status Code provisions allowing the judge to lower the age of marriage of boys to 15 years and of girls to 13 years. CRC/C/SYR/CO/3-4 (CRC, 2012), para. 68.</p> <p>CRC Committee: Noting with deep concern that in Madagascar there is continuing prevalence of harmful practices, including discrimination and abandonment of twins and forced marriage (molety). CRC/C/MDG/CO/3-4 (CRC, 2012), para. 53.</p>
<p>CEDAW 16(2): The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.</p>	<p>CEDAW Committee, General Recommendation No. 19: In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation." (11th Session, 1992), para. 19, 20.</p> <p>CEDAW Committee: Calling on states to undertake awareness-raising measures throughout country on negative effects of early marriage on women's enjoyment of their human rights, especially rights to health and education. Gambia A/60/38(SUPP) (CEDAW, 2005), Nepal A/59/38(SUPP) (CEDAW, 2004), Guatemala A/57/38(SUPP) (CEDAW, 2002), Algeria CEDAW/C/DZA/CO/3-4 (CEDAW, 2012).</p> <p>CEDAW Committee: Recommending that Yemen take urgent legislative measures to raise the minimum age of marriage for girls, stipulate that child marriages have no legal effects, and enforce the requirement to register all marriages in order to monitor their legality and the strict prohibition of early marriages. CEDAW/C/YEM/CO/6 (CEDAW, 2009).</p>

Table II (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 10: The States Parties to the present Covenant recognize that: (1) . . . Marriage must be entered into with the free consent of the intending spouses.</p> <p>(3) Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation</p> <p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p>	<p>CESCR General Comment 14(22): There is a need to adopt effective and appropriate measures to abolish harmful traditional practices affecting the health of children, particularly girls, including early marriage, female genital mutilation, preferential feeding and care of male children.</p> <p>CESCR: Expressing continued concern about the persistence of harmful traditional practices in Nepal that violate the rights of women and girls as deuki (dedicating girls to a god or goddess), badi (widespread practice of prostitution among the Badi caste), chaupadi (isolating a woman during menstruation because she is considered to be impure), marrying child brides, and witchcraft. E/C.12/NPL/CO/2 (CESCR, 2008).</p> <p>CESCR: Expressing concern that child marriages still occur in Turkmenistan. E/C.12/TKM/CO/1 (CESCR, 2011).</p> <p>CESCR: Recommending that Kenya adopt legislation criminalizing all female genital mutilation of adult women; continue promoting alternative rite of passage ceremonies; and combat traditional beliefs about the usefulness of female genital mutilation for the promotion of marriage prospects of girls. E/C.12/KEN/CO/1 (CESCR, 2008).</p>

Other Interpretations

SR Violence against Women: Recommending that **Afghanistan** ensure that the criminal law clearly establishes that those involved in organization of child and forced marriages commit a crime and must be prosecuted and punished. E/CN.4/2006/61/Add.5 (SR Violence against Women, 2006).

SR Violence against Women: Recommending that **Saudi Arabia** adopt guidelines for government agencies and religious leaders aimed at preventing and ending child and forced marriage; standardize the age of majority in the Kingdom at 18 in accordance with CRC, and ensure its application to the legal age of marriage. A/HRC/11/6/Add.3 (SR Violence against Women, 2009).

SR Freedom of Expression: Urging **Kyrgyzstan** to amend legislation to set a uniform minimum legal age for marriage at 18 for both women and men, in line with international standards. A/HRC/14/22/Add.2 (SR Freedom of Expression, 2010).

3. WHAT IS A HUMAN RIGHTS-BASED APPROACH TO ADVOCACY, LITIGATION, AND PROGRAMMING?

What is a human rights-based approach?

“Human rights are conceived as tools that allow people to live lives of dignity, to be free and equal citizens, to exercise meaningful choices, and to pursue their life plans.”⁸²

A human rights-based approach (HRBA) is a conceptual framework that can be applied to advocacy, litigation, and programming and is explicitly shaped by international human rights law. This approach can be integrated into a broad range of program areas, including health, education, law, governance, employment, and social and economic security. While there is no one definition or model of a HRBA, the United Nations has articulated several common principles to guide the mainstreaming of human rights into program and advocacy work:

- The integration of human rights law and principles should be visible in all work, and the aim of all programs and activities should be to contribute directly to the realization of one or more human rights.
- Human rights principles include: “universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law.”⁸³ They should inform all stages of programming and advocacy work, including assessment, design and planning, implementation, monitoring and evaluation.
- Human rights principles should also be embodied in the processes of work to strengthen rights-related outcomes. Participation and transparency should be incorporated at all stages and all actors must be accountable for their participation.

A HRBA specifically calls for human rights to guide relationships between rights-holders (individuals and groups with rights) and the duty-bearers (actors with an obligation to fulfill those rights, such as States).⁸⁴ With respect to programming, this requires “[a]ssessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.”⁸⁵

A HRBA is intended to strengthen the capacities of rights-holders to claims their entitlements and to enable duty-bearers to meet their obligations, as defined by international human rights law. A HRBA also draws attention to marginalized, disadvantaged and excluded populations, ensuring that they are considered both rights-holders and duty-bearers, and endowing all populations with the ability to participate in the process and outcomes.

⁸² Yamin AE, “Will we take suffering seriously? Reflections on what applying a human rights framework to health means and why we should care,” *Health and Human Rights* 10, no. 1 (2008).

⁸³ For a brief explanation of these principles, see UN Development Group (UNDG), *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies* (May 2003), available at: www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf.

⁸⁴ Ibid.

⁸⁵ Ibid.

What are key elements of a human rights-based approach?

Human rights standards and principles derived from international human rights instrument should guide the process and outcomes of advocacy and programming. The list below contains several principles and questions that may guide you in considering the strength and efficacy of human rights within your own programs or advocacy work. Together these principles form the acronym PANELS.

