

WHAT IF I GET INTO TROUBLE?

Youth Justice and Human Rights

The Youth Criminal Justice Act
from a Rights-Based Perspective

Lillooet Learning Communities Society
Lillooet Restorative Justice Program



With support from:



Youth Justice Policy

Department of Justice
Canada

Ministère de la Justice
Canada

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The Youth Criminal Justice Act
from a Rights-Based Perspective

Facilitators Manual

Lillooet Learning Communities Society
Lillooet Restorative Justice Program



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Canada

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YOUTH JUSTICE POLICY

Human Rights Education

Human rights education is essential to the process of building a global culture of human rights. A key purpose of human rights education is “empowerment” of individuals, leading to social change. A human rights training program, therefore, should address the knowledge, skills, values, attitudes and behaviours required for individuals to understand, assert and defend their human rights as well as the rights of others. A rights – based approach¹ to education means that all of our activities and actions should contribute toward the realization of human rights. They should be guided by human rights standards, and they should enhance the capacity of “rights holders” to claim their rights, and “duty bearers” to meet their human rights obligations.

Respect, inclusiveness and empathy are values which are fundamental to human rights education. The design of these training materials is based on principles of participatory learning which promote the sharing of personal knowledge and experience in addition to the presentation of new knowledge. There is an emphasis too on practical application of the training materials and on the development of strategies for future action. Opportunities for reflection and evaluation are included throughout the training materials, to enhance the learning process.

The Lillooet Learning Communities Society and the Lillooet Restorative Justice Program are committed to delivering programs that are based on needs identified with our partners and designed for specific target groups. Working closely with our partners is essential in defining specific objectives and expected results.

What is “What if I Get into Trouble?”

“WHAT IF I GET INTO TROUBLE” is an educational toolkit that contains information, activities and games designed for youth between the ages of 13 and 17 in school and club contexts. Using a rights-based approach, this toolkit contributes to youth’s understanding of the Canadian Youth Criminal Justice Act, in terms of the rights it protects and its situation in the larger context of Canadian and international human rights laws pertaining to children and youth. It aims to strengthen positive values such as inclusion, respect for

¹ See explanatory technique box on pl iii. Source: Equitas International Human Rights Training Program, Facilitators’ Manual, <http://www.equitas.org>

diversity, equality and social justice as a means to assist youth to promote and protect their rights while respecting the rights of others.

What is the goal of the toolkit?

“WHAT IF I GET INTO TROUBLE?” is meant to be a tool to help youth understand the underlying principle of human dignity and its application to all persons, thereby empowering them to both promote and protect their own and each others’ rights, especially in situations where they might find themselves in conflict with the law. It will also help them to better respect the rights of others with whom they might come into contact during their encounters with the justice system.

Program objectives are to enable participants to:

- Know the internationally accepted human rights of children and youth, particularly in relation to justice.
- Know how those rights are and are not reflected in the rights articulated in the Charter of Rights and Freedoms and the Youth Criminal Justice Act.
- Understand that rights pertain to everyone, including victims and service providers.
- Understand that the promotion and protection of rights involves responsibilities.
- Analyze issues and situations they encounter in their lives using a framework based on the above human rights values and principles.
- Strengthen their capacity to apply their learning in real life situations at home, in school and in community.

What principles and values does this toolkit promote?

Upholding the underlying principles of dignity and equality, this toolkit is based primarily on the principles and rights contained in the Universal Declaration of Human Rights and the Convention on the Rights of the Child. Through its activities, it seeks to affirm the ways these principles and rights are upheld by the Canadian Charter of Rights and Freedoms and the YCJA. Values that are affirmed include respect, acceptance, inclusion, fairness, cooperation, respect for diversity and responsibility.

A Rights-Based Approach:

A rights-based approach is founded on the conviction that every human being, by virtue of being human, is a holder of rights. The principles of a rights-based approach include equality and equity, accountability, empowerment and participation.

The elements of a rights-based approach should guide the content and practice of human rights education. These elements include:

1. DIRECT LINKS TO RIGHTS

- Establishes direct links to human rights instruments.
- Considers the full range of indivisible, interdependent and interrelated rights.

2. Increased levels of ACCOUNTABILITY

- Identifies claim-holders (and their entitlements) and corresponding duty-holders (and their obligations).
- Identifies the positive obligations of duty-holders (to protect, promote and provide) and their negative obligations (to abstain from violations).

3. Move from dependency to EMPOWERMENT

- Focuses on beneficiaries as the owners of rights and the directors of development instead of the objects of programs and actions to address their needs.
- Gives people the power, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies.

4. PARTICIPATION

- Aims for a high degree of participation, from communities, civil society, minorities, indigenous peoples, women, children and others.

5. NON-DISCRIMINATION

- Gives particular attention to discrimination, equality, equity and marginalized groups. These groups may include women, minorities, indigenous peoples and prisoners.

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Getting Started

“What if I get into Trouble?” is a participant-centred toolkit. Therefore, our starting point is the needs and experiences of the participants. Building on these, our aim is to strengthen the capacity of the participants to understand and protect their rights, and to encourage critical reflection on their own values and assumptions about rights and the justice system.

The first section lays the foundations for the training. It provides an opportunity for youth to express their own needs and experiences, and to learn about the needs and experiences of others. It also lays the groundwork for respectful communication within the group.

Participatory Training Techniques



- Ways People Learn
- Tips on Giving and Receiving Feedback



Activity 1 Getting to Know People

Instructions for Activity 1

This activity will allow the participants to get to know one another, if they don't already, and to reflect upon and share their questions about human rights. This will help the facilitator to learn the names of participants and to learn about the expectations participants have of the training. Encouraging the participants to express themselves in this way will set the tone for the rest of the training.

Participants should be seated in a circle in chairs that are easy to move from the circle to working groups and back. Desks or tables can be placed conveniently for breakout groups.

The facilitator will sit as part of the circle.

Our Expectations (10 min)

Invite the participants to introduce themselves: My name is....and one thing I'd like to learn about my rights is....

The Facilitator should take note of the questions that will be answered during the course of the training, and those that are outside of the training content. When going over the training content with participants, the facilitator may indicate resource that would be helpful for those questions that may not be addressed.

Activity 2 Setting Guidelines for Working Together

Instructions for Activity 2 (10 min)

Overview: People readily grasp an understanding of the need for social limits set by rules and laws. As attitudes mature and values become more sophisticated, people come to expect not only fair and protective rules, but rules they have participated in formulating. The standards of human rights are generally found in constitutions, charters, conventions and covenants. These are rules that have been developed through the participation of people coming to agree on the standards that apply to them; as such, they reflect a "social contract."

Objectives: Participants will:

- be introduced to a process of cooperative learning (they have input on the rules relating to their learning sessions);
- reflect on the need for and the function of rules to guide social behavior;
- develop a "social contract" for their own human rights education sessions, a pledge, by people who are dependent upon one another, to uphold the common welfare.

Procedures: The facilitator will guide the group through the process of developing their own rules and will be bound by them under terms of their agreement. The connection between promises and obligations will be made, followed by introduction of provisions of the Universal Declaration on Human Rights and



the Convention on the Rights of the Child, which most states have agreed to and thereby promised to implement.

Materials:

Some examples of rules for fair and orderly sessions initially drawn up by the facilitator, and a flip chart for recording the suggestions of the group.

Sequence:

Step One: Together with the participants you will develop a number of guidelines for working together as a group..

Examples of helpful guidelines include:

- Listen and "hear" what is being said
- Avoid put-downs (of yourself or others)
- Refrain from speaking too often or too long (give everyone a chance to speak)
- Our sessions will last ____ (time), and we will end on time;
- Let everyone's views be considered
- We will treat everyone respectfully, even if we do not agree with them
- We will make our needs known

Agree on a number of guidelines. As the group suggests the guidelines, write them on flipchart and post them in the room for the remainder of the Program. It is important that all members of the group, including the facilitator, feel comfortable with the guidelines and commit to respecting them.

Ground rules for our group:

Step Two: Once all the rules have been identified and accepted, tell the participants that rules are also a kind of promise that everyone in the learning group makes to be fair and polite and to show their respect for each other. Tell them that such promises are sometimes called compacts, conventions, or covenants. Explain that when nations make promises about the rights they will respect, they are making a promise to follow a rule they will honor and enforce. Reproduce the drawing below on a flip chart:



2

The figure above shows the various contexts in which rules are made that provide for protection and fairness in society.

^{2 2} illustration by Emma Ridgway, London, England, in Richard Pierre Claude, Popular Education for Human Rights: 24 Exercises for Facilitators and Teachers. Human Rights Education Associates (HREA) Amsterdam/Cambridge, 2000.
<http://www.hrea.org/pubs/>



Activity 3: Good Ways (Giving and Receiving Feedback)

Time: 10 min.

Appropriate and timely feedback by facilitators to participants, by participants to participants and by participants to facilitators is another essential element of a participatory learning process.

Feedback on ideas, performance and behaviour, when delivered and received through constructive dialogue, will enhance the learning experience of everyone involved.

1. Review the list of guidelines for giving and receiving feedback provided below.
2. Try to provide some examples of appropriate and inappropriate feedback to illustrate the strategies suggested by each guideline.

Write your examples in the space provided.



