Module 2

Highlights of the UN Convention On the Rights of the Child

A Course for Health Professionals

Children’s Rights and Child Health
Learning Objectives for Module 2

1. Describe the four basic principles underlying all rights in the Convention
2. Differentiate rights that apply only to children from rights that apply to adults, as well as to children, and those that apply only to adults
3. Identify the types of rights contained in the UN Convention on the Rights of the Child
4. Identify three ways of overcoming barriers, extending to full rights to all children

Content of Module 2

This module introduces the background, status and content of the Convention. The aim is to familiarize you with its key principles and their universality, indivisibility and interdependence. It would be useful for you to review the Convention before participating in this Module. An annotated synopsis of the Convention is found in Addendum 1. The document can be found in its entirety on the internet at http://www.unicef.org/. Tables 1 and 2 provide an overview of the Convention.

It is important to note that the United States remains the only country in the world that has not ratified the Convention. Although it has been signed by the US, the failure to ratify has legal, political and moral implications. Many reasons have been posited for this failure, including the concern for pitting children’s rights against parental rights, and the hesitation to extend political and economic rights to children. Despite this failure to ratify, the Convention remains, nevertheless, relevant to children in the US and an important tool to improve their health and well-being.

Table 1

<table>
<thead>
<tr>
<th>The Convention on the Rights of the Child</th>
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<tr>
<td><strong>What it does</strong></td>
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<tr>
<td>● Promotes a philosophy of respect for children</td>
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<td>● Recognises children as subjects of legal rights</td>
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<td>● Challenges traditional views of children as passive recipients of care and protection</td>
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<td>● Insists that children are entitled to have their needs met and thereby imposes obligations on adults</td>
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What it requires of governments

- To implement the Convention’s rights without discrimination for all children
- To make the Convention widely known to both children and adults
- To report regularly to the Committee on the Rights of the Child

What it contains

- **Social rights:** The right to life and optimum survival and development, to the best possible health and access to health care, to education, to play, to family life unless not in the child’s best interests
- **Economic rights:** The right to an adequate standard of living for proper development, to benefit from social security, the right to protection from economic exploitation
- **Cultural rights:** The right to respect for language, culture and religion, to abolition of any traditional practices likely to be prejudicial to the child’s health
- **Protective rights:** The right to promotion of the child’s best interests, to protection from sexual exploitation, from armed conflict, from harmful drugs, from abuse and neglect, to rehabilitative care following neglect, exploitation or abuse
- **Civil and political rights:** The right to be heard and taken seriously, to freedom from discrimination in the exercise of rights on any grounds, to freedom of expression, to privacy, to information, to respect for physical and personal integrity and freedom from all forms of violence, or cruel, inhuman or degrading treatment

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**Table 2**

**Principles Underlying the Convention**

The Committee on the Rights of the Child, the international body established to monitor governments’ progress in implementing the Convention, has identified four underlying Principles. These Principles must be considered in the implementation of all other rights.

- Article 2. All the rights in the Convention apply to all children without discrimination on any grounds.

- Article 3. In all actions affecting children, their best interests must be a primary consideration.

- Article 6. All children have the right to life and optimal survival and development.

- Article 12. All children capable of expressing a view have the right to express that view freely and to have it taken seriously in accordance with their age and maturity.

**Activities and Discussion**
The following Activities explore the concept of rights for children and how the right to the best possible health can only be reached by meeting the social, economic, cultural, protective and political and civil rights of children.

Activity 2.1

Activity 2.1 explores the concept of rights for children and what those rights are, and reflects on how different rights are treated in respect of children.

**Activity 2.1**

**Discuss the Current Status of Children’s Rights**

Given the brief introduction above, consider as many of these questions as time allows. It would be useful to take notes for use in the next activity.

1. Do you agree that children have rights? If so, what rights are supported and which are violated or neglected for children in your community and country?

2. Are there particular groups of children who are more discriminated against in the exercise of their rights?

3. Are there any rights that are complied with less than others? Why do you think that might be?

4. How does the concept of “best interests of the child” inform the work of health professionals?

**Discussion**

As you worked through the questions presented in Activity 2.1, a number of issues may have been raised. Please consider the following questions that relate to your consideration of the current status of Children’s Rights in your community.