- **Participation:** Does the activity include participation by all stakeholders, including affected communities, civil society, and marginalized, disadvantaged or excluded groups? Is it situated in close proximity to its intended beneficiaries? Is participation both a means and a goal of the program?
- **Accountability:** Does the activity identify both the entitlements of claim-holders and the obligations of duty-bearers? Does it create mechanisms of accountability for violations of rights? Are all actors involved held accountable for their actions? Are both outcomes and processes monitored and evaluated?
- **Non-discrimination:** Does the activity identify who is most vulnerable, marginalized and excluded? Does it pay particular attention to the needs of vulnerable groups such as women, minorities, indigenous peoples, disabled persons and prisoners?
- **Empowerment:** Does the activity give its rights-holders the power, capacity, and access to bring about a change in their own lives? Does it place them at the center of the process rather than treating them as objects of charity?
- **Linkage to rights:** Does the activity define its objectives in terms of legally enforceable rights, with links to international, regional, and national laws? Does it address the full range of civil, political, economic, social, and cultural rights?
- **Sustainability:** Is the development process of the activity locally owned? Does it aim to reduce disparity? Does it include both top-down and bottom-up approaches? Does it identify immediate, underlying and root causes of problems? Does it include measurable goals and targets? Does it develop and strengthen strategic partnerships among stakeholders?

Why use a human rights-based approach?

There are many benefits to using a human rights-based approach to programming, litigation and advocacy. It lends legitimacy to the activity because a HRBA is based upon international law and accepted globally. A HRBA highlights marginalized and vulnerable populations. A HRBA is effective in reinforcing both human rights and public health objectives, particularly with respect to highly stigmatizing health issues.⁸⁶ Other benefits to implementing a human rights-based approach include:

- **Participation:** Increases and strengthens the participation of the local community.
- **Accountability:** Improves transparency and accountability.
- **Non-discrimination:** Reduces vulnerabilities by focusing on the most marginalized and excluded in society.
- **Empowerment:** Capacity building.
- **Linkage to rights:** Promotes the realization of human rights and greater impact on policy and practice.
- **Sustainability:** Promotes sustainable results and sustained change.

⁸⁶ Gauri V & Gloppen S, *Human Rights Based Approaches to Development: Concepts, Evidence, and Policy*, World Bank Policy Research Working Paper 5938 (Jan. 2012). <http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-5938>.

How can a human rights-based approach be used?

A variety of human rights standards at the international and regional levels applies to patient care. These standards can be used for many purposes including to:

- Document violations of the rights of patients and advocate for the cessation of these violations.
- Name and shame governments into addressing issues.
- Sue governments for violations of national human rights laws.
- File complaints with national, regional and international human rights bodies.
- Use human rights for strategic organizational development and situational analysis.
- Obtain recognition of the issue from non-governmental organizations, governments or international audiences. Recognition by the UN can offer credibility to an issue and move a government to take that issue more seriously.
- Form alliances with other activists and groups and develop networks.
- Organize and mobilize communities.
- Develop media campaigns.
- Push for law reform.
- Develop guidelines and standards.
- Conduct human rights training and capacity building
- Integrate legal services into health care to increase access to justice and to provide holistic care.
- Integrate a human rights approach in health services delivery.

4. WHAT ARE SOME EXAMPLES OF EFFECTIVE HUMAN RIGHTS-BASED WORK IN THE AREA OF CHILDREN'S HEALTH AND HUMAN RIGHTS?

This section contains **five examples** of effective human rights-based work addressing health and human rights of children. These are:

1. Court in Bangladesh finding that corporal punishment in school is a violation of children's international human rights
2. European Court of Human Rights Protecting a Migrant Child from Forced Labor and Servitude in France
3. Longitudinal Study of War-Affected Youth (LSWAY) in Sierra Leone
4. National Children's Summits Realizing the Children's Right to Participate in Rwanda
5. Legal Advocacy for Children with Differences of Sex Development (DSD) or Intersex Conditions

Example I: Court in Bangladesh finding that corporal punishment in school is a violation of children's international human rights

Project Type

Litigation: *Blast v. Secretary of the Ministry of Education and Others*, Supreme Court of Bangladesh, Writ Petition No.5684 of 210 (January 13, 2011).

Actor

Bangladesh Legal Aid and Services Trust (BLAST) and Ain o Salish Kendra (ASK) have long established track records of undertaking public interest litigation in the interests of the most marginalized populations.

Problem

Children studying in government and non-government primary and secondary education institutions in Bangladesh received corporal punishment from their teachers for offenses not recognized by law, including “not doing homework, failing to bring crayons to school, not saying prayers [and] having long hair.” The abuse was widespread and regular. According to a recent report by UNICEF: “most children in Bangladesh [were] regularly exposed to physical abuse at school, at home or where they work[ed]” Indeed, 91% of children surveyed in that study experienced various levels of physical abuse while at school. Also, the corporal punishment the children received was sometimes so horrendously violent that the child victim would require hospital treatment. Forms of corporal punishment included canning, beating, and the chaining of children.

Even in the absence of such especial violence—as the Court in this case noted—“There cannot be any doubt that corporal punishment is detrimental to children’s well-being and has serious physical, psychological and emotional effects, as well as causing truancy and dropping out of school. This in turn exacerbates the cycle of illiteracy and poverty.” Although the Penal Code did not authorize corporal punishment as a form of discipline and school regulations did not provide for it, the State systematically failed to adhere to the constitutional and statutory obligations to investigate allegations of corporal punishment. Teachers would simply pay the hospital bills of the students they battered and avoid criminal liability.

Procedure

Before the Supreme Court of Bangladesh, High Court Division, pursuant to Article 102 of the Constitution of the People’s Republic of Bangladesh (providing original jurisdiction to the High Court Division to receive applications arising from fundamental constitutional rights).

