



Guide to non-discrimination and the CRC

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CRIN presses for rights, not charity, for children and is guided by a passion for putting children's rights at the top of the global agenda by addressing root causes and promoting systematic change. Its guiding framework is the UN Convention on the Rights of the Child (CRC).

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Guide to non-discrimination and the CRC

This document is an illustrative, not exhaustive, guide to how discrimination affects the fulfilment of all children's rights as set out in the UN Convention on the Rights of the Child.

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Please email comments and contributions to info@crin.org

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Introduction

Children's rights are violated or left unfulfilled in ways in which those of adults are not. This is a result of systemic discrimination - direct or indirect - against children.

Children face discrimination in most societies in comparison to adults because they have less power. This is a result of children's dependence on adults and adults' reluctance to give them more decision-making power as they develop the ability to exercise it themselves.

Besides experiencing discrimination as a group (or 'age-based discrimination'), children face discrimination on other grounds such as their gender, disability, or sexual orientation, and sometimes because of a combination of reasons. The UN Committee on the Rights of the Child has so far identified [53 grounds](#) of discrimination against children based either on their identity or the identity of their parents.

All forms of discrimination against children are exacerbated by virtue of their age and vulnerability which mean they have fewer opportunities for challenging discrimination because, for example, they do not have access to courts and complaints mechanisms on an equal basis with adults.

This document aims to highlight the links between discrimination and the lack of fulfilment of children's rights. It shows how article 2 of the UN Convention on the Rights of the Child – the right to non-discrimination – could be applied to every right as set out in the Convention. Each article includes examples both of discrimination against children as a group and against particular children.

Article 1: Definition of a child

WHAT? [Read article](#)

The aim of defining a child as being under 18 is protective. Indeed, some differential treatment based on age is necessary to guarantee children's protection. However, in many cases, children's age and relative lack of experience is used as a justification for denying them rights to which they are entitled. In other words, children face exclusion and unfair treatment because of the low status accorded to childhood in most societies.

Examples

- In many countries, children may be detained for acts which are not treated as offences when committed by adults. These are often known as “status offences”, and prohibit conduct that is considered unacceptable not because it is harmful, but solely on the basis of age. Status offences take many different forms in countries, States, and localities around the world - examples include curfew violations, school truancy, running away, begging, anti-social behaviour, and even simple disobedience or bad behaviour. Read CRIN's Global report on status offences [here](#).
- Children's rights are frequently violated as a result of indirect discrimination which arises because of unequal access to courts compared with adults and therefore unequal access to justice. In China, for example, under 18s are not allowed to file complaints in court, or to be consulted directly by the courts without parental consent. The only exception is for children over 16 who earn their own livelihood (UN Committee on the Rights of the Child, [Concluding Observations](#), 2005, paragraph 37).
- In some countries, minors who have children are prevented from acknowledging them solely because of their age. In Uruguay, article 235 of the Civil Code provides that unmarried children under 18 cannot be registered as their child's parent. Unmarried adults are not subject to the same law ("[Discrimination and Human Rights in Uruguay – The voice of children and adolescents](#)" Comité de los derechos del niño - Uruguay, 2005).
- Few countries have legislated to protect children from age discrimination, yet most countries have legislative provisions protecting elderly people from age discrimination. Australia has fairly comprehensive legislation protecting children from age discrimination, including in access to goods, facilities and services. Finland and South Africa are among countries to include children in constitutional provisions on equality.

More information

- [Global report on laws protecting children from age discrimination](#) (CRIN, 2009)
- [Global report on status offences](#) (CRIN, 2009)
- "[Making the case against age discrimination](#)" (Children's Rights Alliance for England, 2009)
- "[Age Matters: a report on age discrimination](#)" (Australian Equality and Human Rights Commission, 2000)

Article 2: Non-discrimination

WHAT? [Read article](#)

Article 2 – an overarching principle of the Convention – prohibits “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.”

"States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."

Although the right to non-discrimination is a well-established human rights principle in international law, less attention has been paid to the particular ways in which children experience discrimination. The CRC was created to recognise children's inherent entitlement to fundamental rights and freedoms. The CRC's principle of non-discrimination is crucial to achieving this given that discrimination is one of the main reasons why children's rights are violated. The CRC does not accept limited resources as a justification for discrimination against any group of children.

Although the Convention only mentions certain grounds of discrimination explicitly, it recognises the possibility of other grounds of discrimination from which children are entitled to protection. Furthermore, the Committee on the Rights of the Child has specifically identified a number of other grounds of discrimination in its Concluding Observations, including discrimination on the basis of sexual orientation and against children affected by HIV and AIDS.

The Committee has established that States must take proactive measures where necessary to guarantee the principle of non-discrimination, including law and policy reform, education and awareness raising, and monitoring, among others.

This does not mean that all children should be treated in the same way as each other or as adults, but a distinction should be made between discriminatory and differential treatment. The Committee has also said that special measures may sometimes be needed to promote the rights of certain groups of children.

More information

- A full list of grounds of discrimination mentioned in the Committee's Concluding Observations is available [here](#)
- [Information page on multiple discrimination](#)

Article 3: Best interests

WHAT? [Read article](#)

The criteria used to determine what is in a child's best interests must be carefully examined, along with the question of who decides what is in a child's best interests, to ensure they do not constitute age-based, or any other form of, discrimination, and that they take into account children's evolving capacities.

Article 4: Implementation of rights

WHAT? [Read article](#)

States should ensure that budgetary allocations provide adequately for all children in comparison with other sectors of the population and with other children.

Age discrimination

Children's services are often allocated a smaller portion of the budget than the equivalent services catering for adults.

Example:

- UK: Funding available for child and adolescent mental health services was only five per cent of the mental health budget even though children represented 25 per cent of the population (UK Agenda for Children).

Discrimination against particular children

In other cases, particular children may be allocated fewer resources, such as for the education of girls or children from minority groups.

Example:

- Belize: The Committee has expressed concern about disparities in spending on children between rural and urban areas ([Concluding Observations](#), 2005, paragraph 15)

More information

- [Monitoring government budgets to advance child rights: a guide for NGOs](#) (IDASA, 2003)
- [Budgeting for Human Rights](#) (Equalinrights)
- [International Budget Partnership](#)
- [India: Budget 2008-09 and children - a first glance](#) (HAQ Centre for Child Rights)

Article 5: Parental guidance and child's evolving capacities

WHAT? [Read article](#)

This article introduces the idea that children become able to exercise their rights to the full extent as they acquire competence, rather than when they reach a certain age. As childhood is accorded a low status in most societies, children are generally perceived by adults as lacking the capacity to take responsibility for themselves. This is a form of age discrimination. Many societies exclude all under 18s from participating in politics without determining individual capacities and despite the fact that childhood encompasses individuals' most extensive period of growth and a wide range of skills, competencies, needs and rights.

Age discrimination

Example

- Under 18s cannot vote in most societies. Find a list of countries where under 18s are allowed to vote [here](#).

Discrimination against particular children

Discrimination against some groups of children may also lead to these children being accorded less autonomy than others. This is a result of how certain children's capacities are perceived even though in a different society they might be considered equally capable. The effect of this prejudice can also be discriminatory as a child who is perceived as being more capable may be given more encouragement in developing their capacities than a child who is not.