1. **Is there agreement in your community that children have rights and about the extent to which specific rights are complied with or violated?**

   For example, are the rights of children for: a) the right to protection from all forms of violence, and b) to be listened to and taken seriously realized for some or all children in your community?
2. Is there consensus about the degree to which certain groups of children are discriminated against in the exercise of their rights, such as girls, disabled children or those from minority races or ethnic groups?

3. If rights are not being respected, where does the problem lie?

   Is it governments who are breaching those rights? Is it parents? Is it professionals working with children—doctors, teachers etc? Is it active or passive? In other words, are children’s rights being breached by default—through lack of awareness or resources, or through active repudiation of those rights?

   For example, are children’s rights considered in sentencing policies in the juvenile justice system? Are certain groups of children excluded from entitlement to education?

4. Are there laws that require professionals to consider the best interests of children?

   If not, is it a concept that is implicitly applied with respect to service delivery? Can you think of examples where the principle ought to apply but does not?

While the Convention stresses that children are subjects of rights, it does not give them the same status as adults. Rights in the Convention fall into three broad categories.

1. Rights that apply to both children and adults

   Many rights, long recognized in international law, are included in the Convention on the Rights of the Child, thus explicitly asserting that they apply equally to children. These include the rights to life, freedom of expression, education, due process before the law and non-discrimination.

2. Some rights do not extend to children

   For example, children do not have the right to vote and to autonomy to make decisions independently of those who have responsibility for them.

   The Convention clearly states that parents have the right and the responsibility to provide direction and guidance to children. Although parental direction and guidance must be provided in accord with the child’s evolving capacities, it does not give children the rights to self-determination that are reserved for adults.

3. Additional rights exist for children that relate to their need for special protection because of their youth and vulnerability.

   These include the rights to: play, have their best interests given primary consideration, protection from abuse and exploitation and alternative care when families cannot provide it.
Consider your own perspectives and reservations or concerns about these issues. Table 3 answers some commonly asked questions about the Convention

**Table 3**

<table>
<thead>
<tr>
<th>Commonly Asked Questions About the Convention</th>
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<tr>
<td><strong>Can the Convention achieve progress without any real teeth?</strong></td>
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<tr>
<td>There are no magic wands to bring an end to violations of children’s rights. However, since the Convention came into effect in 1990, much progress has been made at all levels of society.</td>
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<td><strong>What happens if governments violate children’s rights?</strong></td>
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<td>• Violations continue in every country in the world.</td>
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<td>• There are no real sanctions established by the Convention for these violations.</td>
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<td>• The tools for change include dialogue, international pressure and exposure and an enhanced understanding of children’s rights and the means of protecting them.</td>
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<td><strong>Can children have rights without responsibilities?</strong></td>
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<td>• Rights are not contingent on the exercise of responsibilities.</td>
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<td>• Social, economic and protection rights are unconditional.</td>
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<td>• Civil and political rights carry reciprocal responsibilities but are not predicated on the exercise of those responsibilities.</td>
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<td>• Children learn to respect the rights of others through respect for their own rights.</td>
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<td>• The Convention recognises children’s evolving capacity to exercise rights as they grow older.</td>
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<td><strong>Is the Convention anti-family or anti-parent?</strong></td>
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<td>• The preamble of the Convention, as well as many of its articles, emphasize that growing up within a caring family environment is crucial to children’s healthy development.</td>
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<td>• The Convention recognises parental rights and responsibilities to provide direction and guidance to their children.</td>
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<td>• Parental rights and responsibilities exist, in part, in order to protect and promote children’s rights.</td>
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<td>• The Convention promotes a culture of respect for children in families by listening to them and taking them seriously.</td>
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<td>• The Convention does not diminish or undermine the role of parents, but it does imply a more open democratic approach to child rearing.</td>
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<td>• The Convention specifically states that it is the government’s responsibility to support parents in their child-rearing practices.</td>
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<td><strong>What are the barriers impeding implementation of children’s rights?</strong></td>
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<tr>
<td>• Traditions and attitudes towards children</td>
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<td>• Invisibility of children in arenas of power</td>
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<td>• Economic constraints</td>
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<td>• Lack of democratic traditions</td>
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<td>• Lack of political will</td>
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The aim of Activity 2.2 is to highlight how the right to the best possible health is predicated not only on adequate access to health care, but also on social, economic, environmental, housing, transport and commercial determinants and policies.