“If we are to reach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with children; and if they will grow up in their natural innocence, we won’t have to struggle, we won’t have to pass fruitless idle resolutions, but we shall go from love to love and peace to peace, until at last all the corners of the world are covered with that peace and love for which, consciously or unconsciously, the whole world is hanging.” – *Mahatma Gandhi, quoted by the CRC and the Court.*

Arguments and Holdings

Constitutional Law

The plaintiffs argued that the corporal punishment of school children violated the punishment provisions of the Bangladeshi Constitution. Clause 5 of Article 35, which protects the rights of citizens with respect to trial and punishment, provides that “no person shall be subject to torture or to cruel, inhuman or degrading punishment or treatment.” The Court found a violation of Article 35, reasoning that “it should be obvious that if any person is protected from ‘torture or . . . cruel, inhuman or degrading punishment treatment’ after conviction of a criminal offense, then it stands to reason that a child shall not be subjected to such punishment for behavior in school which cannot be termed criminal offense.”

Statutory Law

The defendants argued that various national statutes affirmed the imposition of corporal punishment. Specifically, the Code of Criminal Procedure, the Prisoners Act (1894), Whipping Act (1909), Cantonment Pure Foods Act (1966), Suppression of Immoral Traffic Act (1933), Railways Act (1890), and the Children Rules (1976) all affirmatively provide for the imposition of corporal punishment. But none of these national statutes provided for corporal punishment in schools. The Court read these statutes narrowly and therefore concluded that they did not affirmatively call for the imposition of corporal punishment in schools. The Court also heard a statutory-based defense to corporal punishment. At first glance, section 89 of the Penal Code seemed to provide a defense for corporate punishment. The section provided that: “[n]othing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent . . . of the guardian . . . is an offense by reason of any harm which it may cause” However, as the Court rightly noted, the third proviso to section 89 explains “[t]hat this exception shall not extend to the voluntary causing of grievous hurt . . . unless it be for the purpose of preventing death or grievous hurt” Therefore, the Court found that section 89 did not excuse the imposition of corporal punishment.

Contract Law

The defendants then raised the argument that a parent provided consent to the corporal punishment of their children by agreeing to send their children to school. The Court reasoned that, unless there was an express agreement to the contrary, the parents did not consent to the corporal punishment of their children. The agreement between the parent and the school was for the school to provide the parent’s child with an education. Therefore, this contract-based defense to corporal punishment also failed.

“The contents of the writ petition and the additional affidavits filed by the parties have exposed the dark and sinister side of education in Bangladesh. The details of some of the incidents have stirred our conscience and left us feeling distraught at the thought of parents allowing their children to be beaten and teachers mercilessly beating their pupils for small indiscretions. Most importantly, it is distressing to note that some of the incidents have led to fatality.” – *Md. Imman Ali, J., writing for the Court*

Foreign and International Law

The Court declared the familiar precept that where there is no domestic law on point for the issue before the court, then the court should draw upon the international agreements entered into by the national government. Bangladesh had ratified that Convention on Rights of the Child (CRC), and the Court interpreted Article 28 of the CRC as prohibiting “corporal punishment upon the children . . . in all settings including schools, homes and work places.” The Court also looked to foreign law, noting that “[t]here are [were] numerous countries of this world, both advanced and less developed, who have adopted prohibition of corporal punishment both at home and in the education institutions.” Foreign and international law informed the Court’s understanding of the illegality of corporal punishment.

Arguments and Holdings*Corporal Punishment at School*

The Court ordered that the Service Rules of the nation be amended to prohibit corporal punishment. A teacher who practices corporal punishment would be liable for misconduct under the amended Service Rules, as well as liable for all criminal offenses committed as part of administering corporal punishment. Corporal punishment at home and at the workplace.

Convention on the Rights of the Child (CRC).

Available at: www2.ohchr.org/english/law/crc.htm

- Article 19: Protection from abuse and neglect
- Article 28: Education
- Article 37: Torture and deprivation of liberty
- General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment

Other Significant Treaties Affecting the Outcome of this Case

- International Covenant on Civil and Political Rights.
www2.ohchr.org/english/law/ccpr.htm
- Convention on the Prohibition on Torture and Other Forms of Cruel, Degrading and Unusual Treatment or Punishment. www2.ohchr.org/english/law/cat.htm
- Constitution of the People's Republic of Bangladesh.
www.wipo.int/wipolex/en/text.jsp?file_id=191720

This was a sweeping and landmark decision by the Court. In addition to outlawing corporal punishment in schools across the nation, the Court recommended that the government amend the Children Act, 1974 to make it an offense for parents and employers to impose corporal punishment upon children. The Court also recommended the repeal of all existing domestic law allowing for the administration of corporal punishment, including whipping under the Penal Code, Code of Criminal Procedure, Railways Act, Cantonment Pure Food Act, Whipping Act, Suppression of Immoral Traffic Act, Children Rules, 1976 “and any other law which provides for whipping or caning of children and any other person.” “as being cruel and degrading punishment contrary to the fundamental rights guaranteed by the Constitution.”

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Example 2: European Court of Human Rights protecting a migrant child from forced labor and servitude in France

Project Type

Litigation: *Siliadin v. France*, Judgment, merits and just satisfaction, App. No. 73316/01 (ECHR 2005).
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69891>

Actor

Siwa-Akofa Siliadin, a Togolese national, represented by a legal aid attorney, H. Clément of the Paris Bar.

Problem

Ms. Siliadin was born in 1978 and arrived in Paris on a tourist visa in 1994 at age 15. She arrived in Paris with “Mrs. D.” who promised to attend to her immigration status, find adequate schooling and let her work of the cost of her airfare by working at her home. Ms. Siliadin, however, ultimately became an unpaid housemaid for Mr. and Mrs. D. Also, her passport was taken from her. In the second half of 1994, Mrs. D. “lent” Ms. Siliadin to Mr. and Mrs. B. to perform household work for Mr. and Mrs. B.