Example

- Girls with disabilities often face discrimination both because of their gender and because of their disability: In India, blind girls have suffered particular discrimination in relation to education. For example, in New Delhi, during the 1990s, of the ten schools for blind children, only one was for girls and one was co-educational. ["See Me, Hear Me - A guide to using the UN Convention on the Rights of Persons with Disabilities to promote the rights of children"](#), Save the Children, 2009 (p. 108).
- In many Eastern European countries, Roma children are placed in special schools because of assumptions about their levels of competence, the fact that their first language is not that of mainstream society, etc. In other words, they are discriminated against in exercising their right to education because of their ethnicity. Read a special edition of [CRINMAIL on Roma children](#)

More information

- For a detailed discussion of the concept of evolving capacities, and its relationship with

discrimination, see: “[The Evolving Capacities of the Child](#)” (authored by Gerison Lansdown, 2005, published by UNICEF Innocenti Research Centre and Save the Children Sweden).

Article 6: Survival and development

WHAT? [Read article](#)

The right to survival and development is a pre-requisite for enjoying other rights and is closely linked to poverty, exclusion (from society and services) and discrimination. In some societies, less value is placed on children’s lives than those of adults and/ or of other children.

Survival is also an expression of gender based discrimination. In many parts of the world, infanticide is practised against girls or the development of girls is given less priority compared to that of boys. Girls have less access to food, attention, education and play. They also have fewer opportunities to express themselves and may be taken less seriously, all of which can contribute to stunting their physical and social development.

Examples:

- In Benin, the infanticide of so-called "sorcerers’ children”, infants with disabilities, children born in the breech position (where the baby enters the birth canal with the buttocks or feet first rather than with the head first), continues to be practised in some communities. ([Concluding Observations](#), 2006, paragraph 30)
- In some communities, parents who kill or allow their child to die often receive lower penalties if the child has a disability. ("[See Me, Hear Me - A guide to using the UN Convention on the Rights of Persons with Disabilities to promote the rights of children](#)", Save the Children, 2009, p. 86)

Discrimination against girls in some societies means they do not receive the same legal protection from violence as boys.

Examples:

- In India and China infanticide - the killing of a child under 12 months old - is commonly practised against girls as a result of a preference for male children. This is an example of multiple discrimination which arises because of the way two identities - of being a young infant and a girl – interact; female adults or male children would not have their rights violated in the same way.
- Honour killings - the murder of a family member motivated by acts that are perceived as bringing dishonour on the family, e.g. sexual acts or violations of dress codes - are committed against girls in Iraq and other places. Although such acts are illegal, de facto discrimination against girls means that perpetrators are rarely punished. [Read more](#).

Article 7: Birth, registration, name and nationality

WHAT? [Read article](#)

Children who are not registered at birth are ‘invisible’ in official records and therefore more vulnerable to discrimination. Unregistered children may include children born out of wedlock, refugee children, children with disabilities and children whose parents cannot afford birth registration fees or who are themselves unregistered.

Birth registration is essential for accessing other rights on an equal basis with others. For example,

many countries require children to present their birth certificate to enrol in schools and health services. Not being registered at birth can contribute to early marriage, conscription into armed forces, being denied nationality and inability to access services, among other things.

Age discrimination

Examples:

- In some countries, such as Kenya, children are not formally granted nationality until they turn 18. However, multiple discrimination is often at play here as some children are de facto citizens (usually children from the majority population) while others (often ethnic minorities) have uncertain legal status throughout their childhood. [Read more](#).
- Another form of indirect age discrimination against children is that children's citizenship is dependent on that of their parents. Many countries have citizenship laws which discriminate on the grounds of gender. In Lebanon, for example, women cannot pass on their nationality to their children. A draft bill to change this situation has been submitted to parliament, but it is not known when it will be taken up. [Read more](#).

Discrimination against particular children

Examples:

- The Dominican Republic refused to issue birth certificates to two girls of Haitian descent even though they were born within the State's borders. As a consequence, they were denied the right to a nationality and access to education.

The case, known as [Yean and Bosico v. the Dominican Republic](#) (2005), was the first in which the Inter-American Court of Human Rights ruled on the prohibition of racial discrimination in access to nationality.

The Court ordered the State to compensate the victims financially, publicly declare its responsibility for violating their right to education, and implement substantive structural changes in its civil records office.

The country recently issued a policy flouting this ruling, refusing to give ID cards to children whose parents were illegal immigrants. [Read more](#).

- In many countries, children born out of wedlock cannot acquire the identity of their father and are therefore discriminated against compared with children born within marriage. A recent ruling in Venezuela states that children whose father is different to their mother's spouse should have the right to know the identity of their father. Read the decision [here](#) (in Spanish).

More information

- [Briefing on discrimination and stateless children](#)
- Differential treatment based on birth is prohibited in the [Draft General Comment on Non-Discrimination of the UN Committee on Economic, Social and Cultural Rights](#), 2009, (p. 9, paragraph 23)

Article 8: Preservation of identity

WHAT? [Read article](#)

Many countries do not allow children born in certain circumstances to have access to their biological identities. In other words, the right of parents to privacy 'trumps' children's right to knowledge of their identity – they are discriminated against in favour of the parents.

Examples:

- Monaco: The Committee has expressed concern over the lack of rules concerning in-vitro fertilization and respect for a child's right to know his or her identity ([Concluding Observations](#), 2001, paragraph 24)
- Haiti: children born out of wedlock are denied the right to know identity of their father [art. 306 of Civil Code] ([Concluding Observations](#), 2003, paragraph 34)

More information

- Children born from donated sperm or eggs in the UK were recently granted the right to know their biological origins. [Read more](#).

Article 9: Separation from parents

WHAT? [Read article](#)

Children who have lost parents as a result of armed conflict or HIV and AIDS often experience rejection and discrimination, with many children who move into other households as a result receiving different food, clothing and treatment from other children in that household ([Africa's Orphaned and Vulnerable Generations – Children Affected by AIDS](#) UNICEF et al, 2006).

Children who have been separated from their parents - as a result of abuse or neglect of the child by the parents, or where the parents are living separately and a decision must be made as to the child's place of residence, for example - may not be entitled to the same rights as other children.

Example:

- Japan: Children of divorced parents are discriminated against by being denied the right to maintain contact with both parents, in contrast to other children. There is no joint custody and court ordered visitation is inadequate and not enforced. ([Alternative report to the CRC](#), Children's Rights Council of Japan and a Coalition of 10 NGOs, 2004).

Laws specifying grounds for State care may be applied in a discriminatory way, for example, removing children from the family home on the grounds of poverty or discriminating against disadvantaged children and children from minority groups, among other things.

Example:

- Nepal: Poverty of parents is a legal ground for adoption. ([Concluding Observations](#), 2005, 54 c)

Article 10: Family reunification

WHAT? [Read article](#)

The principle of best interests, and the underlying commitment to respect the right of children to maintain contact with both parents underpin most countries' domestic legislation. However, this is often not applied in respect to children separated by immigration laws, reflecting discrimination against these children.