Activity 2.2  
Barriers to the Best Possible Child Health

1. List the barriers to the implementation of the right to the best possible health for any group of children?

2. Identify ways of overcoming each of the barriers.

Discussion

The following are some examples of potential impediments to children’s rights to the best possible health that you may have discussed in the above Activity. How might they be categorized as social, economic, protective and civil and political rights?

- **Lack of information on the part of both parents and children about how to protect children’s health.** Examples could include knowledge and the ability to apply it to healthy eating, sexual health and the dangers associated with tobacco and alcohol.

- **The impact of child poverty.** These determinants would include unemployment, poor housing, homelessness, low wages, inadequate social security benefits, parents having to work excessive hours, etc.

- **Lack of government resources or the failure to direct sufficient resources toward health care.** In the US this would include lack of access to health insurance. In both the US and UK, as well as in other developed and developing countries, this would include disparities and lack of availability and accessibility to health services.

- **Discrimination against certain groups of children.** Examples include: priority by families given to the health of boys or their rejection of a disabled child; direct or indirect health service discrimination toward indigenous and other minorities, toward funding and availability of services in rural areas, and/or refusal or failure to treat disabled children.

- **Politicians’ failure to ensure safe environments for children.** Restricting the advertising and sale of products harmful to children, access to pornography, environmental pollution, lack of traffic controls, etc., represent such failures.
Resistance to changing attitudes and practices toward children which impair their healthy development. Physical violence, denial of the child’s right to be heard, children working in harmful environments, etc. are examples of attitudes and practices that impact the health and development of children.

Overcoming the barriers to the implementation of children’s rights to the best possible health might be achieved in the following ways:

- **Introducing protective legislation.** Such legislation could focus on policies that promote children’s rights to:
  - non-discrimination against any group of children,
  - protection from all forms of violence,
  - a minimum age for working and associated protective conditions, and
  - controls on advertising and on environmental pollution.

- **Effective implementation and monitoring of legislation**

- **Giving priority to the creation of child-friendly environments**

- **Scrutinizing national budgets to identify whether all possible resources are being directed to promoting children’s health and well being**

- **Public information campaigns about safe sex, healthy eating and dangers of smoking**

- **Introducing policies to end or diminish child poverty**

**Conclusion**

The Convention on the Rights of the Child promotes a philosophy of respect for children. While acknowledging that children are entitled to special protection and care, the Convention also insists that they are entitled to participate, in accord with their age and competence, in the protection of their own rights. The Convention challenges us to rethink the traditional perception of children as mere recipients of adult protection and to begin to accept them as social actors with rights to be listened to and to be taken seriously in their own right.

The following principles establish the framework for the Convention.

- The Convention on the Rights of the Child defines the full range of children’s needs and provides a practical approach for addressing these needs in an integrated and holistic way, by fulfilling their rights.
It poses a challenge to traditional approaches to children, which have viewed them as incompetent, passive objects of adult protective care. Instead, it acknowledges children as both capable of and entitled to active participation in decisions that affect their lives.

It is legally binding on all countries that have ratified it. Governments are required under international law to take all necessary measures to implement its provisions. It provides a universal set of standards against which to measure and improve the treatment of children.

Although there are no formal sanctions that can be brought against governments for failing to comply with its provisions, the process of reporting to the Committee on the Rights of the Child is an invaluable mechanism for monitoring how a government is complying. It provides an opportunity for all those involved in children’s health and well being to work together toward improving standards.

Implementation of the rights contained in the Convention would herald a fundamental change in the status of children in all societies in the world and ensure their optimal health and development.

**Additional Reading**

The UN Convention on the Rights of the Child is an international human rights treaty that introduces the concept of children as subjects of rights with the same inherent value as adults. It was drafted over a ten-year period by a working group established by the UN General Assembly who adopted it in 1989.

The Convention on Rights of the Child is the most recent of six UN human rights treaties. The others are the:

- International Covenant on Civil and Political Rights (1966),
- International Covenant on Social, Economic and Cultural Rights (1966),
- International Convention on the Elimination of all forms of Racial Discrimination (1966),
- Convention on the Elimination of all forms of Discrimination against Women (1979), and
- Convention against Torture, and other Cruel, Inhuman and Degrading Treatment (1984)

While these treaties do not exclude children, they do not explicitly affirm their rights nor address the very different situation or status of children as compared to adults.