While at Mr. and Mrs. B.’s home, Ms. Siliadin slept on a mattress on the floor in the baby’s room. She worked from 7:30 in the morning until 10:30 at night, seven days a week, performing a range of general household duties, without pay (except by Mrs. B.’s mother, who paid her one or two 500 French franc (FRF) notes).

On July 28, 1998, the police raided Mr. and Mrs. B.’s home. Mr. and Mrs. B. were charged with:

...[H]aving obtained from July 1995 to July 1998 the performance of services without payment or in exchange for payment that was manifestly disproportionate to the work carried out, by taking advantage of that person’s vulnerability of state of dependence; [2] with having subjected an individual to working and living conditions that were incompatible with human dignity by taking advantage of her vulnerability or state of dependence....

On June 10, 1999, the Paris *tribunal de grande instance* found that Mr. and Mrs. B. had taken advantage of a person’s vulnerability or dependent state to obtain services without payment or adequate payment. The Court, therefore, found Mr. and Mrs. B. guilty of Article 225-13 of the French Criminal Code. The Court sentenced the couple to a year imprisonment (with seven months suspended) and ordered them to pay, jointly and severally, FRF 100,000 to Ms. Siliadin.

The Court did not find, however, that Ms. Siliadin worked in conditions that were incompatible with human dignity. According to the court, working conditions violative of human dignity imply: “a furious pace, frequent insults and harassment, the need for particular physical strength that was disproportionate to the employee’s constitution and having to working unhealthy premises.” Therefore, since these conditions did not exist for Mr. Siliadin, Mr. and Mrs. B. did not create a work environment that was incompatible with human dignity.

Procedure

Mr. and Mrs. B. appealed the decision. On October 19, 2000, the Paris Court of Appeal acquitted Mr. and Mrs. B. of all criminal charges and dismissed all civil claims against them.

On December 11, 2001, the Court of Cassation quashed the decision of the Court of Appeal, but only with respect to the provisions dismissing the civil party's request for compensation in respect of the offences provided for in Articles 225-13 and 225-14 of the Criminal Code.

On May 15, 2003, the Versailles Court of Appeal, which ordered payment of 15,245 in compensation to Ms. Siliadin for the psychological trauma she experienced as a result of Mr. and Mrs. B.'s actions. On October 3, 2003, the Paris industrial tribunal awarded Ms. Siliadin back pay in the amount of €3,049.

Ms. Siliadin lodged an application with the European Court of Human Rights (ECtHR) on April 17, 2001, submitting that French criminal law lacked sufficient and effective protection. Her application was declared partly admissible on February 1, 2005.

European Convention on Human Rights**Article 4.** Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude
2. No one shall be required to perform forced or compulsory labour.

Convention Concerning Forced or Compulsory Labour**Article 2**

1. For the purposes of this Convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

French Criminal Code

Art. 225-13: "It shall be an offense punishable by two years' imprisonment and a fine of 500,000 francs to obtain from an individual the performance of services without payment or in exchange for payment that is manifestly disproportionate to the amount of work carried out, by taking advantage of that person's vulnerability or state of dependence."

Arguments and Holdings

Article 4 of the European Convention on Human Rights (ECHR) proscribes "slavery," "servitude" and "compulsory labor." The Court first looked to see if Ms. Siliadin was subjected to "slavery," "servitude" or "compulsory labor," and then turned to see if (a) French law proscribed that conduct, and (b) if the ECHR imposed a positive obligation on the French to criminalize such conduct.

Forced or compulsory labor. Drawing support from Article 2 of the Convention Concerning Forced or Compulsory Labor (1930), the Court interpreted the ECHR's reference to "forced or compulsory labour" to mean "all work or service which exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Mr. and Mrs. B. had Ms. Siliadin labor for them without any compensation. Although they did not impose a penalty on her, she was a minor and feared arrest as an unlawfully present alien—the equivalent of a "penalty" by the Court's determination. Therefore, Ms. Siliadin was subjected to "forced labor" within the meaning of Article 4 of the ECHR.

Servitude. Citing a decision by a French court, the ECtHR interpreted servitude to mean “an obligation to provide one’s services that is imposed by the use of coercion.” Ms. Siliadin had not chosen to work for Mr. or Mrs. B. She was an alien minor. Mr. and Mrs. B. withheld her passport, and she feared arrest by the police. She had no resources and was vulnerable and isolated. The Court, therefore, held that Ms. Siliadin was held in servitude for purposes of Article 4 of the ECHR.

The ECtHR also pointed out that States Parties to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery—like France—had a positive obligation to take all practical and necessary legislative and other means to bring about progressively and as soon as possible the complete abolition or abandonment of, inter alia, debt bondage and serfdom.

Slavery.

Drawing support from Article 1(1) of the Slavery Convention, the Court interpreted “slavery” as found in the Article 4 of the ECHR to mean “ownership” of another. The Court held that, although Ms. Siliadin did not have freedom of movement, she did not suffer slavery, as Mr. and Mrs. B never exercised any genuine legal right of ownership of Ms. Siliadin.

Positive obligation of France.

Slavery and servitude were not expressly criminalized under French law. Articles 225-13 and 225-14 of the French Criminal Code (see box) contained ambiguities and gave rise to different interpretations by the national courts. Article 4 enshrines one of the most basic values of democratic societies. Not imposing a positive obligation on states to fashion domestic legislation in accordance with the article but rather only finding State Parties liable for state actions in violation of the article would result in ineffective protection of one of the most basic values within the Council of Europe. Therefore, France failed in its positive obligation under the ECHR to provide legal protection to Siliadin from slavery and forced labor.

Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926

Article 1(1): Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)

Article 1: Each of the States Parties to this Convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of . . . debt bondage . . . serfdom . . .

Commentary and Analysis

This is the first case in which the ECtHR found a violation of Article 4. With the interpretative support of other international treaties, the Court found that Mr. and Mrs. B subjected Ms. Siliadin to forced labor and servitude, and thus strengthened protection against human trafficking and migrant forced labor within Europe.