Example:

- USA: The mandatory deportation of legal immigrants convicted of a crime, even a minor one, has separated an estimated 1.6 million children and adults, including US citizens and

lawful permanent residents, from their non-citizen family members.

["Forced Apart - Families Separated and Immigrants Harmed by United States Deportation Policy"](#) (Human Rights Watch, July 2007)

Article 11: Illicit transfer and non-return of children abroad

WHAT? [Read article](#)

For more information, see the [Hague Convention](#).

Article 12: The right to be heard

WHAT? [Read article](#)

Children's right to be heard underpins all rights in the Convention: it is key to children's right to an individual identity and to their equal treatment with others, and can be a strong tool in challenging discrimination.

Age discrimination

Children are largely discriminated against as individuals and as a group because they are not listened to and because less weight is attached to the views that they are able to express. In most societies, decisions are taken which have an impact on children's lives in courts, family, school, and other spheres, in which they are not consulted where adults would be.

Children's rights are violated in justice systems around the world as a result of indirect discrimination that comes about because of unequal access to courts compared with adults and therefore to justice. Children's right to be heard in judicial proceedings is often very limited either because they are expressly barred from initiating court procedures until they reach the age of majority or because the procedures are complex and not child-friendly.

In many countries, children are not heard by courts.

Example:

- In Syria, under the Evidence Act, persons under age of 18 are not competent to testify, except in case of alleged rape or offences against morality (Concluding Observations, 2006, paragraph 19c, available from www.universalhumanrightsindex.org).
- In the Maldives, for example, children's right to be heard in judicial proceedings is limited to custody cases ([Concluding Observations](#), 2007, paragraph 40)

Children are often excluded from consultative procedures with policy makers for developing economic and social policy which are open to adults.

Example:

- Nigeria: At a public hearing on a bill to control the sale of tobacco in July 2009, children were not allowed to speak. The reason given was that children should be protected from discussions about tobacco. However multi-national tobacco companies have been criticised for advertising and selling their tobacco-related products to under-aged Nigerians. Involving children in this kind of consultation allows children to contribute to their own protection. [Read more.](#)

Discrimination against particular children

Some children, for example children with disabilities, face particular obstacles in getting their voices heard because of perceptions about their competence to participate in decisions, or as a result of indirect discrimination where participation spaces are not accessible. *Example:*

Example:

- Furthermore, courts often exclude children with disabilities from giving evidence solely on the basis of their disability, for example, some countries do not allow blind children (as well as adults) to give evidence in court on the ground that they cannot be competent witnesses because they cannot see.

More information

- UN Committee on the Rights of the Child [General Comment No. 12 on children's right to be heard](#) (June 2009)
- For information on challenging discrimination against children in economic and social policy, read "[Challenging Discrimination Against Children in the EU](#)" (EURONET, 2000)
- See also "[Representing Children Worldwide](#)", A Yale Law School project analysing how children are heard in child protective proceedings in 250 jurisdictions
- Read the viewpoint of the Council of Europe's Commissioner for Human Rights: "[Listen seriously to the views of children](#)" (2007)

Article 13: Freedom of expression

WHAT? [Read article](#)

The Committee on the Rights of the Child has emphasised that it is not enough to say that everyone has the right to freedom of expression: children's right to freedom of expression must be manifestly guaranteed in law.

Age discrimination

Example:

- Georgia: The Committee has expressed concern at the lack of legal guarantees for the freedom of expression of under 18s and the inadequate attention given to the promotion of and respect for the right of the child to freedom of expression. It is concerned that prevailing traditional societal attitudes, in the family and in other settings regarding the role of children, appear to make it difficult for children to seek and impart information freely ([Concluding Observations](#), 2008, paragraph 28).

Discrimination against particular children

Certain children face particular obstacles to enjoying the right to freedom of expression. For example, children with disabilities experience indirect discrimination where States parties fail to ensure that non-verbal or other channels of communication are available where necessary.

Some restrictions on this right are permitted, including where freedom of expression results in discrimination or defamation against others.

Article 14: Freedom of thought, conscience and religion

WHAT? [Read article](#)

Few States protect children's right to freedom of thought, conscience and religion where provisions exist to protect these rights for adults, even though children's right to these freedoms is more likely to be curtailed by parents and in schools.

Age discrimination

Example:

- UK: Parents can request that children be removed from religious education classes, but children have no right to make such a choice. Read about the project "[Opting out of religious education: the views of young people from minority belief backgrounds](#)" by Queen's University Belfast.
- Egypt: If a child's father converts to Islam, the child's birth certificate is automatically amended by the State to state that Islam is their religious affiliation, without the knowledge or consent of the child, even if they are aware of this and are opposed. The children often only find out when they turn 16 and go to get their identity card. Read more [here](#).

Discrimination against particular children

Arrangements for religious education in schools may discriminate against children of particular faiths.

Examples:

- In Costa Rica, the fact that classes on Catholicism are part of the curriculum is discriminatory for non-Catholic children ([Concluding Observations](#), 2005, paragraph 25)
- Maldives: Expatriate school pupils who chose not to study Islam were unable to pass their end of year school exams; Islam formed an integral part of the school curriculum and it had been alleged that alternative subjects were not offered to expatriate school pupils (A. Jahangir, Report of the Special Rapporteur on Freedom of Religion or Belief, Addendum: Mission to the Maldives, UN Doc. A/HRC/4/21/Add.3, paragraph 48 (2007).

States may provide funding for teaching in some religions but not others.

Example:

- In a complaint to the UN Human Rights Committee ([Waldman v Canada, No. 694/1996](#), ICCPR), the author complained about educational subsidies in Ontario, Canada that were made available for Roman Catholic schools but not for schools of other religious faiths. This required him to meet the full cost of his children's education in a religious school.

The HRC held that where a State party chooses to provide public funding to religious schools, it should make funding available without discrimination.

More information

- [Briefing on children and religious discrimination](#)

Article 15: Freedom of association

WHAT? [Read article](#)

Age discrimination

In many countries, young people are deterred from being in public spaces where adults are not.

Example:

- In the UK, a raft of measures have excluded young people from public spaces. These include curfews which apply only to children, and the use of the 'mosquito device', an electronic device which only children and young people can hear, which small businesses use to deter children from gathering in public spaces. Read: "[Freedom of Association? Not if you're young and living in the UK](#)", CRIN, 2008, p. 26)

In other countries, children are prevented from participating in organised associations simply because of their age.

Example:

- In Japan, children cannot join an association until they turn 18 without permission from their parents ([Concluding Observations](#), 2004, paragraph 29).

More information

- [Read about how use of the 'mosquito' device has been challenged in Belgium](#)

Discrimination against particular children

Children living and working on the street and children from disadvantaged backgrounds often have their right to associate curtailed as a result of discrimination.

Example:

- Mexico is considering a ban on the presence of street children, ostensibly for child protection purposes, but which in reality criminalises poverty. [Read more](#).

Article 16: Protection of privacy

WHAT? [Read article](#)

Children frequently experience age-related discrimination where their privacy is not respected in their relationships with others, in accessing confidential advice, and in how information about them is stored and used.

Age discrimination

Examples:

- It is not enough to pass anti-discrimination laws; the government also bears responsibility for enforcing those laws in effect to prevent children from experiencing systemic discrimination.