The Convention on the Rights of the Child promotes a philosophy of respect for children. While acknowledging that children are entitled to special protection and care, the Convention also insists that they are entitled to participate, in accord with their age and
competence, in the protection of their own rights. The Convention challenges us to rethink the traditional perception of children as mere recipients of adult protection and to begin to accept them as social actors with rights to be listened to and taken seriously in their own right. This challenge has significant implications for the ways that adults relate with children, as parents, as teachers, as policy-makers and politicians, as journalists and as health professionals.

**What rights does the Convention contain?**

The Convention is a broad-ranging treaty that contains some 40 “articles” defining the rights of children. These rights include:

- **Social rights.** The right to life and optimal survival and development, to the best possible health and access to health care, to education, to play, to family life unless not in the child’s best interests, to alternative care when unable to be looked after by parents, to family reunification, to promotion of the fullest possible social inclusion for disabled children, to support for parents in order that they can protect their children's rights.

- **Economic rights.** The right to an adequate standard of living for proper development, to benefit from social security, to protection from economic exploitation.

- **Cultural rights.** The right to respect for language, culture and religion, to abolition of any traditional practices likely to be prejudicial to the child’s health.

- **Protective rights.** The right to promotion of the child’s best interests, to protection from sexual exploitation, armed conflict, from harmful drugs, illegal sale and trafficking, abuse and neglect, to rehabilitative care following neglect, etc., exploitation or abuse.

- **Civil and political rights.** The right to be heard and taken seriously, to freedom from discrimination in the exercise of rights on any grounds, to freedom of religion, association and expression, to privacy, to information, to respect for physical and personal integrity and freedom from all forms of violence, torture or other cruel, inhuman or degrading treatment, to respect for due process in the law, recognition of the importance of treating the child with respect within the criminal justice system and respect for the right not to be detained arbitrarily.

**Is there a hierarchy of rights?**

These rights are indivisible and universal. There is no hierarchy of importance. Together they create a holistic framework of rights that, if fully respected, would promote the health, welfare, development and active participation of all children. Examples:

- It is not possible to tackle violence and sexual exploitation against children without also addressing the violation or neglect of rights that expose children to violence—
poverty, lack of access to education, discrimination, racism, prejudice and xenophobia, and failure to listen directly to and take seriously children’s accounts of their lives.

- Children’s right to optimal health and development cannot be fulfilled without a commitment to simultaneously address their right to an adequate standard of living, decent housing, protection from economic exploitation and exposure to harmful work, to information through which they are able to make informed choices and protect themselves, to the implementation of policies which promote children’s best interests, for example, in respect of the environment, transport, HIV/AIDS, to legal protection from violence at home and in all other institutions.

**Principles Underlying the Convention on Rights of the Child**

The Committee on the Rights of the Child has identified four key principles that must be considered when implementing all other rights. These principles will be examined in more detail in later modules.

- **Article 2. The right to non-discrimination.** All rights in the Convention apply to all children without discrimination on any grounds. In other words, governments must take measures to ensure that all the rights in the Convention apply without discrimination to all children within the jurisdiction of the state. This means both direct and indirect discrimination.

  Direct discrimination might exist where children from a particular ethnic or indigenous group are denied equal access to health services, where girls are offered poorer services than those available to boys, or where refugees or asylum seekers are not entitled to access health care on the same basis as other children.

  Indirect discrimination might arise if services in rural areas were significantly less well funded than those in urban areas or where failure to provide information or services in the languages of ethnic minority communities results in restricted access to the services they needed.
• **Article 3. The duty to promote the best interests of the child.** Article 3 of the Convention places an obligation on public and private social welfare institutions, courts of law, administrative authorities or legislative bodies, etc., that in all actions affecting children, the best interests of the child must be a primary consideration.

The article limits the duty to ‘a primary’ and not ‘the primary’ nor ‘the paramount’ consideration. In other words, other considerations can inform actions affecting children. However, this limitation exists because Article 3 extends to all aspects of children’s lives including all aspects of government or public policy that impacts them. It also applies to matters that affect individual children as well as children as a body. For example, a decision to treat a child must always be made in their best interests and not merely to contribute to research findings or to provide a doctor with more experience.

Decisions about management of children’s hospital wards must be made in the interests of the child, not for the convenience or efficiency of the staff. Government policies on transport, environmental pollution or charges for health care services should reflect the duty to make children’s best interests a primary consideration.