Example 3: Youth Readiness Intervention in Sierra Leone

Project Type:

Advocacy/Capacity Building

Organization:

The François-Xavier Bagnoud (FXB) Center for Health and Human Rights at Harvard University is an interdisciplinary academic center that works to advance the rights and wellbeing of children, adolescents, youth and their families living in the most extreme circumstances worldwide. Founded in 1993, the Center works with local partners and communities to conduct and support research, teaching, advocacy, and targeted action in the areas of child protection and adolescent empowerment.

The FXB Center's Research Program on Children and Global Adversity (RPCGA) engages in applied research to contribute to stronger and evidence-based interventions to serve children and families in adversity worldwide. The RPCGA is involved in a variety of projects, including the Longitudinal Study of War-Affected Youth in Sierra Leone. Building on collaborations and research dating from 2002, the RCPGA has continued to advance its work with former child soldiers and other war-affected youth in Sierra Leone.

The longitudinal research has followed a cohort of over 500 girls and boys—many of them former child soldiers—from ages 10-17 into adulthood and now into an intergenerational phase. The longitudinal findings to date have been used to develop and evaluate the Youth Readiness Intervention in Sierra Leone and interest is growing to extend it to several other settings including northern Uganda, the DRC and Somalia.

Problem

Former child soldiers frequently experience high rates of emotional and behavioral problems (anger, hopelessness, high risk behavior) related to exposure to violence and loss. These issues may be exacerbated by post-conflict stressors, such as stigma, community distrust, poverty, poor educational opportunity, and limited community and social support. These challenges are particularly salient in Sierra Leone, which experienced a bloody 11-year conflict from 1991 to 2002. As many as 28,000 children and youth were engaged in war-related activities, including involvement with the Sierra Leone army, civilian defense forces and the Revolutionary United Front, the rebel group central to the conflict. Many young people witnessed, perpetrated and were subjected to acts of intense violence.

After the war, short-term disarmament, demobilization, and reintegration programs sought to prepare former child soldiers to return to their homes. During this process, many programs and sensitization campaigns emphasized that children had been forcibly involved in armed groups against their will. Nevertheless, returning youth were frequently treated with fear, distrust and stigma when they attempted to reintegrate. While tremendous resilience has been evidenced in this setting, for some youth, psychological trauma, problems with community stigma, interpersonal deficits and distrust placed many at risk for poor health and developmental outcomes, low rates of school completion, and limited economic self-sufficiency.

Actions Taken

Longitudinal data collected in 2002, 2004 and 2008 indicate that more risky developmental trajectories and poor life outcomes are associated with a constellation of war-related toxic stress exposures (i.e. being forced to injure or kill others, sexual violence) and post-conflict stressors (stigma, poor access to school, loss of caregivers, poor social support). According to Dr. Theresa S. Betancourt, the principal investigator of LSWAY:

"...[T]here are multiple influences on psychosocial adjustment and social reintegration for child soldiers. Certainly, individual-level war experiences, coping skills, and competencies matter, but outcomes are also strongly shaped by family community, and even larger macro-level factors such as the availability of education programs for youth who have missed many years of schooling due to war. Such enabling environments have a critical role to play in supporting the health adjustment of war affected youth."

Results & Lessons Learned

The RPCGA team has used its findings to design an integrated intervention for war-affected youth in Sierra Leone with strong links to job skills training and educational initiatives. The Youth Readiness Intervention is the first initiative to use epidemiological findings in the region to target the multiple problems areas and interrelated risk factors common in war-affected youth. It consists of six empirically-supported treatment components that have been shown to be effective for troubled youth in other settings (i.e. building skills in emotion regulation, coping and addressing interpersonal deficits).

The model has been evaluated in a recent randomized controlled trial conducted in August-October of 2012 which demonstrated significant improvements among youth receiving the YRI on outcomes of emotion regulation, daily functioning, social support and prosocial skills compared to a wait list control group. The research team has been working with local development funders and the Sierra Leone government to examine mechanisms for taking this evidence based intervention to scale.

Through targeted methods of participatory research, community engagement, and policy advocacy, such evidence-based readiness interventions have the potential to be systematically integrated into education and employment programs for young people affected by war and communal violence.

François-Xavier Bagnoud Center for Health and Human Rights

Longitudinal Study of War-Affected Youth (LSWAY)

Principal Investigator: Theresa S. Betancourt, Sc.D., M.A.

Website: www.harvardfxbcenter.org/research-program-on-children-and-global-adversity

Example 4: National Children's Summits realizing the right to participation in Rwanda

Project Type

Advocacy

Organization

The Rwandan National Children's Summit has been held annually since 2004. It is a national forum with the children of Rwanda and policy makers in Rwanda's National Parliament. The Summit, organized by the National Children's Commission, in partnership with the Ministry of Gender and Family Promotion and UNICEF, has provided children with a special opportunity to express their views and wishes about their country's policies and programs, their rights, their country's economic and social development and the role of children and adolescents.

Problem

Often children are limited or prevented from expressing their views, but "Evidence from around the world indicates that when children participate in decisions that affect them, are allowed to express their opinions freely, to access information and to form associations, they can make a great contribution to transformation and social change."⁸⁷

International Protection for Children's Right to Participate

CRC Art. 12(1): States Parties shall assure to the child who is capable of forming his or her 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.

Kenyan Protection for Children's Right to Participate

Law No. 27/2001, Art. 9: "The child's interests must be taken into account before any decision concerning him/her is made. It is a right for the child to express his/her opinion on any matter regarding him/her. It is necessary to hear from the child prior to making any decision concerning him/her regarding administrative and judicial matters whether directly or indirectly through his/her representative."

Actions Taken

Born out of the 10th Commemoration of the Rwandan Genocide, which offered children an opportunity to reflect on the lasting consequences of the national and human tragedy, the National Children's Summit institutionalized a platform for social dialogue between decision-makers and children.