However, in the UK, children with HIV have been turned away and excluded from primary and secondary schools in contravention of anti-discrimination laws. In one case, a child who did not know about her condition was made aware of it by a teacher. Under the Disability Discrimination Act 2005 it is illegal to discriminate against anyone with HIV. The National Aids Trust repeatedly asked for specific guidance on HIV for teachers from the Department of Children, Schools and Families (DCSF). They were told that the State had 'no plans' to update an existing information kit for schools on how to implement the Act, which only mentions HIV 'in passing'. [Read more](#).

- The media plays a crucial role in protecting children's privacy rights. However, in reality TV programmes, such as parenting programmes, not all children involved are able to give their informed consent to appearing on such shows.

Discrimination against particular children

Children with disabilities and children in institutions are particularly vulnerable to breaches of their right to privacy. For example, they may be subject to searches of their personal belongings and space.

Example:

- The Committee has expressed concern that in Japan, children's right to privacy is not fully respected, in particular, with regard to searching children's belongings, and the fact that staff in institutions may interfere with child's personal correspondence ([Concluding Observations](#), 2004, p. 33)

Where police DNA databases retain children's DNA, a violation of their rights in itself, many have a racial bias.

Example:

- UK: One in four black children over 10 reportedly has had their profile placed on the national DNA database. [Read more](#).

Many countries have not legislated to protect children's right to privacy in the press, or they may protect some children's anonymity, but not that of others.

There should be special rules on keeping any kind of file on children. Children must know about all information stored about them, and who it is controlled by; they should have access to that information, a say in who else can access it, and be able to challenge information recorded about them.

More information

- [Briefing on discrimination and the media](#)
- "[Another Perspective: How journalists can promote children's human rights and equality](#)" (Children's Rights Alliance for England - CRAE, 2009)

Article 17: Access to appropriate information

WHAT? [Read article](#)

The negative way in which children are often represented in the media constitutes discrimination against children as a group. In many countries, stories of child abuse or of children involved in crime and street children tend to dominate, while the broader issues of children's rights, such as the right to play, recreation and sport, or the right to be free from discrimination, are often not regarded as newsworthy. The result is an unbalanced impression of 'children as victims', or 'children as dangerous'.

Age discrimination

- In 2003, the Media Monitoring Project (MMP) investigated the representation of children and children's rights in the South African news media. Both the adults' and children's monitoring revealed that news stories in which children appeared were predominantly negative. According to the adult monitoring, one in two stories featuring children related to negative topics such as crime, violence, abuse or disasters. [Read more](#).

Discrimination against children

The CRC states that children must have equal access to information. There may be geographical disparities in children's access to information, meaning that some children are less able to exercise their rights. Children from minority communities may experience difficulties in accessing age-appropriate information in their own language.

Examples:

- Some groups of children are represented in stereotyped ways. For example, of all the stories about young people in UK national and local papers during one week in 2004, a total of 70 per cent had boys as the offender and only 32 per cent had boys as the victim. Girls were the offenders in only 10 per cent of the stories and the victim in 91 per cent, according to a study by Headliners (formerly Children's Express). [Read more](#).
- The Committee on the Rights of the Child has expressed concern that in Burundi, the majority of children in rural areas do not have adequate or equal access to information compared with children in urban areas. ([Concluding Observations](#), 2000, paragraph 44)

More information

- [Briefing on children's rights, discrimination and the media](#)
- "[Rights, Childhood and the Public Agenda: A comparative analysis of Latin American press coverage](#)" (Redandi, 2006)
- "[Another Perspective: How journalists can promote children's human rights and equality](#)" (Children's Rights Alliance for England - CRAE, 2009)

Article 18: Parental responsibility

WHAT? [Read article](#)

Article 19: Protection from all forms of violence

WHAT? [Read article](#)

Age discrimination

The way in which the State responds to the protection of the human rights of children is often discriminatory. In many countries, children do not enjoy equal protection from violence before the law with adults.

Example:

- Children can be hit by adults in many countries as a form of correction – a practice which is called battery when applied to adults and punishable by law. Only 24 States have so far prohibited all forms of corporal punishment against children. [Read more](#).

Children's right to report violence is often violated as a result of the indirect discrimination which arises when they do not have equal access to appropriate complaints mechanisms.

Discrimination against particular children

Children with disabilities are particularly vulnerable to violence as their abusers calculate they will have less access to complaints procedures and are less likely to be taken seriously.

Example:

- Approximately 50 per cent of children who are deaf and 60 per cent of those with an

- intellectual impairment are sexually abused. [Read more](#) (p. 4).
- USA: Human Rights Watch has found that students with disabilities made up 18.8 per cent of students who suffered corporal punishment at school during the 2006-2007 school year, although they constituted just 13.7 per cent of the total nationwide student population. [Read the report](#).

Article 20: Children without parental care

WHAT? [Read article](#)

Many children are taken into care in the first place as a result of discrimination. Once in care, children are particularly vulnerable to discrimination during their placement and after leaving care.

Age discrimination

Laws in some States permit the rounding up and arrest of children living on the street, but not of adults living on the street.

- “Sweeps” are conducted in many countries, such as Tanzania, in which street children are rounded up and arrested, particularly in advance of high profile events. [Read more](#).

Discrimination against particular children

Children in alternative care environments are more likely to have their rights violated than other children. They may, for example, be subjected to searches, have their personal history revealed to others without their consent, and be more vulnerable to sexual and other forms of exploitation.

In some places, legislation terminates local authority responsibilities for children at an age lower than a parent would continue to provide support, resulting in discrimination against these children.

Example:

- UK: In May 2009, the House of Lords found that children's services departments must accommodate and support homeless children instead of referring them to housing departments. The appellant, G, became homeless at 17 when his mother evicted him. The local authority found that he needed ‘help with accommodation’, which they provided. However, they did not accept him as a ‘child in need’ under section 20 of the Children Act 1989. This meant he was not entitled to be ‘looked after’ and would not subsequently qualify for leaving care rights. G argued that, based on the local authority’s assessment of his needs, he was entitled to be dealt with under section 20. The House of Lords upheld his appeal. Oliver Studdert, the solicitor at Fisher Meredith who acted for G, commented: "The majority of 16 and 17 year-olds who require accommodation have needs beyond housing... This judgment is a huge step forward for children’s rights and requires a fundamental rethink by local authorities of the level of support they offer these vulnerable individuals." Read: [R \(G\) \(FC\) \(Appellant\) v London Borough of Southwark \(Respondents\) \[2009\] UKHL 26. Judgment delivered on 20 May 2009.](#)

Article 21: Adoption

WHAT? [Read article](#)

Adult ‘rights’ to have a child and to privacy can serve to discriminate against children’s rights to knowledge of their identity.

Age discrimination

Example:

- Turkmenistan: The UN Committee on the Rights of the Child has expressed concern that article 129 of the Marriage and Family Code (providing that child's adoption be kept secret), in conjunction with article 157 of Criminal Code (establishing that it is criminal offence to breach confidentiality of adoption against adoptive parents' wishes), may hamper the right of a child to know his or her parents (Concluding Observations, 2006, available from <http://www.universalhumanrightsindex.org>).