• **Article 6. The right to survival and development.** Article 6 of the Convention stresses the right of every child to life and optimal survival and development. This right imposes obligations not only to actively provide health services to protect the lives of children, but also to create an environment in which children’s development can flourish. It means that the lives of all children must be equally protected, irrespective of disability, gender, ethnicity or any other factors.

• **Article 12. The right to be listened to and taken seriously.** Article 12 provides that all children have the right to express their views on all matters of concern to them and to have those views taken seriously in accordance with their age and maturity. In other words, children are entitled as a right to be consulted when decisions that affect them are being made, either as individuals or as a body. Respecting children’s rights to be heard is an important mechanism through which children can contribute toward their own health and protection. Adults can make better-informed decisions if they first listen to children. Only if children are listened to by adults, can they challenge abuses or neglect of their rights.

**Obligations of governments that ratify the Convention**

_How does the Convention protect children’s rights?_ All governments are invited to ratify the Convention. Ratification is a process of making a formal commitment, under international law, to implementing its principles and standards. To date, 192 countries have ratified the Convention: only the US has failed to do so.

When a government ratifies the Convention, three key obligations are established:
1. **To implement the Convention’s rights without discrimination for all children.**

   Article 4 of the Convention requires governments to “undertake all appropriate legislative, administrative and other measures for the implementation of the right...in the Convention.” It goes on to state, “With regard to economic, social and cultural rights, (governments) shall undertake such measures to the maximum extent of their available resources...” This wording recognizes that for many countries, implementation, for example, of free education for all children or comprehensive access to health care, will need to be achieved incrementally. However, it does not limit governments’ culpability. They are required to make every effort to direct what resources they have to ensure that these rights are respected as fully as possible.

2. **To make the Convention widely known to both children and adults.**

   Rights are of little use to children if they are not aware that they have them. Article 42 of the Convention makes it clear that governments must publicize the Convention so that children and adults know that it exists, what it contains and its implications for their lives. This process of awareness raising can be done through, for example, the media, through school curricula, through training of all professionals working with or for children, through public education campaigns, and through development of accessible information distributed via schools, clinics, hospitals, shops, supermarkets, local authorities, etc.

3. **To report regularly to the Committee on the Rights of the Child.**

   The Convention provides for a body to be established to monitor how well governments are doing in implementing the rights of children. This body is known as the Committee on the Rights of the Child. It is made up of ten experts in the field of children’s rights who are elected by governments that have ratified the Convention. Governments are required to produce a report for the Committee on their progress in implementing the Convention two years after ratifying it, and then every following five years. The Committee also encourages national NGO coalitions and other expert bodies to submit information in order that it can make the most thorough possible scrutiny of how far children’s rights are being respected in a given country. Once all these reports have been analyzed and a government delegation interrogated, the Committee produces “concluding observations” that define their recommendations to the government. The government is then expected to act on those findings.
More Questions and Answers About the Convention

The answers to the following questions address many of the potentially controversial issues related to children’s rights.

Q: What happens if governments violate children’s rights?

A: Ratification of the Convention is no guarantee that governments will cease to violate, abuse or neglect children’s rights. In many countries that have ratified the CRC, children continue to be discriminated against, forced into armed conflict, sexually exploited, denied education, exposed to violence, denied access to health care, exposed to living and working conditions detrimental to their health and well-being, forced into bonded labor, die of preventable disease and are denied a voice in matters of concern to them.

Neglect and abuse of children’s rights is not just a problem in the developing world. Refugees and asylum seekers are denied equal rights, children continue to be subject to physical violence and sexual abuse, inequalities in society result in significant numbers of children living in poverty, children are homeless, and there is vulnerability to widespread drug misuse, even in many rich nations.

The Convention on the Rights of the Child is often described as “soft law”. No sanctions can be brought against governments that violate children’s rights. The Committee on the Rights of the Child can engage in constructive dialogue with governments and press them to make changes, but they have no powers of enforcement. Instead, the tools available for creating change are continuing dialogue, international pressure and exposure, a gradual process of heightening awareness and understanding about the nature of children’s rights and the ways in which they are violated.

Q: Can the Convention achieve progress for children without real teeth?

A: There are no magic wands that can bring an end to human rights violations. There is no realistic possibility that firmer sanctions could be brought to bear on governments for failing to comply with their obligations to children—far fewer governments would ratify a treaty that could result in formal punishments being imposed on them as a consequence. What the Convention provides is a normative framework with the status of international law through which to tackle those violations. It is a slow process, but one that has and will continue to achieve real change for children.