⁸⁷ Statement by Murakoze Cyane, UNICEF Representative for Rwanda. Available at: www.unicef.org/rwanda/RWA_statement_skinnerRCS.pdf

The National Children's Summit, held annually in the nation's capital of Kigali, is the culmination of consultations, which take place throughout the year with children at the sector (local) and district levels. Elected child representatives from each of the 416 sectors gather the views of children and present them at the National Summit. In 2012, for the first time, special care was taken to ensure that child delegates to the Summit represented vulnerable children, including children with disabilities, children from refugee camps, street children and orphans. Policymakers and government officials in attendance at the Summit included the prime minister, the ministers of Education, Gender and Family Promotion; Governors; faith-based leaders and mayors/vice mayors of several districts. The Summit themes, which are chosen by children themselves, have focused on unity and reconciliation; a Rwanda fit for children; children and the country's development plan; the role of children in fighting genocide ideology; the role of children in fighting violence against children; education fit for children; and how children can contribute to the nation's second *Economic Development and Poverty Reduction Strategy* (EDPRS).

Results and Lessons Learned

As a result of the National Children's Summits, the recommendations of children have been integrated into Rwanda's first EDPRS as well as the work of the Unity and Reconciliation Commission. Direct dialogue with policymakers ensures that the actions of States are ever more sensitive to the implementation of children's rights.

Additional Resources

Ministry of Gender and Family Protection: www.migeprof.gov.rw

UNICEF: www.unicef.org/infobycountry/rwanda_61272.html

Example 5: Legal advocacy for children with differences of sex development (DSD) or intersex conditions

Project Type

Advocacy

Organization

Advocates for Informed Choice (AIC) is the only organization in the US to undertake a coordinated strategy of legal advocacy for the rights of children with differences of sex development (DSD) or intersex conditions. DSD or intersex conditions are congenital variations of chromosomal, gonadal, and/or anatomical sex.

Problem

People worldwide born with DSD or intersex conditions face a wide range of violations to their sexual and reproductive rights, as well as the rights to bodily integrity and individual autonomy. Infants and children with DSD or intersex conditions are often subject to irreversible sex assignment and involuntary cosmetic genital-normalizing surgery in an attempt to make their bodies more typical. Intersex individuals suffer life-long physical and emotional injuries as a result of such treatment, including sterility, pain, loss of genital sensation and function, and depression. Many children with DSD or intersex conditions continue to undergo involuntary genital surgery.

Actions Taken

- AIC used conferences and academic lectures to raise awareness and advocate on behalf of the rights of intersex children.
- In April 2012, Anne Tamar-Mattis, Executive Director of AIC, published an article in the *California Law Review Journal* on “Sterilization and Minors with Intersex Conditions in California Law.” The article calls on California to adapt its procedural framework for protecting the reproductive rights and the best interests of incompetent patients to fit the situation of children with intersex conditions. (www.californialawreview.org/articles/sterilization-and-minors-with-intersex-conditions-in-california-law)
- In October 2012, AIC was invited to present at the World Health Organization (WHO) on forced sterilization of intersex children, in preparation for its upcoming report on Involuntary Sterilization.
- In December 2012, AIC submitted a report to the UN Special Rapporteur on Torture on “Medical Treatment of People with Intersex Conditions as Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.” The report described violations experienced by people with intersex conditions in healthcare settings, including cosmetic genital-normalizing surgery, involuntary sterilization, excessive genital exams and medical display, human experimentation and denial of needed medical care.
- In 2008-2010, AIC worked with an intersex woman who underwent genital surgery as a child to receive an official apology for the woman from two leading hospitals and the physician who had overseen her care. This is the first apology of its kind. (www.opensocietyfoundations.org/voices/why-are-doctors-still-performing-genital-surgery-on-infants)

Results and Lessons Learned

- In its 2012 report, “Born Equal and Free: Sexual Orientation and Gender Identity in International Human Rights Law,” the UN recognized human rights violations against children with intersex/DSD: “In addition, intersex children, who are born with atypical sex characteristics, are often subjected to discrimination and medically unnecessary surgery, performed without their informed consent, or that of their parents, in an attempt to fix their sex.” (www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf)
- In 2013, the UN Special Rapporteur on Torture, Juan Mendez, released a powerful statement calling for an end to forced genital-normalizing surgery and medical display: “The Special Rapporteur calls upon all States to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, unethical experimentation, [or] medical display ... when enforced or administered without the free and informed consent of the person concerned. He also calls upon them to outlaw forced or coerced sterilization in all circumstances and provide special protection to individuals belonging to marginalized groups.”
- In 2013, AIC was invited to testify in front of the Inter-American Commission on Human Rights on issues of involuntary genital surgery. The Inter-American Commission on Human Rights created a unit on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons in 2011.
- A human rights approach to legal advocacy allows for a wider scope of influence, especially when traditional legal mechanisms are ineffective.

Advocates for Informed Choice

Cotati, California, United States

Website: <http://aiclegal.org/>

Facebook: www.facebook.com/aiclaws

5. WHERE CAN I FIND ADDITIONAL RESOURCES ON HEALTH AND HUMAN RIGHTS OF CHILDREN?

A list of commonly used resources on children's health and human rights follows. It is organized into the following categories:

- A. International Instruments
- B. Regional Instruments
- C. Human Rights and Children – General Resources
- D. Right to Health
- E. Right to Life, Survival and Development
- F. Right to Express Views
- G. Right to Information; Right to Sexual and Reproductive Health and Education
- H. Right to Education
- I. Right to Adequate Standard of Living and Social Security Services
- J. Freedom from Abuse, Torture and Ill-treatment
- K. Freedom from Economic or Social Exploitation
- L. Freedom from Harmful Traditional Practices
- M. Key Populations – Children with Disabilities
- N. Key Populations – Children Living with HIV
- O. Key Populations – Children with Stateless and Migrating Children
- P. Key Populations – Children in Conflict with the Law
- Q. Websites