Guidelines for Giving and Receiving Feedback		
For Giving Feedback	Appropriate	Inappropriate
Give feedback when requested. Or Ask for permission to give feedback.	<i>E.g. Would you like some feedback?</i>	<i>E.g., I think I need to give you some feedback.</i>
Challenge ideas not people.	<i>E.g., I don't share your ideas on the issue.</i>	<i>E.g., I don't agree with you.</i>
Provide examples of observable behaviour. Do not pronounce judgments.	-	-
Be specific. Overloading someone with information becomes overwhelming and confusing.	-	-
Be aware of your non-verbal language: quite often, non-verbal actions speak louder than words.	-	-
For Receiving Feedback		
Listen attentively: try to hear the words and see the gestures.	<i>E.g., What I understand is...</i>	<i>E.g., Sorry, you're wrong. I don't agree with you.</i>
Make sure you understand: ask questions to clarify a point or ask for an example.	-	-
Providing an answer does not have to happen immediately: hear what the person is saying.	-	-
Be firm but not defensive: clearly and calmly identify when you have understood the point.	-	-

Participatory Training Techniques

*Giving and Receiving Feedback*

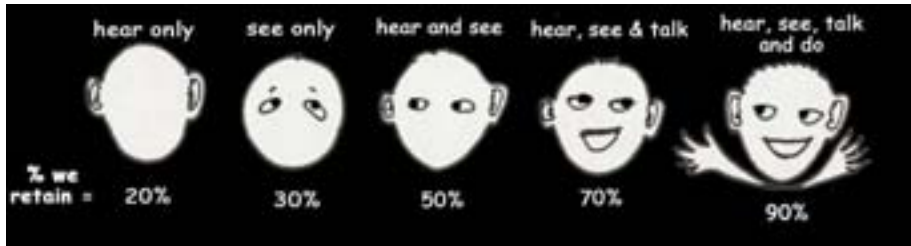
Feedback is a way of communicating information about behaviour, performance, and conduct. If done well, feedback helps participants recognize potential problems and correct them. It can improve performance and interpersonal communications. Occasions to exchange feedback arise frequently in a learning group. Below are some examples of when feedback is an appropriate form of communication during a training event:

- **When you ask small groups to report:** “How did you do as a group?”
- **When you ask for comments on how a training event is progressing:** “How do you like the way we are spending our time in the classroom?”
- **When participants speak to each other:** “Sally, when you got up to write the comments on the flipchart paper during the discussion, it helped us to get focused.”
- **When you offer feedback to an individual after a specific behaviour.** “Thank you Janice, for bringing us back to the focus of our discussion, we drifted a bit off topic. Or “Mark, it’s important to ensure that others answer the question as well. Could you please wait to offer a solution until Sammy finishes his thought?”

Taken from Source: Renner, P. (1993, 1999). The Art of Teaching Adults – How to become an exceptional instructor and facilitator. Training Associates, Vancouver, British Columbia, pp. 105. Quoted in 27th International Human Rights Training Program, Facilitator’s Manual, Equitas, Montreal p. 1-21

**Participatory Training Technique:****Ways People Learn**

Learning heads demonstrate that people retain more of what they learn when they use more of their senses and can apply what they are learning.



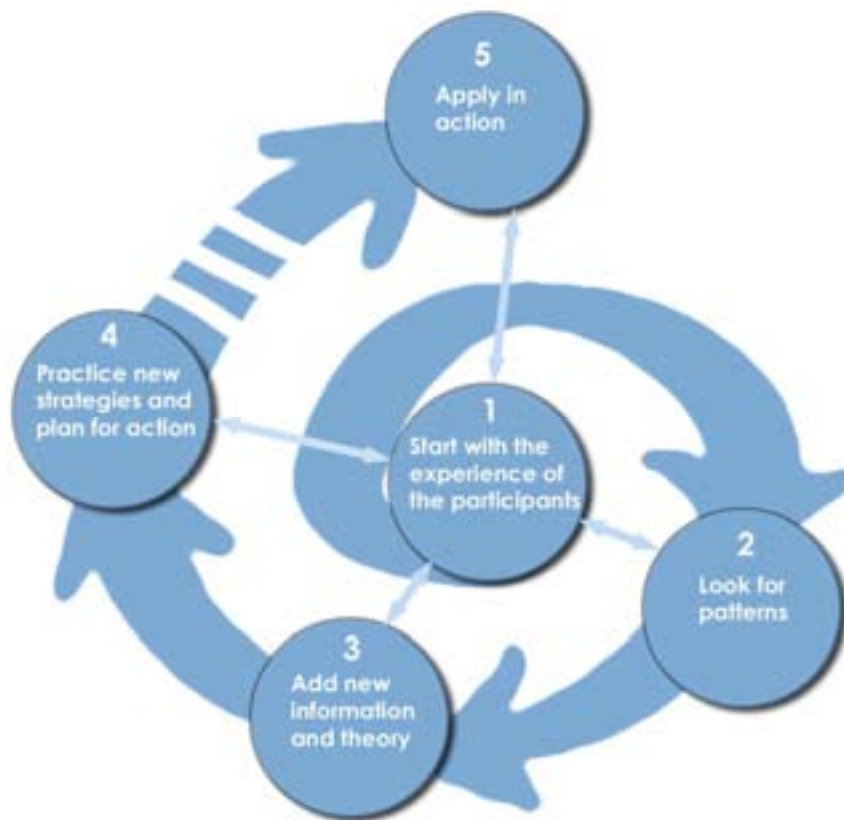
Source: Equitas, IHRTP from Arnold, R., et al. (1991). Educating for a Change. Doris Marshall Institute for Education and Action. Adapted with permission.

For the Facilitator: “What if I Get Into Trouble?” Overview and the Learning Spiral

Observe how the Toolkit follows the “Learning Spiral”. The Learning Spiral is a pattern for designing education programs that stresses:

- Starting with the knowledge and experience of the participants
- Giving participants the chance to share their knowledge and experience
- Adding new information and knowledge
- Practicing skills and forming strategies to use that new knowledge in real life.

Reflect on the contents of the Toolkit and the way they fit into the Learning Spiral as well as the way they reflect the ways people learn.



Source: Equitas, International Human Rights Training Program (IH RTP) Facilitators' Manual. Arnold, R., et al. (1991). Educating for a Change. Toronto: Between the Lines. Adapted with permission from the Doris Marshall Institute for Education and Action.



Section 2

Human Dignity

The underlying principle of human rights is human dignity. In this section of the toolkit, we will explore the participant's understanding of human dignity, and compare that understanding with the principles and values expressed in the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child.

Objectives

By the end of Section 1, participants should be able to:

Express their personal understandings of what human dignity is, and some of the things that support and protect it.

Know the basic provisions of the Universal Declaration on Human Rights and the Convention on the Rights of the Child

Participatory Training Techniques



- Brainstorm
- Flip Charting
- Concept Mapping



Part One: Respect for Human Dignity and the Need for Fair Rules³

Activity 1, "WHAT IS HUMAN?" (Time: 30 minutes)

Overview: The norms for this exercise are human dignity expressed by affirmation of oneself (thinking positively about yourself) and others. The issue on which to focus is disrespect for others based on a failure to appreciate that in our human dignity we are all alike. This exercise should initiate participants to an awareness of humans as self-conscious, reflective beings, able to communicate and decide, and whose shared human dignity deserves respect, as stated by the Preamble of the Universal Declaration of Human Rights.

Objectives: Participants should:

- become aware of their humanity
- see themselves as related to other people
- formulate notions of human dignity
- understand the language of the Preamble of the Universal Declaration of Human Rights.

Procedures: The first two activities in this introductory session should take about ten minutes. The other steps twenty minutes or more. More time is needed for step 5. If the group is small enough, organize a "talking circle," sitting on the floor or in chairs arranged so everyone can see the face of everyone else.

Materials: (1) A plant or some living thing within view of all. (2) Preamble to the Universal Declaration of Human Rights



4

³ This exercise is adapted from Reardon, *Educating for Dignity*, op.cit., pp.25-26; and Amnesty International British Section, *The Universal Declaration of Human Rights* (Human Rights Education Resources Notebooks, (1987), pp. 3-4, adapted in Richard Pierre Claude, *Popular Education for Human Rights: 24 Exercises for Facilitators and Teachers*. Human Rights Education Associates (HREA) Amsterdam/Cambridge, 2000. <http://www.hrea.org/pubs/>

⁴ illustration by Emma Ridgway, London, England, in Richard Pierre Claude, *Popular Education for Human Rights: 24 Exercises for Facilitators and Teachers*. Human Rights Education Associates (HREA) Amsterdam/Cambridge, 2000. <http://www.hrea.org/pubs/>

Sequence:

Step 1. Form a "talking circle," explaining that this is a way to have discussions about important things. Even though individual introductions have already been made, go around the circle and have everyone state his or her name loudly and firmly so that the person is introducing herself or himself to the entire group. Speaking strongly and positively in this way is known as affirmation. Usually, shyness will become evident, so make clear that we will go around the circle stating our name loudly and this time with a strong gesture, such as an uplifted hand, a thumping of the fist, and clapping by the group for each such gesture.

Step 2. Ask each participant to think quietly for a minute and decide on the one quality about herself/himself they think is their best quality and name it with just one or a very few words: being generous, a loving person, hard-working, sharing with those who have less, etc. Note that we all have good qualities. Ask the participants if the quality they have identified for themselves is one they respect in others. What does it mean to say you respect yourself and you respect others. If others have different good qualities than yours, do those others still deserve respect? Does every human being deserve respect? Why?

Step 3. (Optional, depending on time available and sensitivity of the participants.) Ask if any of the participants can recall some time when they felt hurt because someone did not seem to respect them. These include things people have said about us to make us feel a fool or stupid or silly, such as "It's no use talking to him, he's too busy dreaming." Try and remember one or two such hurtful statements. Why do people put each other down? Is it because the things they say are true or because they do not respect one another, both or neither? Is your dignity hurt when others do not respect you? How does it feel to you? What do you mean by dignity?

Step 4. Tell the participants that everyone present is a human being, and ask if they can name other living creatures. Ask how human beings differ from other such creatures. In groups with adherents of particular religions or philosophies, the discussion could include the ethical and spiritual considerations about human beings that are integral to their respective beliefs. The facilitator should review the differences noted and should emphasize that human beings communicate to others with words, not just a few sounds, as with various animals. Second, we make choices. We can decide a lot more about our lives than various animals can. What does that mean in our daily lives?

Ask if participants agree that this view of human beings means we have to learn how to use words well and how to make good choices.

Step 5. If we use words carefully, and if we say that all human beings deserve respect because they all have human dignity, then what do we mean? Explain that in 1948, after a terrible war --the global suffering in World War II, all the countries in the world agreed on some words that said that it would be a more peaceful world if every human being respected the dignity of every other human being. Explain that today, your country, like other countries, has agreed to these same words. What do the words [of the Universal Declaration of Human Rights] mean when they say: "...recognition of the inherent dignity ... of all members of the human family is the foundation of freedom, justice and peace in the world." Share the language of the Preamble of the Universal Declaration. Using a "go-around" method, ask if participants can think of one example whereby life in their community would be more peaceful if greater respect were shown among people towards each other?