Discrimination against particular children

Prejudicial attitudes about some children may mean some are more likely to be left in institutions, rather than adopted.

Example:

- In the UK, negative images of boys are making people less willing to adopt them. According to the British Association for Adoption and Fostering, 63 per cent of cases at one of its “hard to place” agencies were boys. [Read more](#).

Article 22: Refugee children

WHAT? [Read article](#)

Refugee and internally displaced children may experience age-based discrimination in attaining legal status as a refugee or Internally Displaced Person (IDP).

Age discrimination

Example:

- Cyprus: Children of internally displaced persons may acquire IDP status themselves only if their father is an IDP ([Concluding Observations](#), 2003, paragraph 53)

Discrimination against particular children

Refugee and IDP children rarely receive equal treatment or legal protection with other children, let alone the additional protection and assistance needed to protect them from discrimination. They may not have access to quality education, recreation, health, food or shelter.

Refugee children face exclusion and marginalisation from receiving countries as well as upon return to their own country.

Example:

- USA: Children in the immigration system are not guaranteed legal representation, in contrast to children in the criminal justice system. They are not guaranteed the appointment of a guardian ad litem ("friend of the child") who, in the absence of a traditional caregiver, ensures that all decisions are made with a child's best interests in mind. (Amnesty USA - [read more](#)).

The Committee on the Rights of the Child has urged States to adopt provide specific forms of protection and assistance to prevent discrimination. It also urges them to adopt measures to deal with the discriminatory situations refugees may have fled from where, for example, refugee children are disproportionately likely to have been victims of sexual exploitation. Such measures include: providing age appropriate information on entitlements, conducting age assessments with

respect to human dignity, and carrying out interviews in a child-friendly environment, and guaranteeing confidentiality, protection from forcible return, shorter processing periods and legal aid.

Article 23: Children with disabilities

WHAT? [Read article](#)

Children with disabilities experience high levels of direct and indirect discrimination.

Age discrimination

In many countries, children with mental health difficulties can be locked up on grounds which would not be applied to adults.

In some places, children are committed to mental health institutions without their views being taken into account where this is not the case for adults.

Example:

- Several US states allow parents to voluntarily commit their children to mental health institutions. The maximum age limit for such a commitment process ranges from 12-15. Children that are subject to this procedure are denied the same rights to have their views taken into account that adults and older children would have in a similar situation. In Virginia, for example, parents can “voluntarily” commit their child. Many admissions are made on an informal basis with no hearing. Admissions to state facilities are undertaken following an independent pre-screening review by a community service board. However, admissions to private facilities may be made with no judicial review and, should a child seek release before their parents and hospital staff believe they are ready, they may be subject to involuntary commitment proceedings. ("The Civil Commitment Process for Juveniles: An empirical study," Donald H. Stone, University of Detroit Law Review, Vol. 65, p. 679, 1988)

Discrimination against particular children

Some countries' definition of disability is restrictive, discriminating against people with certain types of disability compared with people with other types of disability.

Example:

- In Yemen, the law defines persons with disabilities as people who have lost a part of their body because of sickness or because of an accident. While it makes some provision for people with visual and hearing impairments, it does not include people who were born with a disability or people with learning difficulties, who therefore do not qualify for the same support.
Read more in [an interview](#) with national disability rights expert, Rajaa Abdulla Ahmed Al-Masbi, is the chairwoman of the Arab Human Rights Foundation.

Example:

- The European Social Committee criticised France in 2002 for directly discriminating against children with autism because it failed to provide these children with educational opportunities. [Read the decision](#).

Children with disabilities may also experience indirect discrimination. In other words, they may enjoy equal rights with other children in theory, but in practice, schools and other public buildings are not accessible and teaching may not be suitably adapted to their needs. Equality cannot be achieved simply by treating everyone the same, since this ignores the exclusions or discriminatory barriers that particular people must face. A school without special equipment for pupils with disabilities, for example, might treat everyone in the same way, but does not ensure fair access to

education for all students.

Example:

- In Kyrgyzstan, children with disabilities do not have access to public buildings; public transport is also a concern ([Concluding Observations](#), 2004, paragraph 47)

Children with disabilities are particularly vulnerable to abuse because it is harder for them to lodge complaints. Their rights are therefore violated as a result of indirect discrimination which arises because of unequal access to the courts and therefore to justice.

- Approximately 50 per cent of children who are deaf and 60 per cent of those with an intellectual impairment are sexually abused. [Read more](#), p.4 (also referenced under article 19).

While girls and boys with disabilities face discrimination in many countries, the situation for girls is often exacerbated as they also experience discrimination on the basis of their gender.

Note: In May 2008, the [UN Convention on the Rights of Persons with Disabilities](#) came into force. The Convention marks a shift from seeing children with disabilities as objects of charity and addressing their 'special needs' - the approach set out in Article 23 of the CRC - to treating them as the subjects of rights. Article 7 of the Disability Convention in particular sets out specific obligations to ensure that children with disabilities enjoy all human rights and fundamental freedoms on an equal basis with other children. See also [CRC General Comment no. 9 on the rights of children with disabilities](#).

More information

- ["See Me, Hear Me - A guide to using the UN Convention on the Rights of Persons with Disabilities to promote the rights of children"](#) (authored by Gerison Lansdown for Save the Children UK and Sweden on behalf of the Alliance (2009))

Article 24: Health and health services

WHAT? [Read article](#)

Poor health is often a cause and effect of discrimination.

The health outcomes of children are overwhelmingly impacted by inequality. See: ["Closing the Gap in a Generation: Health equity through action on the social determinants of health"](#) (World Health Organisation and the Commission on Social Determinants of Health, 2008)

Age discrimination

Children experience indirect discrimination where their unique needs are not catered for by the health system. Adolescents are particularly affected as they often fall through the gaps in services which provide for younger children or for adults.

Example:

- The World Health Organisation (WHO) has reported that more than half of the drugs currently used to treat children in the industrialised world have not been specifically tested on young people, even though they metabolise medicines differently to adults. The problem is even worse in developing countries where price remains a major barrier and six million children die each year from treatable conditions. [Read more](#).

Discrimination against particular children

Examples of direct discrimination:

- Health care fees discriminate against disadvantaged children. In Senegal, for example, these fees are sometimes imposed ([Concluding Observations](#) 2006, paragraph 44).
- Children with disabilities have been subjected to clinical and pharmacological interventions that would be considered unacceptable if carried out on children without disabilities in the same community, with examples including electro-shock therapy, excessive medication and routine hysterectomies. ("[See Me, Hear Me - A guide to using the UN Convention on the Rights of Persons with Disabilities to promote the rights of children](#)", Save the Children, 2009, p. 131).
- Sweden: A new Act on health care for asylum seekers (2008:344) provides asylum-seekers, former asylum seekers or “children in hiding” with the right to health care and medical services on an equal basis with other children. However, the Committee on the Rights of the Child has expressed concern that undocumented children only have the right to urgent medical care, with no subsidies ([Concluding Observations](#), 2009).

More information

- "[Closing the Gap in a Generation: Health equity through action on the social determinants of health](#)" (World Health Organisation and the Commission on Social Determinants of Health, 2008)

Article 25: Periodic review of placement

WHAT? [Read article](#)

In some places, children are committed to mental health institutions without their views being taken into account where adults are heard, and do not have their placement reviewed on an equal basis.