A. International Instruments

Binding

- International Labour Organization, *Convention concerning Minimum Age for Admission to Employment*, No. 138 (1973). www.ilocarib.org.tt/projects/cariblex/conventions_6.shtml.
- International Labour Organization, *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, No. 182 (1999). www.ilocarib.org.tt/projects/cariblex/conventions_9.shtml.
- UN General Assembly, *Convention on the Rights of the Child*, Resolution 44/25, A/44/49 (1989). www.unicef.org/crc/.
- UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts*, Resolution 54/263, UN Doc. A/54/49, Vol. III (2000). <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRRC.aspx>
- UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, Resolution 54/263, UN Doc. A/54/49, Vol. III (2000). <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRRC.aspx>
- UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (2000). www.unodc.org/unodc/en/treaties/CTOC/index.html.

Nonbinding

- League of Nations, *Geneva Declaration of the Rights of the Child* (September 26, 1924). www.un-documents.net/gdrc1924.htm.
- UN Committee on the Rights of the Child, Decisions. www2.ohchr.org/english/bodies/crc/decisions.htm.
 - *Children in armed conflict*, no. 1 (1998); *Administration of juvenile justice*, no. 2 (1999); *Children without parental care*, no. 7 (2004).
- UN Committee on the Rights of the Child, General Comments. www2.ohchr.org/english/bodies/crc/comments.htm.
 - *The aims of education*, no. 1 (2001); *The role of independent human rights institutions*, no. 2 (2002); *HIV/AIDS and the rights of the child*, no. 3 (2003); *Adolescent Health*, no. 4 (2003); *General measures of implementation for the Convention on the Rights of the Child*, no. 5 (2003); *Treatment of unaccompanied and separated children outside their country of origin*, no. 6 (2005); *Implementing child rights in early childhood*, no. 7/Rev.1 (2005); *The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment*, no. 8 (2006); *The rights of children with disabilities*, no. 9 (2006); *Children's rights in Juvenile Justice*, no. 10 (2007); *Indigenous children and their rights under the Convention*, no. 11 (2009); *The right of the child to be heard*, no. 12 (2009); *The right of the child to freedom from all forms of violence*, no. 13 (2011); *The right of the child to the enjoyment of the highest attainable standard of health (Article. 24)*, no. 15 (2013); *On State obligations regarding the impact of the business sector on children's rights*, no. 16 (2013); and *The right of the child to rest, leisure, play, recreational activities, cultural life and the arts*, no. 17 (2013).
- UN Committee on the Rights of the Child, Recommendations. <http://www2.ohchr.org/english/bodies/crc/discussion.htm>.

- *Children in armed conflict* (1992); *Economic exploitation* (1993); *Role of the family* (1994); *The girl child* (1995); *Juvenile justice* (1995); *The child and the media* (1996); *Children with disabilities* (1997); *HIV/AIDS* (1998); *10th Anniversary: General measures of implementation* (1999); *State violence against children* (2000); *Violence against children within the family and in school* (2001); *The private sector as a service provider* (2002); *The rights of indigenous children* (2003); *Implementing child rights in early childhood* (2004); *Children without parental care* (2005); *The right of the child to be heard* (2006); *Resources for the Rights of the Child: Responsibility of States* (2007); *The right of the child to education in emergency situations* (2008).
- UN Committee on the Rights of the Child, Statements. www2.ohchr.org/english/bodies/crc/statement.htm.
- UN General Assembly, *Declaration of the Rights of the Child*, Resolution 1386 (XIV) (December 10, 1959). www.un.org/cyberschoolbus/humanrights/resources/child.asp.
- UN General Assembly, *Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally*, Resolution 41/85 (December 3, 1986). www.un.org/documents/ga/res/41/a41r085.htm.
- UN General Assembly, *A World Fit for Children*, adopted by the UN General Assembly Special Session on Children (May 10, 2002). www.unicef.org/specialsession/wffc/index.html.
- UN General Assembly, Millennium Development Goals. www.un.org/millenniumgoals/bkgd.shtml.
 - *United Nations Millennium Declaration, Resolution 55/2* (September 18, 2000).
 - *Keeping the promise: united to achieve the Millennium Development Goals, Resolution 65/1* (October 19, 2010).
- UN General Assembly, *Working Towards the Elimination of Crimes Against Women and Girls Committed in the Name of Honour*, Resolution A/C.3/59/L.25 (October 15, 2004). www.wunrn.com/reference/crimes_honor.htm.
- UN Human Rights Council, *Rights of the child: a holistic approach to the protection and promotion of the rights of children working and/or living on the street*, A/HRC/RES/16/12 (2011). http://ap.ohchr.org/documents/alldocs.aspx?doc_id=18540
- UN Human Rights Council, *Preventable maternal mortality and morbidity and human rights*, Resolution 11/8 (June 17, 2009). http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_11_8.pdf.
- UNICEF, *Cape Town Principles and Best Practices*, adopted at the Symposium on the Prevention of Recruitment of Children into the Armed Forces and Demobilization and Social Reintegration of Child Soldiers in Africa (April 1997). [www.unicef.org/emerg/files/Cape_Town_Principles\(1\).pdf](http://www.unicef.org/emerg/files/Cape_Town_Principles(1).pdf).
- UNICEF, *UN Global Compact and Save the Children – the Children's Rights and Business Principles* (the Principles) (2011). www.unicef.org/csr/12.htm.
- WHO, *Female Genital Mutilation: A Joint WHO/UNICEF/UNFPA Statement* (July 1997). www.un.org/women-watch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf.

B. Regional Instruments

Binding

- Organization of African Unity, *African Charter on the Rights and Welfare of the Child* (ACRWC) Document CAB/LEG/24.9/49 (July 11, 1990). www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf.