Since its adoption by the UN General Assembly in 1989, the Convention has already achieved a great deal for children:

- At the international level, there is far greater awareness of and commitment to end exploitative child labor, sexual abuse and exploitation of children, discrimination against the girl child and disabled children and the use of children as soldiers.
At the national level, many governments have begun to analyze and improve their legislation to bring it in line with the Convention’s rights, to establish independent Children’s Rights Commissioners, to raise public awareness of children’s rights, to develop programs designed to promote the best interests of children, to end all forms of violence against children and to divert extra resources to fulfill obligations to children.

At the national, regional and local levels in many countries, measures have been introduced to the principle that children are entitled to express their views and have them taken seriously, to tackle discrimination, to improve child protection measures and to encourage breast-feeding.

Q: Is the Convention anti-family or anti-parent?

A: Concern has been expressed that by emphasizing the rights of children, the Convention is anti-family and undermines parental authority. These concerns are based on a fundamental misunderstanding of the Convention. The preamble, as well as many of its articles, emphasizes that growing up within a caring family environment is crucial to children’s healthy development. The Convention also does not suggest that: a) parents should lose custody of their children solely for not promoting their rights, b) children’s best interests can be independently assessed, and c) parents should relinquish their parental rights if “better” social, economic, political, etc. opportunities become available to their children.

Article 5 recognizes parents’ rights and duties to provide direction and guidance to children.

Article 9 stresses the right of children not to be separated from their parents unless necessary for their best interests.

Article 18 stresses the obligations of governments to provide support and help to parents in order to help them fulfill their role of promoting and protecting their children’s rights.

However, the Convention does imply changes to the traditional way in which children have often been viewed within the family. It requires that:

- they are listened to and their views taken seriously,
- increasing recognition is given to their ability to make decisions for themselves as they grow older,
- parents consider children’s best interests when making decisions that affect them, and
- recognition is given to the fact that children’s interests will not always coincide with those of their parents.

The Convention encourages a culture of respect for children within families as well as in the wider society. But this does not undermine or diminish the role of parents. Rights allow children to take part in decisions that affect them, not to take over. They place a responsibility on parents to provide proper care and protection through listening and valuing children’s opinions. Parental respect for children is likely to encourage children’s respect for their parents.
Q: How can children have rights when they are unable to exercise responsibility?

A: The issue of responsibility is frequently raised as an argument against the principle that children have rights. However, it is not an argument that can be sustained.

There are many rights, in particular social, economic and protection rights that are unconditional for children, as indeed they are for adults. The rights to life, to freedom from torture and degrading treatment, to education, to the best possible health and to protection from sexual exploitation are not contingent on any reciprocal responsibilities. They exist in recognition of a respect for humanity and for fundamental principles that should underpin the treatment of individuals. Adults do not have to demonstrate a responsibility toward others before they can lay claim to respect for those rights for themselves. Nor should children be required to do so.

The issues are somewhat different with respect to many civil and political rights. The right to freedom of expression for one individual carries a reciprocal responsibility on him or her to respect that right in others. The right to privacy demands corresponding respect for others’ privacy. However, it is the right that comes first. The responsibility that then flows is a consequence of that right. Failure to respect others’ rights does not result in the withdrawal of the right, but may lead to the person who breaches it being sued or prosecuted. With children, the Convention gives them the right to be listened to and taken seriously. Quite rightly, it does not demand that children first demonstrate a responsibility for listening to others. Once a child understands that s/he has a right to be listened to and that the right will be respected, it is far more likely that s/he will understand and value the importance of listening to others.

However, the Convention does not make assumptions that all children, irrespective of age, will have equal competence to exercise their rights. It contains recognition of children’s evolving capacities as they mature. In both Article 5, rights and responsibilities of parents, and Article 14, freedom of religion, the Convention states that parents have the right to provide direction and guidance to children “in a manner consistent with the evolving capacities of the child”. Article 12, the right of the child to be heard, recognises that the weight given to children’s views must be “in accordance with the age and maturity of the child.” The Convention, does not place an obligation on children to accept responsibilities for exercising rights for which they are not ready. They have a right to express their views, not an obligation to do so.