Example:

- Several US states allow parents to voluntarily commit their children to mental health institutions. The maximum age limit for such a commitment process ranges from 12-15. Children that are subject to this procedure are denied the same rights to have their views taken into account that adults and older children would have in a similar situation. In Virginia, for example, parents can “voluntarily” commit their child. Many admissions are made on an informal basis with no hearing. Admissions to state facilities are undertaken following an independent pre-screening review by a community service board. However, admissions to private facilities may be made with no judicial review and, should a child seek release before their parents and hospital staff believe they are ready, they may be subject to involuntary commitment proceedings. (The Civil Commitment Process for Juveniles: An empirical study, Donald H. Stone, University of Detroit Law Review, Vol. 65, p. 679, 1988. Also referenced under article 23)

Article 26: Social security

WHAT? [Read article](#)

Children are not always allowed to claim social security grants and benefits independently where necessary on an equal basis with adults.

Age discrimination

Example:

- The Committee urged Saint Lucia to review its legislation relating to children’s right to social security, paying specific attention to the child’s right to request social security grants and benefits. It also recommended the inclusion of measures to ensure that all children

benefit from childcare services ([Concluding Observations](#), 2005, paragraph 60)

Discrimination against particular children

Discrimination against certain groups means that some children may not have equal access to social security.

Example:

- In Germany, 16 and 17 year old refugees have been denied benefits where other children have not ([Concluding Observations](#), 2004, paragraph 54a)

More information

- "Children and younger persons should not face unreasonable differential treatment on the basis of age, such as in age requirements for accessing social security," according to the [Draft General Comment on Non-Discrimination of the UN Committee on Economic Social and Cultural Rights](#), p. 10, para. 25.

Article 27: Adequate standard of living

WHAT? [Read article](#)

The State indirectly discriminates against children by failing to address the impact of its socio-economic policies on children.

Age discrimination

Research shows that child poverty is linked to policy decisions and resource allocations made by States rather than the overall wealth of States and yet children are rarely considered in the development of macroeconomic policies where adults are. The effect of this failure is discriminatory because children's material needs and interests are subsumed in those of the household or family when they may be very different.

Example:

- UK: One in three children in 1992/3 were living in poverty compared with 1 in 10 children in 1980 despite the fact that no such decrease in the overall wealth of the country was recorded. [Read more](#).

More information

- "[Challenging discrimination against children in the EU: A policy proposal by Euronet](#)" authored by Gerison Lansdown (2000)
- "[Innocenti Social Monitor 2009: Child well-being at a crossroad. Evolving challenges in Central and Eastern Europe and CIS](#)" UNICEF Innocenti Research Centre (September 2009)

Article 28: Access to education

WHAT? [Read article](#)

This article refers to equality of opportunities in accessing education.

Children's access to education may be restricted because of discrimination on the grounds of who they are or because of their circumstances.

Discrimination against particular children

Examples:

- Disadvantaged children's access to education can be hampered by costs, for example, by requiring parents to buy uniforms, textbooks, or provide access to computers and the internet.
- Children from minority groups may not have access to mainstream education. The European Court of Human Rights has [ruled](#) against the Czech Republic for wrongly forcing Roma children into remedial schools.
- Children in prison and other institutions may not have the same statutory right to formal education to education as other children (Cape Verde for example ([Concluding Observations](#), 2001, paragraph 65), or the education they do receive may not be of an equivalent quality.
- In the UK, Afro-Caribbean boys are up to five times more likely than their white peers to be excluded from school for the same offence, although few of the teachers involved deliberately seek to discriminate (Lansdown, Gidney and Woll (2000) *Children's Rights: Equal Rights? Diversity, Difference and the issue of Discrimination* (2000), International Save the Children Alliance: London, p.155)
- Girls are often required to carry out domestic chores to such an extent that it makes it hard for them to attend school on an equal basis with boys.
- The European Committee on Social Rights recently [ruled](#) against Bulgaria for depriving children with intellectual disabilities of education, see:
- Non-nationals also experience discrimination in accessing education. Singapore has added a [declaration](#) on this article stating that it "reserves the right to provide primary education free only to children who are citizens of Singapore."
- Girls in many African countries are indirectly discriminated against because the lack of sanitation facilities means they cannot attend when menstruating. No systematic research has been conducted on the relationship between the lack of appropriate sanitary facilities and the drop-out rate of adolescent girls. However, some studies suggest that approximately one in 10 school-age African girls does not attend school during menstruation or drops out at puberty because of the lack of clean and private sanitation facilities in schools (UNICEF, 2005). (Toolkit on Hygiene, Sanitation and Water in Schools, [schools sanitation.org](http://www.schoolsanitation.org/BasicPrinciples/GenderRoles.html). See: <http://www.schoolsanitation.org/BasicPrinciples/GenderRoles.html>)

Discrimination against some children forces them out of school.

Examples:

- Homophobic bullying in the US: [Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual and Transgender Students in U.S. Schools](#) (Human Rights Watch, 2001)
- Girls who become pregnant are expelled from school in some countries, including Liberia, Mali and Nigeria. Read [more](#).

Indirect discrimination also impedes children's access to education, for example children with disabilities may have access to school in theory, but if school buildings are not made accessible, in practice they are unable to attend.

Example:

- Latvia: The Committee raised the fact that schools are not easily accessible for children with motor impairments ([Concluding Observations](#), 2001, paragraph 37)

More information

- [The Right to Education Project](#)
- [The Right to Education of Persons in Detention](#) (Special Rapporteur on the Right to

Education, 2009)

Article 29: Aims of education

WHAT? [Read article](#)

The content and context of education are key to eliminating discrimination and promoting tolerance. Failure to include human rights values in schooling can discriminate against particular children and reinforce or perpetuate discriminatory attitudes in society.

Discrimination against particular children

Other examples of discrimination in school curricula include the use of biased textbooks which can stereotype nationalities or other groups, increasing discrimination against certain groups in and outside of school.

Examples:

- Maldives: The Committee on the Rights of the Child raised gender biases and stereotypes in school textbooks as a concern ([Concluding Observations](#), 2007, paragraph 77)
- Croatia: The European Committee of Social Rights, which monitors state compliance with the European Social Charter, found that Croatia's limited curriculum covering sex education discriminates on the basis of sexual orientation. The Committee stated that the State has an obligation to ensure that educational materials do not reinforce demeaning stereotypes and perpetuate forms of prejudice which contribute to social exclusion, embedded discrimination and denial of human dignity. The Committee noted that statements found in the curriculum "...stigmatise homosexuals and are based upon negative, distorted, reprehensible and degrading stereotypes...."
[Read the decision.](#)
- Male-dominated curricula may serve to exclude girls in some countries.
- Children from indigenous communities do not always have access to education in their own language as well as the language of the country in which they live, despite the fact that evidence shows they achieve better outcomes in this way. [Read more.](#)

Quality education is not only concerned with learning, but also with children's health, nutritional status, well being, safety and protection from abuse and violence. It is also concerned with the child's environment and with what happens to children before entering and after leaving school or other education centres.

