



Assessing National Action on Children's Constitutional Rights



The Convention on the Rights of the Child (CRC) commits nations to guaranteeing civil, political, social, and economic rights to children. This fact sheet series by the WORLD Policy Analysis Center examines the extent to which countries have enacted and passed laws and policies consistent with CRC commitments.

Background

- The CRC recognizes the need for states to protect children's rights, including their right to equal treatment and non-discrimination (Article 2), civil rights (Articles 13-15), right to health (Article 24), and right to education (Article 28).
- Constitutions establish countries' fundamental approaches to protecting children's rights. While they require corresponding legal and policy measures to be fully effective, constitutions can provide a basis for promoting equality in important ways: by challenging discriminatory legislation, by demanding greater equity in access to fundamental rights, and by setting social norms in favor of greater equality.
 - The potential to leverage constitutions to promote children's rights has been demonstrated around the world, as for example in realizing rights to education and inheritance rights.
 - In Botswana, Kenya and Zimbabwe, constitutional prohibitions against gender discrimination were effectively used to challenge regulations that banned pregnant students from attending school.
 - In 2005, a non-discrimination clause in Nigeria's constitution was used successfully to oppose a custom that denied inheritance rights to female children in the country.
 - In Canada, parents of a disabled student successfully argued for her right to be educated in a regular classroom alongside other children based on the prohibition of discrimination against persons with mental or physical disability in Canada's Charter of Rights.

Findings

Equity and non-discrimination

- The majority of States Parties constitutionally guarantee equity and non-discrimination on the basis of race or ethnicity (76%), gender (85%), and religion (76%). Fewer States Parties constitutionally protect equity and non-discrimination based on socioeconomic status (58%).
- Children with disabilities have the fewest constitutional protections with only 24% of States Parties guaranteeing equity and non-discrimination based on disability.

Civil Rights

- While nearly all States Parties constitutionally guarantee the right to freedom of expression, religion, and association or assembly, few extend these rights specifically to children.
- However, constitutions adopted after CRC ratification are more likely to include explicit protections for children compared to those adopted before (9-11% vs 1-2%).

Right to Health

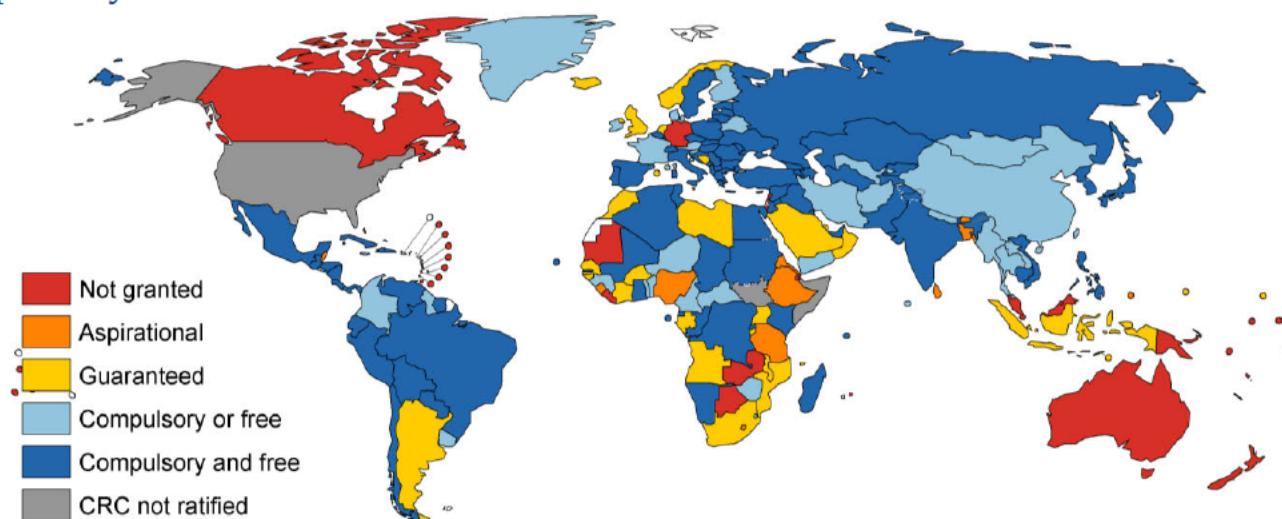
- More than half of States Parties guarantee citizens the constitutional right to health, medical care services, or public health. These protections have increased over time.
- More than three-quarters of constitutions adopted after CRC ratification guarantee at least one of these rights compared to only 40% adopted before.

Findings (Continued)

Right to Education

- The majority of States Parties constitutionally protect at least some aspect of children’s right to primary education (83%), but only 41% provide any constitutional protection of a right to secondary education.
- Constitutional protections of education have also increased over time. Constitutions adopted after CRC ratification are more likely to guarantee that primary education or education generally is free (65% compared to 47%). Explicit protections of secondary education are also more common in constitutions adopted after CRC ratification (49%) compared to those adopted before (33%).

Map: Do citizens have a general constitutional right to education or a specific right to primary education?



Source: WORLD Policy Analysis Center, Constitutions Database, 2014

Table: Constitutional protection of right to education across social groups

Level of constitutional protection	Race/ethnicity	Gender	Religion	Socioeconomic Status	Disability
No approach to equity for social group	6 (3%)	8 (4%)	6 (3%)	20 (11%)	20 (11%)
General equity guaranteed, but not specifically for social group	37 (19%)	18 (9%)	38 (20%)	54 (28%)	117 (62%)
Aspirational for social group	2 (1%)	3 (2%)	2 (1%)	5 (3%)	7 (4%)
Guaranteed for social group	145 (76%)	161 (85%)	144 (76%)	110 (58%)	45 (24%)

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