More Information on Barriers to Implementing Children’s Rights

The primary barriers impeding respect for children’s rights fall into four broad areas:

- Tradition and attitudes
- Children’s invisibility
- Economic constraints
- Lack of democratic traditions

Each of these types of barriers is described in more detail in the following paragraphs.
Tradition and attitudes. There is widespread resistance to changing cultural traditions that have long informed attitudes and behaviours toward children, e.g., early marriage of girls, harsh forms of physical punishment, female genital mutilation, expectations of respect for authority and failure to take children’s views seriously. Although the Convention includes clear recognition of the importance of respecting children’s culture, and the right of parents to exercise direction and guidance to children, this must be done in a manner that is consistent with children’s rights. This is because the implementation of these rights is necessary for the healthy physical, mental, spiritual, moral and social development of children. In other words, behaviours toward children that threaten or violate their rights, as a result of traditional practices, are prejudicial and undermine their opportunities for optimal health and development.

In practice, full implementation of the Convention will require changes in attitudes toward children in every society in the world. For many children, implementation of their rights is impeded by discriminatory attitudes – denial of the right to education for girls, social isolation and segregation of disabled children, violence and hostility toward ethnic minority groups.

The Convention’s demand that adults listen to children is perhaps the most fundamental challenge to traditional attitudes. Its central tenet is that without listening to children, adults cannot protect them, nor enable them to protect themselves. Children who are silenced cannot act to bring an end to abuse of their rights. Nor can they provide information to help socially responsible adults to provide them proper protection.

Invisibility of children. Children’s rights are often breached or neglected simply because politicians and policy-makers fail to give consideration to children when they make decisions that impact them. Subsequently, their rights, needs and interests are not given sufficient priority. This barrier to respecting children’s rights is their invisibility or powerlessness in public arenas, as compared with the more powerful lobbies, such as the commercial sectors, that influence government agendas. For example, children’s rights to the best possible health will rarely be considered when a new factory is being built, despite the fact that it might discharge harmful pollutants into the atmosphere for vulnerable children.

The impact of urban development on children, e.g. construction of new roads that will increase children’s exposure to pollution and accidents and reduce their opportunities for safe play, is seldom considered. Tobacco and alcohol companies seeking to promote their product will often hold more sway with governments than those seeking to protect children. Children’s lack of access to those in power and to the media, combined with their lack of voting rights, renders them vulnerable to being sidelined by those in power. Accordingly, their rights and interests can be neglected. They need advocates who can help them articulate their concerns to those in power.

Economic constraints. In many countries, there are clearly overwhelming economic constraints that limit governmental capacity for implementation of children’s rights, particularly economic and social rights. There are difficulties, for example, in implementing universal access to health care and primary education, or in providing an
adequate standard of living for all children. The Convention states that these rights must be implemented to the maximum extent of available resources. It recognizes that implementation will necessarily be progressive.

All governments, however poor, make choices about priorities. For example, in India, Pakistan and many African countries, expenditures on military hardware are greater than on primary health care. Haiti, Ethiopia, Mali and Niger enroll less than 30% of children in primary school. However in other countries with per capita GNPs below $300, e.g., Bangladesh, Kenya, Malawi, and Vietnam, rates of school enrollment of over 80% have been achieved! Haiti, Ethiopia, Mali and Niger enroll less than 30% of children in primary school. However in other countries with per capita GNPs below $300, e.g., Bangladesh, Kenya, Malawi, and Vietnam, rates of school enrollment of over 80% have been achieved! Zimbabwe, with a per capita GNP of $540 achieves a rate of 90% compared with Guinea that has the same GNP but enrolls less than 30%. Even the poorest economies can make a significant contribution toward the implementation of social and economic rights for children.

*Lack of democratic traditions.* In undemocratic countries, or in newly emerging democracies, there is likely to be a weaker culture of respect for human rights for all people, including children. Mechanisms through which democratic rights are exercised and strengthened—elections, the media, the courts, pressure groups, trade unions, ombudsmen or human rights commissions, are less developed or accessible to individuals. Even in democratic countries, some children have very limited access to these processes. In undemocratic or newly democratic countries, there is very little opportunity for their rights to be articulated or represented.
Optional Handouts

Module Two

Highlights of the UN Convention on the Rights of the Child
The Convention on the Rights of the Child