Example:

- A town council in a district in Rome passed a motion to separate children of traveller families from other children on school buses following reported clashes. [Read more.](#)

Some of the ways in which schools and other education providers can help combat discrimination include teaching respect for different religions and cultures; providing human rights and citizenship education; challenging prevalent stereotypes and discriminatory; offering different forms of schooling such as vocational and home schooling; and involving children in decisions about the curriculum.

More information

- [The Right to Education Project](#)

Article 30: Children of minorities or of indigenous peoples

WHAT? [Read article](#)

Article 30 protects the rights of children of minority communities and indigenous populations to enjoy their own culture and practise their own religion and language, in a community with other members of their group.

Indigenous communities have experienced widespread discrimination around the globe across the spectrum of rights, including in access to health care, attaining legal identity, in the justice system. In particular, they often face exclusions in accessing land rights and difficulties in conserving traditional ways of life.

Examples:

- Of the world's 101 million children out of school, between 50 and 70 per cent are from minorities or indigenous peoples as a result of discrimination. ("[State of the World's Minorities and Indigenous Peoples](#)", Minority Rights Group International, 2009)
- Indigenous communities in Central Africa have highlighted problems of forced expulsion and systematic exclusion from their lands through forest concessions and the creation of protected areas. [Read more](#).

Article 31: Leisure, play and culture

WHAT? [Read article](#)

Children's right to leisure, play and culture is restricted in many places, in developing countries in particular, because of expectations that they will work to help support their family. Elsewhere, opportunities for play may be curtailed as a result of safety concerns, a lack of play spaces, or because of age discrimination where groups of young people as a group are perceived and portrayed as a threat.

Examples:

- [USA: Children hit with curfews as Halloween looms](#)
- [Freedom of Association? Not if you're young and living in the UK](#) (p. 26)

More information

- [Fair Play for Children](#)

Children with disabilities are often excluded from play both because of over-protective attitudes and as a result of indirect discrimination which means that play areas are not accessible.

Article 32: Child labour

WHAT? [Read article](#)

Some employers reportedly choose to employ children because they are less aware of their rights.

Age discrimination

Example:

- Egypt: One employer in the cotton industry in Egypt told a researcher that he employed children since they were cheaper, more obedient and the appropriate height for inspecting cotton plants ("[Underage and unprotected: child labour in Egypt's cotton fields](#)", Human

Rights Watch, 2001)

Where children work, they are often not entitled to remuneration and holidays on an equal basis with adults.

Example:

- Children are often denied the right to join a trade union where adults can, for example in Turkey ([Concluding Observations](#), 2001, paragraph 37).
- Junior rates of pay in Australia are currently exempt from anti-discrimination legislation. These are defended as making young people's position in the labour market more competitive. However, this exclusion means that young people have less bargaining power and takes no account of individual skills or abilities to perform the job.

The New South Wales Young Lawyers Human Rights Committee, Kingsford Legal Centre and others have argued that junior rates of pay contravene article 27 of the CRC as well as article 7 of the International Covenant on Economic, Social and Cultural Rights which obliges Australia and other State parties to ensure that everyone has the right to 'fair wages and equal remuneration for work of equal value without distinction of any kind'. ("[Age Matters: a report on age discrimination](#)", Australian Human Rights Commission, 2000)

Discrimination against particular children

Certain types of work are gender biased and may discriminate against boys or girls. Although boys may equally be affected by child labour and experience harm in other ways, female children are more likely to work on domestic labour. This can impact negatively on their educational opportunities and result in discrimination against them in later life in terms of employment opportunities, status in society, etc. Other examples include problems faced by girls who have been sexually exploited and are discriminated against on return to their families and communities.

Example:

- This kind of discrimination has affected girls fishing and preparing prawns in Bangladesh ('[Not Small Fry: Children's Work in Bangladesh's Shrimp Industry](#)', E Delap and R Lugg, Save the Children/Uttaran, Bangladesh, 2000).

More information

- Differential treatment on the basis of age in the level of minimum wage is prohibited in the [Draft General Comment on Non-Discrimination of the UN Committee on Economic, Social and Cultural Rights](#) (p. 9, para. 23)
- [Legislative reform on child domestic labour: a gender analysis](#) (UNICEF Innocenti Research Centre, May 2009)
- [Peru: Children demand right to work, but an end to exploitation](#) (MANTHOC)

Article 33: Drug abuse

WHAT? [Read article](#)

Children experience age-based discrimination both where they are excluded from consultations, which are open to adults, about drug policy and project design. Rehabilitation services are also harder to access for children.

Examples:

- In most countries, drug rehabilitation services are not open to those under certain ages – 18 or, in the case of Sweden, 20. The Committee is also concerned that there are no statistics on the number of heavy drug users under 18. ([Concluding Observations](#), 2009)
- Maldives: The National Narcotics Control Bureau (NNCB) does not currently have a mandate to address drug abuse issues involving children below the age of 16. There is a lack of child-specific recovery and reintegration services for users of narcotic drugs and psychotropic substances. ([Concluding Observations](#), 2007, paragraph 88)

Article 34: Sexual exploitation

WHAT? [Read article](#)

Status offence laws that criminalise children involved in prostitution are discriminatory and violate children's right to protection.

Age discrimination

Example:

- Libya: On 5 October 1955, a law on young vagrants was promulgated to address the welfare of child beggars, street children living outside the family fold, children without a family provider, children associating with persons of dubious character and children who collect refuse, waste and cigarette ends or who assist persons employed in prostitution and gambling. The welfare procedure entails the issuance of a ruling - at the request of the Department of Public Prosecutions - for the child to be handed over to his rightful guardian, a charitable foundation or a State-recognised establishment. If the child returns to vagrancy within one year, the court issues an order committing him to an institution for juveniles, a charitable foundation or a recognised establishment. ([State party report](#), 2002).

Discrimination against particular children

Discrimination against some children means they are more likely to be victims of sexual exploitation.

Example:

- In Thailand some brothel owners reportedly favour deaf girls because they think it will be harder for them to communicate with customers or employers ([Violence study. Summary Report of the Thematic Meeting on Violence against Children with Disabilities](#), 2005, New York)

Many countries have a lower minimum age of marriage (which assumes sexual consent) for girls than for boys, increasing their vulnerability to sexual exploitation.

Read "[At What Age?... Are School-Children Employed, Married and Taken to Court? - Second Edition](#)" (Right to Education Project, 2004)

In other countries, boys receive less protection against sexual abuse before the law than girls.

Example:

- The Japanese penal code maintains a narrow definition of rape as an act committed by a male against a female ([Concluding Observations](#), Second Periodic Report, 2004, paragraph 51a)

Article 35: Abduction, sale and trafficking

WHAT? [Read article](#)

Existing prejudice and social disadvantage increase children's vulnerability to abduction, sale and trafficking.

In the words of former UN High Commissioner for Human Rights Mary Robinson: "Trafficking is ... inherently discriminatory. In the case of trafficking into the global sex industry, we are talking about men from relatively prosperous countries paying for the sexual services of women and girls – and sometimes men and boys – from less wealthy countries. This is more than a labour rights issue or an issue of unequal development. It is a basic human rights issue because it involves such a massive and harmful form of discrimination." [Read more](#).