Materials for Activity One.

The Preamble of the Universal Declaration of Human Rights (1948)

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential to promote the development of friendly relations between nations, fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

*Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge, Now therefore, THE GENERAL ASSEMBLY Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end **that every individual and every organ of society,** keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*



Activity 2 What is Human Dignity?

Time: 20 min.

Overview: This activity stimulates thinking about the nature of dignity, and human requirements in order for human dignity to be promoted and protected. It increases familiarity with the UDHR.

Materials: Flip Chart and Markers, UDHR Handout (The Universal Declaration of Human Rights from *This is my Home*, Human Rights Centre, University of Minnesota <http://www.thisismyhome.org>).

Participatory Learning Technique: Brainstorm

Procedure:

Part A.

1. Facilitator draws an outline of a human figure on a flip chart. Next, building on participant contributions in activity one, where they spoke about something about themselves that they feel good about, ask participants to brainstorm what human dignity **feels** like to them. Write their responses inside the figure.
2. Ask participants to brainstorm what is needed in order to ensure that human dignity becomes a reality. Write their responses on the flip chart outside the figure. (See example, next page).
3. Hand out copies of The Universal Declaration of Human Rights in plain language to the participants (<http://www.thisismyhome.org>)
4. Ask participants to compare the figure on the flip chart with the Articles in the Universal Declaration. Identify which articles go with each response listed.
5. Discussion: How many of the points made relate to articles in the UDHR? Are there points that did not relate to articles? If so, ask participants why they think they were not included?
6. Go over the human rights principles listed on the chart on page 20.

Go to Part 2



Participatory Training Technique: The Art of Flipcharting I



Flipcharts, also referred to as newsprint, are essential tools for the trainer/facilitator and the participant group. It is even said to be one of a trainer's three MAIN tools (flipchart, felt markers, masking tape)!

Uses of flipcharts:

- To record information from group discussions and presentations.
- To encourage participation by providing an opportunity for participants to display their work before the entire group.
- To display information that participants will need to refer to throughout the training session. E.g., key terms and definitions, program objectives.
- To record progress. By posting the flipcharts in sequence the facilitator provides everyone with a record of what has been accomplished.
- To present information prepared by the facilitator before the session. (These should be kept to a minimum since used in this way flipcharts become didactic rather than participatory tools.)

Source: Etington, J.E. (1996) The Winning Trainer, 3rd Ed. Houston: Texas, Gulf Publishing Company.



Materials for Section One, Part One

Human Rights Principles

Universal Declaration of Human Rights

Child Concept Map



WHAT IF I GET INTO TROUBLE?

5

⁵ University of Minnesota Human Rights Resource Centre. home@umn.edu



Human Rights Principles

Equality

The equality concept expresses the notion of respect for the inherent dignity of all human beings. As specified in Article 1 of the Universal Declaration of Human Rights, the basis of human rights, "All human beings are born free and equal in dignity and rights."

Human Dignity

The principles of human rights are founded on the notion that each individual, regardless of age, culture, disability, ethnicity, faith, gender, language, race, sexual orientation or social class, deserves to be honored or esteemed.

Inalienability

The human rights that individuals have cannot be taken away, surrendered, or transferred.

Indivisibility

Human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights.

Interdependency

Human rights concerns appear in all spheres of life - home, school, workplace, courts, markets - everywhere! Human rights violations are interconnected; loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.

Non-Discrimination

Non-discrimination is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on some external factors. Reference to some factors that contribute to discrimination contained in international human rights treaties include: birth, color, language, nationality, race, religion, property, political or other opinion, social origin, sex. The criteria identified in the treaties, however, are only examples, it does not mean that discrimination is allowed on other grounds.

Justice

Justice is fairness, equity, and morality in action or attitude in order to promote and protect human rights and responsibilities.

Responsibility

Government responsibility: human rights are not gifts bestowed at the pleasure of governments. Nor should governments withhold them or apply them to some people but not to others. When they do so, they must be held accountable.

Individual responsibility: Every individual has a responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse them.

Other responsible entities: Every organ of society, including corporations, non-governmental organizations, foundations, and educational institutions, also shares responsibility for the promotion and protection of human rights.

Universality

Certain moral and ethical values are shared in all regions of the world, and governments and communities should recognize and uphold them. The universality of rights does not mean, however, that the rights cannot change or that they are experienced in the same manner by all people.



WHAT IF I GET INTO TROUBLE?

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS



Article 1 Right to Equality

Article 2 Freedom from Discrimination

Article 3 Right to Life, Liberty, and Personal Security

Article 4 Freedom from Slavery

Article 5 Freedom from Torture and Degrading Treatment

Article 6 Right to Recognition as a Person before the Law

Article 7 Right to Equality before the Law

Article 8 Right to Remedy by Competent Tribunal

Article 9 Freedom from Arbitrary Arrest and Exile

Article 10 Right to Fair Public Hearing

Article 11 Right to be Considered Innocent until Proven Guilty

Article 12 Freedom from Interference with Privacy, Family, Home and Correspondence

Article 13 Right to Free Movement in and out of the Country

Article 14 Right to Asylum in other Countries from Persecution

Article 15 Right to a Nationality and the Freedom to Change it

Article 16 Right to Marriage and Family

Article 17 Right to Own Property

Article 18 Freedom of Religion or Belief

Article 19 Freedom of Opinion and Information

Article 20 Right of Peaceful Assembly and Association

**"All human beings are born
free and equal
in dignity and rights"**

**"Education shall be directed to the full
development of the human personality and
to the strengthening of respect for human
rights and fundamental freedoms."**

**"Recognition of the
inherent
dignity and of the
equal and
inalienable rights of
all members of the
human family is the
foundation of
freedom,
justice and peace in
the world"**

Article 21 Right to Participate in Government and in Free Elections

Article 22 Right to Social Security

Article 23 Right to Desirable Work and to Join Trade Unions

Article 24 Right to Rest and Leisure

Article 25 Right to Adequate Living Standard

Article 26 Right to Education

Article 27 Right to Participate in the Cultural Life of the Community

Article 28 Right to a Social Order that Articulates this Document

Article 29 Community Duties Essential to Free and Full Development

Article 30 Freedom from State or Personal Interference in the above Rights

For information on [This is My Home: A Minnesota Human Rights Education Experience](http://www.thisismyhome.org),
and/or to view the full text of the Universal Declaration of Human Rights,
please visit our website: www.thisismyhome.org, or call 612-626-0041.



WHAT IF I GET INTO TROUBLE?



Sample Child Rights Figure::

Note that the inner and outer portions have been completed and the relevant convention articles added. You will begin with an empty outline.

Sample Child Rights Figure::

Note that the inner and outer portions have been completed and the relevant convention articles added. You will begin with an empty outline.

Part 2: Protection Provision and Participation: The rights of the Child

For the Facilitator:⁶

Under the United Nations Convention on the Rights of the Child, Canada is obligated not only to respect the rights of children but also to spread awareness of children's rights. Children, as well as adults, are to be informed of the rights of children as contained in the Convention. Under the Convention, children are defined as persons under the age of 18 years. This means a particularly important role for public schools and for public school teachers.

The principle of children's rights in Canada predates the UN Convention. It is a part of the Canadian Charter of Rights and Freedoms, human rights codes and acts across the country, and Canada's official policy of multiculturalism. What is important about the Convention, which the Government of Canada signed in 1990 and which Parliament and the provinces ratified in 1991, is that it focuses specifically on children.

In signing the Convention, Canada is legally obligated to comply with each of the articles on the rights of the child and to make reports to the United Nations every five years indicating how Canada is complying with the Convention. The Convention assumes that each of the articles is of equal importance. It also assumes that with rights come responsibilities. If one has a right, then others have a responsibility to respect that right. Through the activities in this resource, as children learn about their rights, they also learn about their corresponding responsibilities.

⁶ University College of Cape Breton: Child Rights Curriculum Resource, Grade 8, Foreword, p. 4

ACTIVITY 1: WHAT DOES A CHILD NEED? ⁷

Overview: This activity stimulates thinking about the specific needs of children, links human rights to human needs, and increases familiarity with the articles of the Convention on the Rights of the Child (CRC).

Time: 30 minutes.

Materials: Chart begun in Part One

Procedure:

1. Building on the concepts developed in part one, as participants to brainstorm the mental, physical, spiritual and character qualities they would like this child to have as an adult (e.g., good health, sense of humor, kindness). Write these qualities inside the outline of the child.
2. Ask the group to identify the human and material resources the child will need to achieve these qualities (e.g., if the child is to be healthy, it will need food and health care). Add these to the chart outside of the figure.

Distribute photocopies of the Convention on the Rights of the Child (see materials section and choose the most appropriate version for your group).

3. Using the CRC and/or the UDHR, ask the group to identify the articles that guarantee a child each of these needs and writes the number of the article(s) next to that item on the list. Any needs that are not covered by the documents are circled.
4. As a need is linked to a right, a member of the small group reads that article from a simplified version of the CRC.
5. Discuss:

- Were any needs not covered by the convention? How can this omission be explained?

Children's rights are defined by the United Nations Convention on the Rights of the Child. The Convention provides for three categories of rights:

Rights of provision, for example to education and health care.

Rights of protection, for example, from abuse and neglect.

Rights of participation, for example the right to be heard in matters affecting the child.

⁷ Adapted from: Nancy Flowers, Human Rights Educators' Network, Amnesty International USA.

The Convention defines a child as a person below the age of 18, unless the laws of a particular country establish the legal age for adulthood as younger than 18.

Remind participants:

With rights come responsibilities. The Convention outlines the following responsibilities:

For children: the responsibility to respect the rights of others. (Studies show that the more children know about their own rights, the more likely they are to respect the rights of others).

For parents: to respect and provide for the rights and best interests of their children.

For society: to respect the rights of children and to support programs that provide for children's rights.

For governments: to support families and to respect and provide for the rights of children through laws, policies and special programs.^{8,9}

Participants might be interested to learn that the CRC has been ratified by 191 countries. The only countries that haven't ratified it are Somalia and the United States.