What it does.
- Promotes a philosophy of respect for children
- Recognizes children as subjects of legal rights
- Challenges traditional views of children as passive recipients of care and protection
- Insists that children are entitled to have their needs met and thereby imposes obligations on adults

What it requires of governments.
- To implement the Convention’s rights without discrimination for all children
- To make the Convention widely known to both children and adults
- To report regularly to the Committee on the Rights of the Child

What it contains.
- **Social rights:** The right to life and optimal survival and development, to the best possible health and access to health care, to education, to play, to family life unless not in the child’s best interests

- **Economic rights:** The right to an adequate standard of living for proper development, to benefit from social security, the right to protection from economic exploitation

- **Cultural rights:** The right to respect for language, culture and religion, to abolition of any traditional practices likely to be prejudicial to the child’s health

- **Protective rights:** The right to promotion of the child’s best interests, to protection from sexual exploitation, from armed conflict, from harmful drugs, from abuse and neglect, to rehabilitative care following neglect, exploitation or abuse

- **Civil and political rights:** The right to be heard and taken seriously, to freedom from discrimination in the exercise of rights on any grounds, to freedom of expression, to privacy, to information, to respect for physical and personal integrity and freedom from all forms of violence, or cruel, inhuman or degrading treatment.
General Underlying Principles in the Convention on the Rights of the Child

The Committee on the Rights of the Child, the international body established to monitor governments’ progress in implementing the Convention, have identified four underlying principles that must be considered in the implementation of all other rights.

- **Article 2.** All the rights in the Convention apply to all children without discrimination on any grounds.

- **Article 3.** In all actions affecting children their best interests must be a primary consideration.

- **Article 6.** All children have the right to life and optimal survival and development.

- **Article 12.** All children capable of expressing a view have the right to express that view freely and to have it taken seriously in accordance with their age and maturity.
## Common Questions asked about the Convention

### Can the Convention achieve progress without any real teeth?
There are no magic wands to bring an end to violations of children’s rights. However, since the Convention came into force in 1990, much progress has been made at all levels of society.

### What happens if governments violate children’s rights?
- Violations continue in every country in the world.
- There are no real sanctions established by the Convention for these violations.
- The tools for change include dialogue, international pressure and exposure, enhanced understanding of children’s rights and means of protecting them.

### Can children have rights without responsibilities?
- Rights are not contingent on the exercise of responsibilities.
- Social, economic and protection rights are unconditional.
- Civil and political rights carry reciprocal responsibilities but are not predicated on the exercise of those responsibilities.
- Children learn to respect the rights of others through respect for their own rights.
- The Convention recognizes children’s evolving capacity to exercise rights as they grow older.

### Is the Convention anti-family or anti-parent?
- The preamble of the Convention, as well as many of its articles emphasize that growing up within a caring family environment is crucial to children’s healthy development.
- The Convention recognizes parental rights and responsibilities to provide direction and guidance to their children.
- Parental rights and responsibilities exist in order to protect and promote children’s rights.
- The Convention promotes a culture of respect for children in families by listening to them and taking them seriously.
- The Convention does not diminish or undermine the role of parents, but it does imply a more open democratic approach to child rearing.

### What are the barriers impeding implementation of children’s rights?
- Traditions and attitudes towards children
- Invisibility of children in arenas of power
- Economic constraints
- Lack of democratic traditions
Key Lessons to be drawn from the Convention

The UN Convention on the Rights of the Child

- The Convention on the Rights of the Child defines the full range of children’s needs and provides a practical framework for addressing these needs in an integrated and holistic way, by fulfilling their rights.

- It poses a challenge to traditional approaches to children that views them as incompetent, passive objects of adult protective care. Instead, it acknowledges them as both capable of and entitled to active participation in decisions that affect their lives.

- It is legally binding on all countries that have ratified it. Governments are required under international law to take all necessary measures to implement its provisions. It provides a universal set of standards against which to measure and improve the treatment of children.

- Although there are no formal sanctions that can be brought against governments for failing to comply with its provisions, the process of reporting to the Committee on the Rights of the Child is an invaluable mechanism for monitoring how a government is complying. It provides an opportunity for all those involved in children’s health and well being to work together toward improving standards.

- Implementation of the rights contained in the Convention would herald a fundamental change in the status of children in all societies in the world and ensure their health and development and optimal fulfillment of potential.
Power Point Presentation

Module Two

Highlights of the UN Convention on the Rights of the Child