- Council of Europe, *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, C.E.T.S. No. 201 (October 25, 2007). <http://conventions.coe.int/Treaty/EN/treaties/Html/201.htm>.
- European Parliament, *The Charter of Fundamental Rights of the European Union*, (December 2000). www.europarl.europa.eu/charter/default_en.htm.

Nonbinding

- African Union Commission, *Plan of Action on Sexual and Reproductive Health and Rights: "The Maputo Plan of Action,"* Sp/MIN/CAMH/5(I) (September 18-22, 2006). www.unfpa.org/africa/newdocs/maputo_eng.pdf.
- African Union, *Actions on Maternal, Newborn and Child Health and Development in Africa by 2015* (July 25-27, 2010). www.unfpa.org/webdav/site/global/shared/documents/news/2010/kampala_au_assembly_dec.pdf.
- World Congress against Sexual Exploitation of Children and Adolescents, *The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents* (November 25-28, 2008). www.unicef.org/protection/Rio_Declaration_and_Call_for_Action.pdf.
- World Health Assembly, *Maternal and child health and family planning: traditional practices harmful to the health of women and children*, Resolution WHA47.10 (1994). www.ponline.org/node/310684.
- WHO and International Society for Prevention of Child Abuse and Neglect, *Preventing Child Maltreatment: A guide to taking action and generating evidence* (2006). http://c.ymcdn.com/sites/www.ispcan.org/resource/resmgr/docs/preventing_child_maltreatment.pdf.

C. Human Rights & Children - General Resources

- Bhabha J, ed., *Coming of Age: Reframing the Approach to Adolescent Rights* (University of Pennsylvania Press, forthcoming).
- Nolan A, *Children's Socio-economic Rights, Democracy and the Courts* (Oxford: Hart Publishing, 2011). www.hartpub.co.uk/books/details.asp?isbn=9781841137698.
- Ruxton S, *What about us?: Children's Rights in the European Union* (European Children's Network, 2005). www.nspcc.org.uk/Inform/publications/downloads/whataboutus_wdf48010.pdf.
- Sedletzki V, *Championing Children's Rights: A global study of independent human rights institutions for children* (UNICEF, 2012). www.unicef-irc.org/publications/669.
- Sloth-Nielson J, *Children's Rights in Africa: A Legal Perspective* (Ashgate Publishing, 2008).
- United Nations, *The Millennium Development Goals Report* (2012). www.un.org/millenniumgoals/pdf/MDG%20Report%202012.pdf.
- UNICEF, *Implementation Handbook for the Convention on the Rights of the Child* (2007).
 - *Handbook*: www.unicef.org/crc/files/Implementation%20Handbook%203rd%20ed.pdf.
 - *Checklists*: www.unicef.org/ceecis/handbook_2_CHECKLISTS.pdf.
- UNICEF, "Policy advocacy and partnerships for children's rights". www.unicef.org/policyanalysis/index_51859.html.
- UNICEF, *Progress for Children: A report card*. Annual reports on child rights themes.
 - Reports 1–8 (2004–2009): www.unicef.org/progressforchildren.
 - Report 9 (2010): www.unicef.org/protection/Progress_for_Children-No.9_EN_o81710.pdf.

- o Report 10 (2012): www.unicef.org/publications/index_62280.html.
- UNICEF, *The State of the World's Children*. www.unicef.org/sowc.
 - o Annual reports on child rights themes.
- UNICEF, Voices of Youth. www.voicesofyouth.org.
 - o Online youth forum on education, environment, violence and conflict, HIV/AIDS, health and human rights issues.
- US Library of Congress, "Children's Rights: International and National Laws and Practices". www.loc.gov/law/help/child-rights/index.php.
- Van Bueren G, *The International Law on the Rights of the Child* (Netherlands: Kluwer Law International, 1998).

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6. WHAT ARE KEY TERMS RELATED TO CHILDREN'S HEALTH AND HUMAN RIGHTS?

A

Adolescent

Any individual aged between 10-19 years

B

Best Interests of the Child

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

C

Child

All human beings under the age of 18 unless the relevant national law recognizes an earlier age of majority.

Child Labor

Children work for a variety of reasons in differing cultural, social and economic circumstances. Whether work is defined as exploitative will depend on a range of factors including the work itself, the work environment, the presence of particular hazards, the perceived benefits of work and the nature of the employment relationship.

D

Development Rights

The rights enabling children to reach their fullest potential (e.g. education, play and leisure, cultural activities, access to information and freedom of thought, conscience and religion).

J

Juvenile Justice

Children and adolescents held in custody for crimes may suffer torture and inhumane and degrading treatment; they may be unlawfully detained and be denied their right to a fair trial. They may be given sentences which damage their well-being and prevent their successful re-integration into society. The administration of juvenile justice is carried out in accordance with the best interests of the child.

M

Military Recruitment

An estimated 300,000 children and adolescents are engaged in armed conflict and are often forced into committing extremely brutal acts of violence. Children have a right to specific protection in situations of armed conflict.

N

Non-Discrimination

Each child's rights are ensured without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic, or social origin, property, disability, birth, or other status.

P

Participation

Children who are capable of forming his or her own views have 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.

Participation Rights

Rights that allow children and adolescents to take an active role in their communities (e.g., the freedom to express opinions; to have a say in matters affecting their own lives; to join associations).

Protection Rights

Rights that are essential for safeguarding children and adolescents from all forms of abuse, neglect and exploitation (e.g., special care for refugee children; protection against involvement in armed conflict, child labor, sexual exploitation, torture and drug abuse).

S

Sexual Exploitation

Sexual abuse and exploitation can take a variety of forms including rape, commercial sexual exploitation, and domestic abuse.

Survival rights

The right to life and to have the most basic needs met (e.g., adequate standard of living, shelter, nutrition, medical treatment).

Y

Young Person

Any individual between 10-24 years.

Youth

Any individual between the ages of 15-24.