⁸ Child Rights Centre, University of Cape Breton
http://discovery.uccb.ns.ca/children/more.php?id=27_0_1_0_M

⁹ Flowers, Nancy, with Bernbaum, Rudelius-Palmer and Tolman. The Human Rights Education Handbook: Effective Practices for Learning, Action and Change. Human Rights Resource Centre, University of Minnesota, 2000, p97

Participatory Training Technique: Concept Mapping



Concept mapping is a structured process that involves one or more people sharing their ideas on a topic and creating a picture of these ideas and the connections between them.

Concept mapping helps people to think more effectively as a group without losing their individuality. It helps groups manage complexity without trivializing or losing detail.

"Concept mapping", "mental mapping", "mind mapping", or "concept webbing" are all terms that have been used to describe this technique which results in the creation of a picture of someone's ideas.

Six steps in the concept mapping process:

1. **Plan the Task**
Determine the focus, the participants and the schedule.
2. **Generate Ideas**
Participants develop a large set of statements (i.e., words, symbols, images) that address the focus.
3. **Select, Rate, and Organize Ideas**
First, participants make a selection of the statements based on a relevant scale, which they determine. Second, participants organize the statements in preparation for mapping.
4. **Create Map**
Participants display the statements in map form.
5. **Interpret Map**
Participants develop an explanation of their map.
6. **Use Map**
Participants use the map to help address the original focus.

Source: Trochim, W. (2000). Concept Mapping. Adapted from:
<http://trochim.human.cornell.edu/kb/conmap.html>.

Activity 2: Energizer – “Universal Declaration”¹⁰

Time: 5 minutes



Title

Universal Declaration

- Energizes the group
- Reinforces knowledge of key provisions of UDHR (or any other instrument, if chosen for the activity)



Objective

- 12-20 people



No. of Participants

- 10 minutes



Time



Materials

- Flip chart page of hand-out with list of rights, simply stated, contained in the instrument.
- Enough chairs for everyone in the group, minus one.
- Rights cards, if needed



Steps

1. Participants sit in a circle of chairs. One person is standing in the center of the circle.
2. Each participant takes one right for her/his “name”. Example: “I am the right to life.” Each person must learn and remember the “right” on either side of her/him. The person who is “It” can point to anyone in the circle and say “right!” or “left!”, in which case the person pointed at must say the right held by the person to his right or left. . If s/he cannot respond right away, s/he becomes “it”, and the person who was it takes the seat.
3. The person who is it may also say “right, left” or “left, right” and the pointee responds accordingly. If the pointee forgets, or makes a mistake s/he loses the seat to “It,” who also is a right.
4. The person who is “It” can call out “Universal Declaration!” in which case everyone must change places while “It” tries to grab a seat.
5. The game can continue until it becomes too easy.



Notes

This activity can be used with any human rights instrument (CRC, CEDAW, ICCPR, etc.)

Contributed by: Gail Dalglish/Sarah Chandler

See following page for articles that can be photocopied and cut up and drawn from a hat to facilitate this activity.

¹⁰ Equitas. Energizer Manual. energizers contained in this manual have been offered by facilitators from the Equitas annual International Human Rights Training Program. <http://www.equitas.org>

WHAT IF I GET INTO TROUBLE?

Article 2. Freedom from Discrimination	Article 3. To have my best interests protected	Article 6 Right to Survival and Development	Article 7 Right to a name and nationality
Article 9 Not to be separated from my parents	Article 12 Freedom of Opinion and Expression	Article 14 Freedom of thought, conscience and religion	Article 15 Freedom of Association
Article 16 Right to Privacy	Article 17 Freedom of Information	Article 10 Protection from abuse and neglect	Article 23 Disability rights
Article 24 Right to Health	Article 26 Right to Social Security	Article 27 Right to an adequate standard of living	Article 28 Right to Education
Article 30 Right to Cultural Identity	Article 31 Right to Rest, Leisure and Cultural Activities	Article 33 Protection from Drug Abuse	Article 34 Protection from sexual exploitation



WHAT IF I GET INTO TROUBLE?

Article 35 Freedom From Slavery	Article 37 Freedom from Torture	Article 38 Protection from Armed Conflict	Article 39 Right to rehabilitative care
Article 40 Protection within the Juvenile Justice System			





WHAT IF I GET INTO TROUBLE?



Materials for Section One, Part Two

UNICEF Fact Sheet:: a summary of the rights under the Convention on the Rights of the Child

UNICEF Convention on the Rights of the Child, interpreted by children

Convention on the Rights of the Child, plain language

Child Concept Map



FACT SHEET: A summary of the rights under the Convention on the Rights of the Child ¹¹

Article 1 (Definition of the child): The Convention defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. The Committee on the Rights of the Child, the monitoring body for the Convention, has encouraged States to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18.

Article 2 (Non-discrimination): The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.

Article 3 (Best interests of the child): The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. This particularly applies to budget, policy and law makers.

Article 4 (Protection of rights): Governments have a responsibility to take all available measures to make sure children's rights are respected, protected and fulfilled. When countries ratify the Convention, they agree to review their laws relating to children. This involves assessing their social services, legal, health and educational systems, as well as levels of funding for these services. Governments are then obliged to take all necessary steps to ensure that the minimum standards set by the Convention in these areas are being met. They must help families protect children's rights and create an environment where they can grow and reach their potential. In some instances, this may involve changing existing laws or creating new ones. Such legislative changes are not imposed, but come about through the same process by which any law is created or reformed within a country. Article 41 of the Convention points out that when a country already has higher legal standards than those seen in the Convention, the higher standards always prevail.

Article 5 (Parental guidance): Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle. Article 5 encourages parents to deal with rights issues "in a manner consistent with the evolving capacities of the child". The Convention does not take responsibility for children away from their parents and give more authority to governments. It does place on governments the responsibility to protect and assist families in fulfilling their essential role as nurturers of children.

Article 6 (Survival and development): Children have the right to live. Governments should ensure that children survive and develop healthily.

Article 7 (Registration, name, nationality, care): All children have the right to a legally registered name, officially recognised by the government. Children have the right to a nationality (to belong to a country). Children also have the right to know and, as far as possible, to be cared for by their parents.

Article 8 (Preservation of identity): Children have the right to an identity – an official record of who they are. Governments should respect children's right to a name, a nationality and family ties.

¹¹ http://www.unicef.org/crc/files/Rights_overview.pdf



WHAT IF I GET INTO TROUBLE?

Article 9 (Separation from parents): Children have the right to live with their parent(s), unless it is bad for them. Children whose parents do not live together have the right to stay in contact with both parents, unless this might hurt the child.

Article 10 (Family reunification): Families whose members live in different countries should be allowed to move between those countries so that parents and children can stay in contact, or get back together as a family.

Article 11 (Kidnapping): Governments should take steps to stop children being taken out of their own country illegally. This article is particularly concerned with parental abductions. The Convention's Optional Protocol on the sale of children, child prostitution and child pornography has a provision that concerns abduction for financial gain.

Article 12 (Respect for the views of the child): When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account. This does not mean that children can now tell their parents what to do. This Convention encourages adults to listen to the opinions of children and involve them in decision-making -- not give children authority over adults. Article 12 does not interfere with parents' right and responsibility to express their views on matters affecting their children. Moreover, the Convention recognizes that the level of a child's participation in decisions must be appropriate to the child's level of maturity. Children's ability to form and express their opinions develops with age and most adults will naturally give the views of teenagers greater weight than those of a preschooler, whether in family, legal or administrative decisions.

Article 12 (Respect for the views of the child): When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account.

Article 13 (Freedom of expression): Children have the right to get and share information, as long as the information is not damaging to them or others. In exercising the right to freedom of expression, children have the responsibility to also respect the rights, freedoms and reputations of others. The freedom of expression includes the right to share information in any way they choose, including by talking, drawing or writing.

Article 14 (Freedom of thought, conscience and religion): Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should help guide their children in these matters. The Convention respects the rights and duties of parents in providing religious and moral guidance to their children. Religious groups around the world have expressed support for the Convention, which indicates that it in no way prevents parents from bringing their children up within a religious tradition. At the same time, the Convention recognizes that as children mature and are able to form their own views, some may question certain religious practices or cultural traditions. The Convention supports children's right to examine their beliefs, but it also states that their right to express their beliefs implies respect for the rights and freedoms of others.

Article 15 (Freedom of association): Children have the right to meet together and to join groups and organisations, as long as it does not stop other people from enjoying their rights. In exercising their rights, children have the responsibility to respect the rights, freedoms and reputations of others.

Article 16 (Right to privacy): Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17 (Access to information; mass media): Children have the right to get information that is important to their health and well-being. Governments should encourage mass media – radio, television, newspapers and Internet content sources – to provide information that children can understand and to not promote materials that could harm children. Mass media should particularly be encouraged to supply information in languages that minority and indigenous children can understand. Children should also have access to children's books.



WHAT IF I GET INTO TROUBLE?

Article 18 (Parental responsibilities; state assistance): Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments must respect the responsibility of parents for providing appropriate guidance to their children – the Convention does not take responsibility for children away from their parents and give more authority to governments. It places a responsibility on governments to provide support services to parents, especially if both parents work outside the home.

Article 19 (Protection from all forms of violence): Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after

them. In terms of discipline, the Convention does not specify what forms of punishment parents should use. However any form of discipline involving violence is unacceptable. There are ways to discipline children that are effective in helping children learn about family and social expectations for their behaviour – ones that are non-violent, are appropriate to the child's level of development and take the best interests of the child into consideration. In most countries, laws already define what sorts of punishments are considered excessive or abusive. It is up to each government to review these laws in light of the Convention.

Article 20 (Children deprived of family environment): Children who cannot be looked after by their own family have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language.

Article 21 (Adoption): Children have the right to care and protection if they are adopted or in foster care. The first concern must be what is best for them. The same rules should apply whether they are adopted in the country where they were born, or if they are taken to live in another country.

Article 22 (Refugee children): Children have the right to special protection and help if they are refugees (if they have been forced to leave their home and live in another country), as well as all the rights in this Convention.

Article 23 (Children with disabilities): Children who have any kind of disability have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.

Article 24 (Health and health services): Children have the right to good quality health care – the best health care possible – to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.

Article 25 (Review of treatment in care): Children who are looked after by their local authorities, rather than their parents, have the right to have these living arrangements looked at regularly to see if they are the most appropriate. Their care and treatment should always be based on “the best interests of the child”. (see Guiding Principles, Article 3)

Article 26 (Social security): Children – either through their guardians or directly – have the right to help from the government if they are poor or in need.

