



Convention on the Rights of the Child: Implications for Juvenile Justice Reform

The United Nations Convention on the Rights of the Child, or CRC, is an international treaty established to protect the basic human rights of children across the world. The CRC is structured around four core principles: 1) non-discrimination; 2) child's best interests; 3) child's right to life, survival and development; and 4) consideration of the child's individual opinions.¹ The CRC also contains specific guidance for countries to maintain the human rights of youth in conflict with the law.

CRC's Guidelines for Youth in Conflict with the Law

- **All people under 18 years of age are to be considered children under the law.** (Article 1)
- The arrest, detention or imprisonment of a child shall be used only as a **last resort and for the shortest appropriate period of time.** (Article 37)
- Every child deprived of liberty (detained or imprisoned) shall:
 - be **treated with humanity and respect** that takes into account the needs of youth that age; (Article 37)
 - have the **right to prompt access to legal and other appropriate assistance;** (Article 37)
 - have the **right to challenge the legality of the detention or imprisonment** before a court; (Article 37)
 - be **separated from adults;** (Article 37)
 - have the right to maintain correspondence and **in-person contact with their families** during periods of incarceration; (Article 37) and
 - receive a **rehabilitative approach to juvenile incarceration.** (Article 40)
- Youth involved in the judicial process should receive **due process protections,** including: (Article 40)
 - a presumption of innocence until proven guilty;
 - legal representation;
 - a speedy, impartial trial;
 - protections against self-incrimination;
 - protection of privacy;
 - the right to an interpreter; and all possibilities of appeal.
- Convicted youth have specific legal protections, and **must not be subject to torture, cruel and unusual punishments, life without parole, or capital punishment.** (Article 37)
- States are encouraged to adopt a **variety of alternatives** to institutional care such as counseling; probation; and education and vocational training programs. (Article 40)
- States are encouraged to establish a **minimum age at which youth can enter the justice system.** (Article 40)

- **Children must be allowed to express their views and opinions** on their legal proceedings. (Article 12)

Participation of Member Countries

The nations that have ratified the CRC make periodic reports to the United Nations Committee on the Rights of the Child (UNCRC) that detail their implementation progress.² The UNCRC can make comments on the report, make recommendations for specific actions, and/or provide technical assistance to the countries.³

U.S. Ratification Process

The United States helped draft the CRC and signed it on February 16, 1995.⁴ Nevertheless, the U.S. has yet to ratify the CRC; the U.S. stands alone with Somalia as the only United Nations member nations that are not a party to the treaty.⁵ In order for the U.S. to ratify the CRC, the Executive Branch must initiate the process. The Convention must then be reviewed by the Senate Foreign Relations Committee and the State Department, and receive a two-thirds vote by the full Senate.⁶

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¹ U.N. Convention on the Rights of the Child (1989): preamble.

² “Convention on the Rights of the Child,” *UNICEF* (August 26, 2008), available at <<http://www.unicef.org/crc/>> (last visited February 23, 2010).

³ *Ibid.*

⁴ “United Nations CRC – The First 20 Countries (193 in Total),” *Ourtimes* (August 10, 2008), available at <<http://ourtimes.wordpress.com/2008/08/10/first-ratifications-of-the-crc/>> (last visited February 23, 2010).

⁵ *Ibid.*

⁶ U.S. Const. Art. II, §2.