Trafficking is generally considered to be an issue of gender discrimination, but it also has racial and ethnic dimensions. This was addressed in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001. Read more on multiple discrimination [here](#).

Children who have been sexually exploited often experience discrimination when they return to their communities. They may also have had children born from rape; be at risk for infanticide and loss of health care; and face discrimination in accessing education or other rights granted to the rest of the community's children. [Read more](#).

Article 36: Protection from other forms of exploitation

WHAT? [Read article](#)

This article establishes safeguards against forms of exploitation not provided for in other articles. These include pushing gifted children too hard to the detriment of their physical and emotional development, and using children for medical experiments without their informed consent, for example.

Article 37: Torture, degrading treatment and deprivation of liberty

WHAT? [Read article](#)

This article prohibits torture, cruel treatment or punishment, unlawful arrest, and deprivation of children's liberty. It also excludes the possibility of capital punishment and life imprisonment without parole. Yet, these practices continue in a number of State Parties to the CRC, and some children are more at risk than others.

Age discrimination

Many States still allow corporal punishment in the penal system where it has been prohibited for adults.

Example:

- Antigua and Barbuda and Myanmar are some of the States which have yet to prohibit corporal punishment of children in the penal system. [Find the full list here](#) (under Online global table: the legality of corporal punishment).

Discrimination against particular children

In some countries, discrimination against street children has led to torture. Whilst these children have equal protection before the law with adults and other children, in practice such cases are inadequately investigated, suggesting societal and institutional discrimination against this group.

Example:

- [Honduras: Alarming executions and violent deaths of children](#)
- Inter-American Court judgement [Servellón García vs Honduras](#)

Article 38: Armed conflict

WHAT? [Read article](#)

Discrimination is exacerbated during times of conflict. The CRC applies to emergency situations as well as times of peace, so efforts must continue to be made to guarantee the rights of all children equally.

The similar treatment of different situations can be discriminatory. Many disarmament, demobilisation and reintegration programmes do not consider the specific situation of children and treat them in the same way as other combatants, leading to inadvertent exclusion.

Example:

- In Colombia, criteria for accessing the government-run Disarmament, Demobilisation and Reintegration (DDR) programme have effectively excluded many former child soldiers. Degree 128 stated that only those who voluntarily left an armed opposition or paramilitary group were allowed to benefit from the programme. Child soldiers were required to identify themselves, which meant those who were discharged escaped and those who were afraid to reveal their identity did not receive assistance ([Child Soldiers Global Report 2008](#), Coalition to Stop the Use of Child Soldiers).

Children who have been involved in armed conflict, such as child soldiers or girls who have been used for sexual services, are often discriminated against by their communities when a conflict is over. Provisions must also be made for the rights of those fleeing conflict either as internally displaced persons or as refugees.

Example:

- In Germany, recruitment of children as soldiers is not accepted as a child-specific persecution in the asylum procedure ([Concluding Observations](#), 2004, paragraph 54c).

Article 39: Rehabilitative care

WHAT? [Read article](#)

This article stipulates that special protection and assistance should be made available to child victims of armed conflict, torture, neglect, maltreatment or exploitation. The impact of violence can have long-term effects on children, but proper support services can mitigate the consequences and future discrimination.

Age discrimination

Child victims should have access to complaints procedures and receive fair and adequate compensation for violence on an equal basis with adults.

Example

- The Convention on the Rights of the Child is the only international human rights treaty with a mandatory reporting procedure which does not have an existing or draft communications procedure. This amounts to age-based discrimination against children. [Read more](#).

Discrimination against particular children

Rehabilitation services must be available to all children without discrimination. Geographical inequality in service provision indirectly discriminates against those children who do not have access to services.

Example:

- In Greece, drug rehabilitation facilities for children are available only in Athens. ([Concluding Observations](#), 2002, paragraph 74b).

Article 40: Administration of juvenile justice

WHAT? [Read article](#)

Children experience discrimination in the criminal justice system, both in the type of offences for which they are detained and in the course of judicial proceedings. International standards emphasise the importance of having a distinct criminal justice system for children. (Read more under article 12).

Age discrimination

In many countries, children can be detained for “status offences” – acts which are only treated as criminal when committed by children but not when committed by adults.

Examples:

- Belize: Children may be put in detention for being “out of control” (["The Reality of Life for Children and Adolescents with the Convention on the Rights of the Child in Belize"](#), National Organisation for Prevention of Child Abuse and Neglect, 2005, pp. 7, 27)
- [Global report on status offences](#) (CRIN, 2009)

The abolition of status offences is recommended in a number of international instruments and studies, including the Committee on the Rights of the Child in its [General Comment Number 10: Children's Rights in Juvenile Justice](#), the [Riyadh Guidelines](#) and the [UN Study on Violence against Children](#).

Children as a whole also experience discrimination in judicial proceedings. They may not receive independent legal advice where adults do, be allowed to express their views, or be made aware of their rights in language they understand.

Discrimination against particular children

Some children are more likely than others to have contact with the justice system. In its [General Comment Number 10: Children's Rights in Juvenile Justice](#), (United Nations, Geneva, UN Doc CDC/C/GC/10, p2), the UN Committee on the Rights of the Child said that:

“States must take necessary action to ensure that children are treated equally with particular attention to ‘defacto discrimination and disparities’ that affect vulnerable groups of children such as ‘children who are indigenous...children with disabilities and children who are repeatedly in contact with the law (recidivists).”

Examples:

- In some countries, minimum ages of criminal responsibility are different for boys and girls. In Iran, for example, the minimum age of criminal responsibility is eight years and nine months for girls but 14 years and seven months for boys. [Read more](#).
- USA: African Americans make up only 16 per cent of the juvenile population. However, 38 per cent of youth in juvenile correctional institutions, and 58 per cent of youth sentenced to prison are African American (Annie E. Casey Foundation, ["A Road Map for Juvenile Justice"](#)

[Reform](#)", 2008, p. 15). In addition, the report explains, surveys show that young African-Americans commit marginally more violent crime, about the same amount of property crime, and less drug crime. Yet African-American youth are arrested at dramatically higher rates than white youth for all types of crime.

- In Hungary, there is an over-representation of Roma children in the juvenile justice system ([Concluding Observations](#), 2006, paragraph 60).
- Some countries do not distinguish between children in need of care and children in conflict with the law. In Argentina, Law N.10.903 of 1919 and Law N.22.278, which is based on the doctrine of "irregular situation", does not make a clear distinction between children in need of care and protection and those in conflict with law. ([Concluding Observations](#), 2002, paragraph 15)

The [Beijing Rules](#) emphasise that all children must be treated equally: "The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status." (Rule 2(1)).

Discrimination against child offenders after their release from confinement can complicate future educational and employment possibilities. Read [CRIN's interviews](#) with children formerly in conflict with the law.

More information

- The Commissioner for Human Rights at the Council of Europe has remarked that: "[I]n many cases children do not understand what is going on: the process is intimidating, little explanation is given to the child, judges are not always well trained in dealing with children – they are often bad listeners and children feel that they are steam-rolled through the system." ([Developing guidelines on child friendly justice](#), Stockholm 2008)
- [Council of Europe website on child friendly justice](#)