Article 27 (Adequate standard of living): Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.

Article 28: (Right to education): All children have the right to a primary education, which should be free. Wealthy countries should help poorer countries achieve this right. Discipline in schools should respect children's dignity. For children to benefit from education, schools must be run in an orderly way – without the use of violence. Any form of school discipline should take into account the child's human dignity.



WHAT IF I GET INTO TROUBLE?

Therefore, governments must ensure that school administrators review their discipline policies and eliminate any discipline practices involving physical or mental violence, abuse or neglect. The Convention places a high value on education. Young people should be encouraged to reach the highest level of education of which they are capable.

Article 29 (Goals of education): Children's education should develop each child's personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people. Children have a particular responsibility to respect the rights their parents, and education should aim to develop respect for the values and culture of their parents. The Convention does not address such issues as school uniforms, dress codes, the singing of the national anthem or prayer in schools. It is up to governments and school officials in each country to determine whether, in the context of their society and existing laws, such matters infringe upon other rights protected by the Convention.

Article 30 (Children of minorities/indigenous groups): Minority or indigenous children have the right to learn about and practice their own culture, language and religion. The right to practice one's own culture, language and religion applies to everyone; the Convention here highlights this right in instances where the practices are not shared by the majority of people in the country.

Article 31 (Leisure, play and culture): Children have the right to relax and play, and to join in a wide range of cultural, artistic and other recreational activities.

Article 32 (Child labour): The government should protect children from work that is dangerous or might harm their health or their education. While the Convention protects children from harmful and exploitative work, there is nothing in it that prohibits parents from expecting their children to help out at home in ways that are safe and appropriate to their age. If children help out in a family farm or business, the tasks they do be safe and suited to their level of development and comply with national labour laws. Children's work should not jeopardize any of their other rights, including the right to education, or the right to relaxation and play.

Article 33 (Drug abuse): Governments should use all means possible to protect children from the use of harmful drugs and from being used in the drug trade.

Article 34 (Sexual exploitation): Governments should protect children from all forms of sexual exploitation and abuse. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.

Article 35 (Abduction, sale and trafficking): The government should take all measures possible to make sure that children are not abducted, sold or trafficked. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.

Article 36 (Other forms of exploitation): Children should be protected from any activity that takes advantage of them or could harm their welfare and development.

Article 37 (Detention and punishment): No one is allowed to punish children in a cruel or harmful way. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release.

Article 38 (War and armed conflicts): Governments must do everything they can to protect and care for children affected by war. Children under 15 should not be forced or recruited to take part in a war or join the armed forces. The Convention's Optional Protocol on the involvement of children in armed conflict further develops this right, raising the age for direct participation in armed conflict to 18 and establishing a ban on compulsory recruitment for children under 18.



WHAT IF I GET INTO TROUBLE?

Article 39 (Rehabilitation of child victims): Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.

Article 40 (Juvenile justice): Children who are accused of breaking the law have the right to legal help and fair treatment in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.

Article 41 (Respect for superior national standards): If the laws of a country provide better protection of children's rights than the articles in this Convention, those laws should apply.

Article 42 (Knowledge of rights): Governments should make the Convention known to adults and children. Adults should help children learn about their rights, too. (See also article 4.)

Articles 43-54 (implementation measures): These articles discuss how governments and international organizations like UNICEF should work to ensure children are protected in their rights.



Photocopy for handout:

Keeping the Promise: Children's Rights by Kids:

“Rights” are about what you should have and be able to do so that you have the best chance to reach your full potential. You share the same rights as all children around the world. These rights are listed in the United Nations **Convention on the Rights of the Child**. The Convention is an agreement by almost every country in the world to do what is best for children.

There are 54 articles in the Convention, each one telling about a right that you have. Article 42 says that you have the right to know what your rights are! A group of young people chose the articles they thought other children should know, and put them in their own words here.

Article 1: Any person under the age of 18 is a child and has all the rights in the Convention on the Rights of the Child. Children are people, too.

Jacob, Age 7

Article 2: You have these rights, whoever you are, whoever your parents are, whatever colour you are, whatever religion your are, whatever language you speak, whether you're a boy or a girl, whether you have a physical disability or if you are rich or poor. **Jennifer, Age 11**

Articles 3, 4, 5, 18: Your mother, father or legal guardian must take care of you and always act in your best interest. The government has to help them provide what you need to survive and grow.

Nadine, Age 12

Article 6: You have the right to be alive! **Heather, Age 5**

Articles 7, 8: You have the right to a name, and this should be recorded when you are born. You also have the right to a nationality. **Simon, Age 12**

Article 9, 20: You should not be separated from your parents unless it is your best interest. If you are separated from your parents you have the right to be raised by someone who loves and cares for you. **Davis, Age 12**

Article 10: If you live in a different country than your parents do, you have the right to visit them. Governments should help you stay united with



your family. **Greg, Age 12**

Article 12: You have the right to say your opinion and adults should take it seriously. **Simon, Age 12**

Article 13: You have the right to share your opinions with others, by talking, drawing, writing or in any way you like, unless it harms or offends other people. **Simon, Age 12**

Article 14: You have the right to choose your own religion and beliefs. Your parents should help you to decide what is right and wrong and what is best for you. **Glenda, Age 9**

Article 15: You have the right to choose your own friends and join groups as long as it isn't harmful to others. **Davis, Age 12**

Article 16: You have the right to privacy. **Effie, Age 8**

Article 17: You have the right to get information that is important to you from radio, newspaper, television, books and computers and other sources. Adults should make sure that you get the information you need and help you to understand it. **Glenda, Age 9**

Article 19, 34, 39: Adults who take care of you cannot mistreat you, beat you or make you feel worthless. You have the right to be free from emotional, physical and sexual abuse. If you are abused, you have the right to have help to recover. **Jennifer, Age 11**

Article 23: If you are disabled, you have the right to special care, protection and education. You also have the same rights as all other children. **Tanya, Age 11**

Article 24, 27: You have the right to good health care, safe water to drink, nutritious food and a safe place to live. **Simon, Age 12**

Article 28: You have the right to an education. You should be able to go to school to the highest level that you can. **Glenda, Age 9** abilities. It should also help you learn to live peacefully, protect the environment and respect other people. **Jennifer, Age 11**

Article 30: You have the right to enjoy your own culture or any culture you choose. You also have the right to speak your own language. **Sherry, Age 10**

Article 31: You have the right to play and rest. **Aku, Age 8**

Article 32: You have the right to be protected from work that harms you or gets in the way of your health or education. If you must work, you have the right to be safe and to be paid fairly for what you do. **Tiffany Age 9**

Article 33: You have the right to say no to drugs and to selling drugs.
Susana, Age 10

Article 29: Your education should help you use your talents and

Article 11, 35: No one is allowed to kidnap or sell children. **William, Age 10**

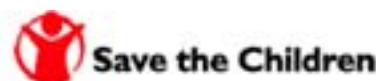
Article 37, 40: Even if you do something wrong, your punishment can't be cruel. You have the right to legal help and fair treatment. **Vanessa, Age 11**

Article 48: You have the right to be free from war but if you are in a war zone, you have the right to protection. You can't be forced to go into the army or take part in war. Refugee children need special help. **William, Age 12**

Article 48: You have the right to know your rights! **Effie, Age 8**

Interaction, Vol. 15, No. 2, Summer 2001, p. 10.

This article was excerpted from a children's poster developed by UNICEF: United Nations Children's Fund with the cooperation of the Canadian International Development Agency. For a copy of the poster or for more information, videos, education resources or other posters and exhibits on the Convention, contact your provincial UNICEF office or UNICEF Canada at 443 Mount Pleasant Road, Toronto, Ontario, M4S 2L8. For more activities on children's rights, visit the global schoolhouse at www.unicef.ca.



The United Nations Convention on the Rights of the Child

Article 1

Everyone under 18 has all these rights.

Article 2

You have the right to protection against discrimination. This means that nobody can treat you badly because of your colour, sex or religion, if you speak another language, have a disability or are rich or poor.

Article 3

All adults should always do what is best for you.

Article 4

You have the right to have your rights made a reality by the government.

Article 5

You have the right to be given guidance by your parents and family.

Article 6

You have the right to life.

Article 7

You have the right to have a name and a nationality.

Article 8

You have the right to an identity.

Article 9

You have the right to live with your parents, unless it is bad for you.

Article 10

If you and your parents are living in separate countries, you have the right to get back together and live in the same place.

Article 11

You should not be kidnapped.

Article 12

You have the right to an opinion and for it to be listened to and taken seriously.

Article 13

You have the right to find out things and say what you think, through making art, speaking and writing, unless it breaks the rights of others.

Article 14

You have the right to think what you like and be whatever religion you want to be, with your parents guidance.

Article 15

You have the right to be with friends and join or set up clubs, unless this breaks the rights of others.

Article 16

You have the right to a private life. For instance, you can keep a diary that other people are not allowed to see.

Article 17

You have the right to collect information from the media - radios, newspapers, television, etc - from all around the world. You should also be protected from information that could harm you.

Article 18

You have the right to be brought up by your parents, if possible.

Article 19

You have the right to be protected from being hurt or badly treated.

Article 20

You have the right to special protection and help if you can't live with your parents.

Article 21

You have the right to have the best care for you if you are adopted or fostered or living in care.

Article 22

You have the right to special protection and help if you are a refugee. A refugee is someone who has had to leave their country because it is not safe for them to live there.

Article 23

If you are disabled, either mentally or physically, you have the right to special care and education to help you develop and lead a full life.

Article 24

You have the right to the best health possible, and to medical care and to information that will help you to stay well.

Article 25

You have the right to have your living arrangements checked regularly if you have to be looked after away from home.

Article 26

You have the right to help from the government, if you are poor or in need.

Article 27

You have the right to a good enough standard of living. This means you should have food, clothes and a place to live.

Article 28

You have the right to education.

Article 29

You have the right to education which tries to develop your personality and abilities as much as possible and encourages you to respect the environment.

Article 30

If you come from a minority group, because of your race, religion or language, you have the right to enjoy your own culture, practice your own religion, and use your own language.

Article 31

You have the right to play and relax by doing things like sports, music and drama.

Article 32

You have the right to protection from work that is bad for your health or education.

Article 33

You have the right to be protected from dangerous drugs.

Article 34

You have the right to be protected from sexual abuse.

Article 35

No-one is allowed to kidnap you or sell you.

Article 36

You have the right to protection from any other kind of exploitation.

Article 37

You have the right not to be punished in a cruel or hurtful way.

Article 38

You have the right to protection in times of war. If you are under 15, you should never have to be in an army or take part in a battle.

Article 39

You have the right to help if you have been hurt, neglected, or badly treated.

Article 40

You have the right to help in defending yourself if you are accused of breaking the law.

Article 41

You have the right to any rights in laws in your country or internationally that give you better rights than these.

Article 42

All adults and children should know about this convention. You have a right to learn about your rights and adults should learn about them too.

This is a simplified version of the UNCRC. It has been signed by 193 countries. The convention has 54 articles in total. Article 43 - 54 are about how governments and international organisations will work to give children their rights.

WHAT IF I GET INTO TROUBLE?

Bringing it Home

- *In this section of the toolkit, we will introduce relevant portions of the Charter of Rights and Freedoms and the Youth Criminal Justice Act and relate them to the UDHR and CRC.*

Objectives

- By the end of Section 3, participants should:
- Be familiar with relevant sections of the Charter of Rights and Freedoms and the Youth Criminal Justice Act
- Be able to compare rights contained in the CRC with those contained in the Charter and YCJA.
- Understand the underlying principle of human dignity as it is affirmed in the Charter and YCJA.

Participatory Training Techniques



- Dinamica
- Effective Presentations

Activity 1: Continuum

In this activity, participants will indicate their responses to different questions by standing in different parts of the room.

Time: 10 min.

Procedure:

- A. Explain what a “dinamica” is.
- B. Explain to participants that they will indicate their response to each question or statement by placing themselves along an imaginary line or “continuum” extending from one side of the room to the other. The position they choose along the line will indicate their position with regard to the question. One side of the room will represent a strongly positive response, the other side will represent a strongly negative response, while the middle of the room is for responses somewhere in between the two extremes.

As the participants to stand and do some examples with them.

Examples:

1. What is our height range? (Line up from shortest to tallest).
2. What is our birth range? Line up according to birthdate, with January on one end of the line and December on the other.
3. Question: How was breakfast (lunch) today: great – so-so – terrible

Question or Statement

12

Answers

- | | |
|--|-----------------|
| 1. You can't reason with children
– Disagree | Agree – Neutral |
| 2. Children should always be told the truth
Neutral-Disagree | Agree – |
| 3. Children should decide what they are taught in school
Disagree | Agree-Neutral- |
| 4. Parents always know what's best for their children
Disagree | Agree-Neutral- |
| 5. Children have the right to privacy
Disagree | Agree-Neutral- |

¹² Learning Activity – The Rights Line Up from Monitoring Children's Rights: A Toolkit for Community-Based Organizations. Save the Children, Canada – Toronto.

WHAT IF I GET INTO TROUBLE?

- | | |
|---|------------------------|
| 6. How well do you know the Charter of Rights and Freedoms?
know it | Well – average – Don't |
| 7. How well do you know the Youth Criminal Justice Act?
know it | Well-- average – Don't |
| 8. A good way to protect our rights is to know what they are.
sure – disagree | Agree – not |
| 9. It's important to promote and protect the rights of other people.
sure – disagree | Agree – not |

Debriefing Activity 1

1. Ask the participants to comment on the name of this activity (Continuum), i.e. seeing where people stand between two extreme opinions.
2. Discuss the choice of questions: why did we start with such easy questions?
3. Discuss the following:
 - a. Why did you take the stand you took?
 - b. How did it feel to take the stand you took? Were you surprised by the way you and the other participants “lined up” on the different questions?
 - c. What shapes attitudes toward children and childhood?
 - d. How do attitudes about children and childhood impact you?
4. Ask participants what uses they see for this type of activity and list them on the board or flip chart.

Possible uses:

- To encourage physical movement and quick thinking
- To give the facilitator a sense of where the participants see themselves in relation to the focus of the activity.
- To act as an opener for a more in-depth discussion/analysis of opinions expressed
- To test a change of attitude by asking the same questions later on in the training and asking them whether their position has changed.

Inform participants that the purpose in this activity was to serve as an opener for a presentation on their rights under the Charter and YCJA.

Participatory Training Technique: Dinamica



"Dinamica" is a term used by some Latin American popular educators for the type of training activity that generally involves moving around, expressing ourselves in different (often non-verbal) ways and taking initiative for solving problems. These sorts of activities generally increase the energy level of the group and put participants in a more creative frame of mind (by obliging them to think or react in a way in which they are not accustomed); dinamicas also serve to break down barriers among group members and prepare them to work together. As a result "dinamicas" are often used as introductions or starters for other activities. They should generally be followed by a reflection or debriefing in which the participants analyze the activity.

Source: Etington, J.E. (1996). The Winning Trainer, 3rd Ed. Houston: Texas, Gulf Publishing Company.

Activity 2: Smarties Challenge

In this activity, participants will interpret photos or posters in terms of the rights they represent.

Time: 20 – 30 minutes depending on group size and number of posters/pictures

Materials: Posters, collages or photos that depict but do not name one of the rights of the child. Pen or pencil and paper for each group. UDHR and CRC, one copy for each group. Bag of Smarties or other treat.

Process:

1. Divide participants into groups of 4 or 5 by a method of your choice.
2. Tell the groups that they are to take the next 10 minutes and visit each of the posters/pictures posted around the room. Each group will need a recorder and a presenter. Participants are to decide as a group, which right is represented by the poster/picture, and write it down. Participants are encouraged to reach consensus on this within their group.
3. Option A: Tell the groups that when they are finished they should return to the circle. The first group to return with all posters/photos correctly identified wins the Smarties
4. Option B: Have each group present their findings to the other groups. Give feedback on any rights that have been missed. Share the Smarties among everyone.

See sample posters on the following pages....



Figure 1 Right to have a family



Figure 2 Right to rest and leisure



Figure 3 Right to food



Figure 4 Right to recreation/play



Figure 5 Right to Education



Figure 6 Right to be safe



Figure 7 Right to health



Figure 8 Right to participate

Activity 3: Charter of Rights and Freedoms

In this activity, participants will discuss depictions of rights and rights violations in the context of the Canadian Charter of Rights and Freedoms.

Time: 30 minutes

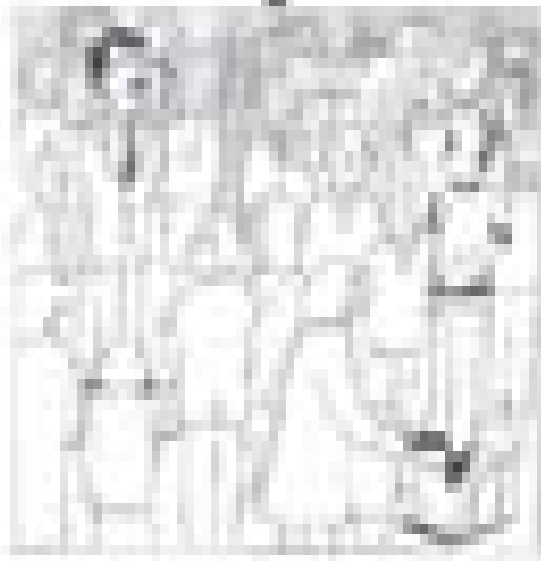
Materials: hand outs or power point slides of the story and cartoons below.¹³

"It's Your Right".

Written by:
Jill Bell and
Marjatta Holt
of the Ontario Institute for Studies in Education
(OISE)
for
The Human Rights Directorate
Multiculturalism and Citizenship Canada
Ottawa, 1987

¹³ *This text has been written as a pedagogical tool and is not intended to be a source of legal expertise.*

It's
Your
Right



It's Your Right

WHAT IF I GET INTO TROUBLE?

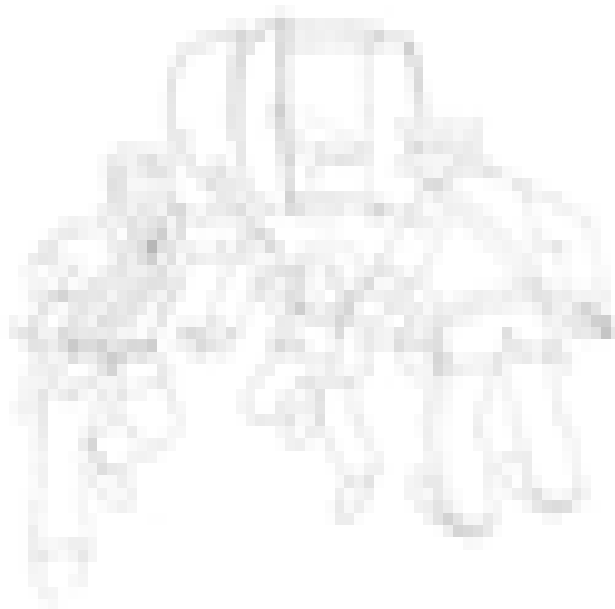
Warning

... (faint text)

... (faint text)

... (faint text)

... (faint text)



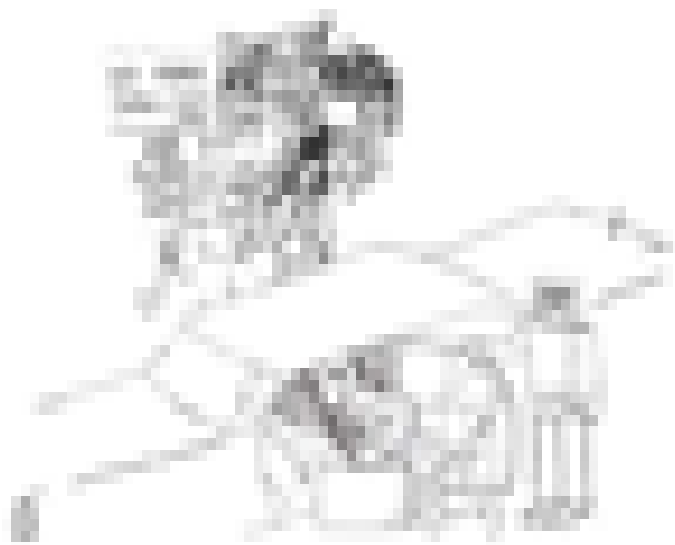
WHAT IF I GET INTO TROUBLE?

Getting into trouble doesn't mean you're a bad person. It just means you made a mistake.

Everyone makes mistakes. Sometimes the mistakes are big, sometimes they are small.

Here are some things to remember:

- If you get into trouble, don't panic. Take a deep breath and think about what you should do.
- If you're not sure what to do, ask for help. There are always people who can help you.
- If you're in trouble, don't blame anyone else. Take responsibility for your actions.
- If you're in trouble, don't give up. Keep trying until you find a way out.



WHAT IF I GET INTO TROUBLE?

In many countries it is dangerous to disagree with the government. In Canada we have the right to say what we think even if it is critical of the government. We can speak to our friends, we can hold meetings, we can write to the newspapers. We can even march up and down in the street with placards saying "Down with the government!" if we wish. No one can lock us up or beat us up for doing this. Our laws promise us this freedom.

We have many other rights too. We have civil rights such as the right to privacy — no one can come into our homes without our invitation. Even the police cannot come into our homes without a warrant.

We have political rights such as the right to vote or to stand for election.

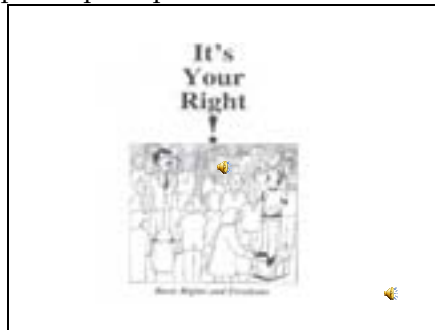
We have rights as workers and rights as tenants. Old people have special rights, so do children and hospital patients. We all have the right to be treated equally, whatever our sex, our race, or our age.

Most of these rights are written in the law and protected.

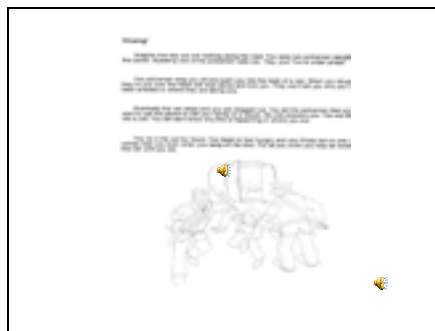
WHAT IF I GET INTO TROUBLE?

Following is a power point presentation that can be used as one session or two:

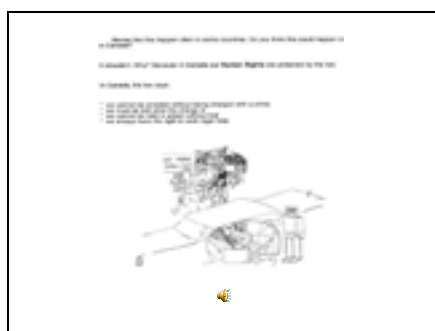
Slide 1



Slide 2

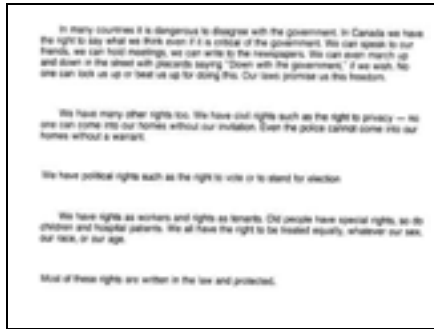


Slide 3



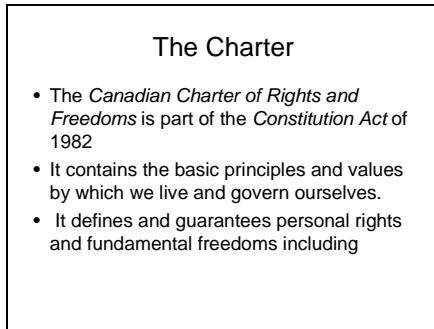
WHAT IF I GET INTO TROUBLE?

Slide 4

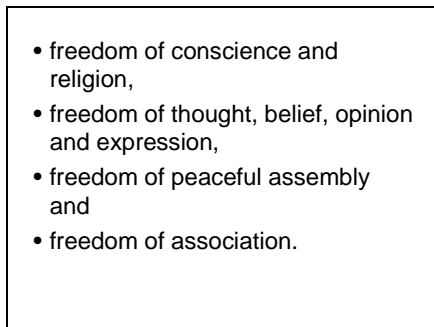


Let's take a look at what rights and freedoms are guaranteed by the Charter.

Slide 5



Slide 6



WHAT IF I GET INTO TROUBLE?

Slide 7

- the right to life, liberty and personal security;
- freedom of the press and other media of communication;

Slide 8

- freedom to hold peaceful meetings;
- freedom to join groups;
- the right to live and work anywhere in Canada;

Slide 9

- protection from unreasonable search or seizure and arbitrary (done without a reason) detention and imprisonment;
- the right to be presumed innocent until proven guilty;
- the right to have a lawyer;
- the right to a fair trial, through due process of law; and
- the right to equal protection and benefit under the law, without discrimination.

Pay particular attention to these legal rights, for they are important to the Youth Criminal Justice Act, which we will be looking at in the next section of the training.

Slide 10

Children's rights

- Parents in Canada have a legal duty to provide their children with the necessities of life until they reach age 16.
- It is illegal in Canada to abuse your children, either physically, psychologically, or sexually.
- All forms of child abuse are serious crimes.
- Abuse can include spanking children, terrorizing or humiliating them, any kind of sexual contact, and neglect.
- Police, doctors, teachers and children's aid workers will take action if they think children are being harmed. In serious cases, children can be taken away from their parents.

Article 19 of the Convention on the Rights of the Child requires States to protect children from "all forms of physical or mental violence" while in the care of parents or others. The Committee on the Rights of the Child has consistently interpreted the Convention as requiring States to protect children from all corporal punishment and has recommended that prohibition should be accompanied by public education to promote positive discipline.

Article 19 of the Convention on the Rights of the Child requires States to protect children from "all forms of physical or mental violence" while in the care of parents or others. The Committee on the Rights of the Child has consistently interpreted the Convention as requiring States to protect children from all corporal punishment and has recommended that prohibition should be accompanied by public education to promote positive discipline.

The United Nations Committee on the Rights of the Child has consistently recommended States Parties to the Convention on the Rights of the Child to prohibit corporal punishment and other forms of violence against children in institutions, in schools, and in the homes.

On January 30, 2004, the Supreme Court of Canada released its decision in the case of *Canadian Foundation for Children, Youth and the Law v. The Attorney General in Right of Canada*, which concerns the use of force by parents and teachers to correct a child.

In January 2004 the Supreme Court of Canada strictly limited the legality of parental corporal punishment and ruled out school corporal punishment. But by six to three they rejected an application by the Canadian Foundation for Youth, Children and the Law that section 43 of Canada's criminal code should be struck down as unconstitutional.

The Supreme Court of Canada decided that section 43 of the Criminal Code is constitutional; it found that section 43 does not violate a child's rights to

security of the person and equality, and is not cruel and unusual punishment. More specifically, the Supreme Court held that section 43 ensures that the criminal law applies to any use of force that harms a child, but does **not** apply where the use of force “is part of a genuine effort to educate the child, poses no reasonable risk of harm that is more than transitory and trifling, and is reasonable under the circumstances.”

http://www.canadiancsrc.com/Child_Abuse/Supreme_Court_Case_Spanking.htm

Slide 11

- **Physical abuse** is any intentional physical contact that causes injury. *
- **Psychological abuse** includes terror and humiliation.
- **Sexual abuse** includes any form of sexual contact between an adult and a child.
- **Neglect** is also a form of child abuse. Parents who fail to protect and provide for their children are guilty of neglect. By law, children under 12 cannot be left alone to look after themselves or younger siblings.
- **A Help Line** is available for children who need someone to help them or just need someone to talk to. 1 800 667 4770

• <http://www.passtocanada.com/en/About/rights.aspx>

Slide 12

**Note: The law in Canada does not yet conform with the articles of the CRC that protect children against all forms of violence.*

- There is a continuing debate in Canada about the right of a parent to spank a child. Canada's Supreme Court of has ruled (2004) that “moderate” corporal punishment is acceptable. However, in General Comment 8, 2006, the UN Committee on the Rights of the Child, stated:
- *Article 37 of the Convention requires States to ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”.*

When a state agrees to a Convention, that agreement includes bringing the provisions of the convention into the laws of the state. Sometimes this is a slow process, and sometimes there is not a consistent way to do this. There is a continuing debate in Canada about the right of a parent to spank a child. In a recent decision the Supreme Court of has ruled that “moderate” corporal punishment is acceptable. However, the Committee on the Rights of the Child has specifically disagreed with this position. This is one of the cases where domestic, or national, law has not yet incorporated all of the principles contained in the convention.

Slide 13

Committee on the Rights of the Child, General Comment 8, 2006

- *Article 19, requires States to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.*

Article 19 requires states to “take all appropriate Legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has the care of the child”.

Slide 14

Committee on the Rights of the Child, General Comment 8, 2006

- *There is no ambiguity: “all forms of physical or mental violence” does not leave room for any level of legalized violence against children. Corporal punishment (spanking, strapping, beating, etc.) and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate legislative, administrative, social and educational measures to eliminate them.*

There is nothing vague or unclear about this. The phrase “All forms of physical or mental violence” does not leave room for any level of legalized violence against children. Corporal punishment (spanking, strapping, beating, etc.) and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate measures to eliminate them by making appropriate laws, ensuring those laws are kept, educating legislators, law enforcement, educators and the public.

Slide 15

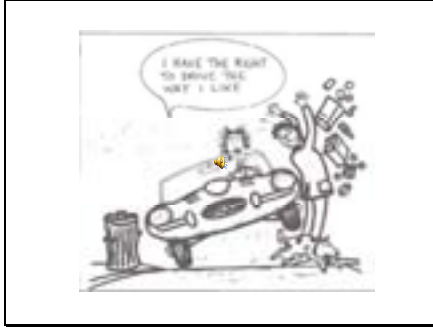
What do you think?

I Have The Right To

- Sometimes the things we like to do make life unpleasant for other people. Our right to do what we like makes it impossible for them to do what they like.
- Our rights might have to be limited to protect other people.
- Do you think the people in these pictures should have the right to do what they want?

WHAT IF I GET INTO TROUBLE?

Slide 16



What rights are being violated in this situation?
UDHR Article 3, and Charter: Right to Safety and Security of Person

Slide 17



What do you think? UDHR Article 19 – Freedom of Information
BC: Freedom of Information and Right to Privacy Act:

Information rights

4 (1) A person who makes a request under section 5 has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record an applicant has the right of access to the remainder of the record.

(3) The right of access to a record is subject to the payment of any fee required under section 75.

Slide 18



What rights could be violated in this situation?

WHAT IF I GET INTO TROUBLE?

Slide 19



UDHR Article 3, Right to life, liberty and personal security.

Slide 20



Convention on the Rights of the Child: Article 19 – Protection from Abuse and neglect.
UDHR and Charter: Right to personal security.

Slide 21



Charter: protection from unreasonable search or seizure and arbitrary (done without a reason) detainment and imprisonment;
CRC: Article 40 – Right to be presumed innocent until proven guilty; right to be informed of the charges against him or her, and to have appropriate assistance in the preparation and presentation of his or her defence.

Slide 22

Acknowledgement

From the Kit "It's Your Right" Student version, pages 3 - 8
Written by Jill Bell and Marjatta Holt
of the Ontario Institute for Studies in Education (OISE)
for
The Human Rights Directorate
Canadian Heritage
Ottawa, 1987

Illustrations by
Kimberly Smith
David Beyer
Fred Jones
Chris Henschel

Slide 23

Rights vs. Responsibilities

- Rights are always balanced by responsibilities.
- We expect other people to respect our rights....
- It is our responsibility to promote and protect theirs, as well as our own.
- Remember, the underlying principle of human rights is human dignity.

What are some of the ways we can respect the human dignity of other people?

For the Facilitator:

In your summation, draw particular attention to the Legal Rights and Equality Rights sections below:

Summary of Charter Rights and Freedoms

Charter rights and freedoms are divided into a number of categories:

- Fundamental Freedoms
- Democratic Rights
- Legal Rights
- Equality Rights
- Official Languages
- Minority Language Educational Rights

Following are some key rights:

Fundamental Freedoms (Section 2)

These include freedom of:

- conscience and religion
- thought, belief, opinion and expression, including freedom of the press and other media of communications
- peaceful assembly and association

Democratic Rights (Sections 3, 4 and 5)

- right to vote
- maximum duration and sitting of legislative bodies

Mobility Rights (Section 6)

- the right to move to and live in any province
- the right to pursue a livelihood in any province

Legal Rights (Sections 7-14)

- life, liberty, and security of the person
- security against unreasonable search and seizure
- no arbitrary detention or imprisonment
- be informed promptly for the reasons for any arrest or detention
- retain and instruct counsel on arrest
- trial within a reasonable time by an impartial tribunal
- the presumption of innocence
- no self-incrimination
- no cruel and unusual punishment
- the right to a court-appointed interpreter

Equality Rights (Section 15)

- equal treatment before and under the law
- equal benefit and protection of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability

Language Rights

- English and French are the official languages of Canada
- minority language education rights in certain circumstances

© CBC

CBC

Remind participants:

Possible Handout: John Humphrey Centre: "Youth Guide to the Canadian Charter of Rights and Freedoms"

Activity 3: Energizer – “Jail Break”¹⁴

Time: 5 minutes Note: Facilitator may choose a different energizer, depending on the size of the group, space available, chairs available, etc.



Title

Jailbreak



Objective



No. of Participants



Time



Materials



Steps

- Energize

- 10 – 20 people

- Up to 5 minutes

- None

1. Set up pairs of chairs randomly around the room. It is best if the chairs do not form a circle and there should be at least three feet of space between the pairs of chairs.
2. Place one pair of chairs in the center of the room. These chairs will be designated "Jail."
3. Divide participants into pairs. Seat the group in the pairs of chairs and remove any empty chairs from the activity area. Ask each pair of participants to link arms. The pairs of participants are to keep their arms linked throughout the game. Number each pair of participants including the pair that is seated in "Jail." The pairs are to keep these numbers throughout the game no matter what seats they may end up in.
4. The pair that is in "Jail" is "it." They may call two or more numbers and the pairs with those numbers must find new seats. The pair in "Jail" then tries to take one of their seats. If they want everyone to find new seats, they call "Jailbreak." The new pair then ends up in "Jail" then repeats the process.



Notes

This energizer tends to have a lot of energy. Participants should be warned to be careful so that no one is hurt. Do not use chairs with arms. Team members should stop the game if it is in danger of getting out of hand. They should also be prepared to serve as referees in cases where two pairs try to sit in the same chairs.

¹⁴ Equitas. Energizer Manual. energizers contained in this manual have been offered by facilitators from the Equitas annual International Human Rights Training Program. <http://www.equitas.org>

Activity 4: Getting to Know the Youth Criminal Justice Act

Part one: 5 min.

Brainstorm¹⁵: Ask participants to reflect back to the UDHR, and CRC and the Charter. Ask participants, “If you get into trouble with the law, what rights would you expect to find in the YCJA? Write their answers on a flip chart.

Have a second flip chart or continue power point slides as follows 15 min:

¹⁵ Quoted in Equitas IHRTP Facilitator’s Manual, 2006.

Slide 24

YCJA

- The Youth Criminal Justice Act (YCJA)...
- sets out how authorities will deal with young people who have committed criminal offences
- covers young people who commit criminal offences after they become 12 years of age but before they reach 18 years
- deals with offences under the *Criminal Code*, the *Controlled Drugs and Substances Act*, and other federal laws
- does not apply to provincial laws such as liquor or traffic laws

BC has its own "Youth Justice Act" (Bill C-63, 2003), which is similar, but not identical to, the YCJA.

Slide 25

- Under the YCJA, if the police believe that you have committed a criminal offence, they can...
- use extrajudicial measures, which do not require you to go to court
- charge you with an offence
- arrest you, charge you, release you, or keep you in custody (jail)

Slide 26

If you turn 18...

- the YCJA still applies to any offences that took place before your 18th birthday

WHAT IF I GET INTO TROUBLE?

Slide 27

If you are under 12 years old,

- you cannot be charged with a criminal offence. However...
- the police could warn you, take you home and talk to your parents
- the police, your parents or any concerned person could go to the Ministry of Children and Family Development
- in cases where the family cannot support you to behave differently, the Ministry could take you out of your parents' care.

Slide 28

What are my rights under the YCJA?

- You have the right to...
- be told what you are charged with, and why, in words you understand
- talk to a lawyer at any stage of your involvement in the youth justice system
- talk to a parent or other adult

Slide 29

- have the police stop questioning you until after you have had the chance to talk to a lawyer as well as a parent or other adult
- have a lawyer and a parent or other adult with you if you give a statement to the police

Remind participants that any statements they make become part of the record and can be used in court.

WHAT IF I GET INTO TROUBLE?

Slide 30

- be told of your rights in words you understand, and be given an opportunity to exercise these rights.
- Not to be held in custody... unless you threaten public safety or may not show up for court.

Under the CRC, youth have the right not to be held in custody with adults. However, Canada has filed a reservation to this article, claiming lack of capacity to ensure this in all situations.

Slide 31

Do I have to say anything to the police when I am arrested?

- **You are not required to tell the police anything other than to identify yourself.**
- ▶ This gives you a chance to talk to a lawyer and a parent or other adult before you talk to the police.
- ▶ Any statement that you do give to the police may be used against you in court.

Identify yourself means giving your name and address.

Slide 32

The police must tell your parents...

- why and where you are in custody
- what you are charged with
- when and where you go to court
- that you have a right to a lawyer

WHAT IF I GET INTO TROUBLE?

Slide 33

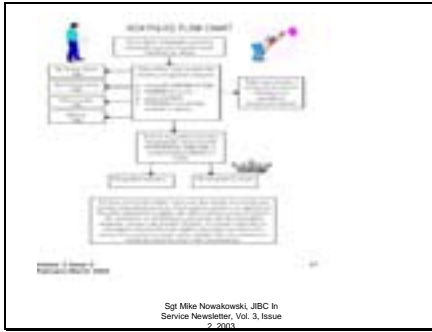
A lawyer can...

- help protect your rights
- explain the law and how court works
- help you understand the consequences of extrajudicial sanctions
- help you decide whether to plead guilty or not guilty
- help you at your bail hearing
- represent you at your trial

<http://www.plea.org/freepubs/ycja/yjsa.htm>

Here you can provide the number for legal aid in your community, if you have it.
In BC it is 1 866 577 2525

Slide 34



Hand out YCJA pamphlet here.

Slide 35

What about...?

- *Persons who are Victims?*
- *Persons with Disabilities?*

WHAT IF I GET INTO TROUBLE?

Slide 36

What if I'm a Victim?

I have the right:

- ✓ to be treated politely and with respect by all justice personnel, and to have my privacy respected.
- ✓ to receive information on the justice system, victim services and related laws
- ✓ To get information about what is happening with my case.
- ✓ to be given a chance to say what harm was done to me in a restorative justice circle or before the offender is sentenced in court.
- ✓ To have legal assistance if I need it.

Slide 37

What if I have a disability?

Slide 38

What does "Disability" Mean?

- Having a disability means that a person is not able to do something that other people of their age and community can do because of something about their body. Someone can have a disability because of something to do with their legs or arms, or brain, or ears, or any other part of their body. Disabilities can come from:
 - Disease
 - Accident
 - Birth injury
 - Injury before birth

There is much disagreement about the definition of "disability". This material attempts to create a "working definition" that will enable participants to consider disability rights, without being definitive about what constitutes a true disability.

Slide 39

Canadian Human Rights Act

- “disability” means any previous or existing mental or physical disability and includes disfigurement and previous or existing dependence on alcohol or a drug;

Slide 40

UN Declaration on the Rights of Disabled Persons:

- Article 11. Disabled persons shall be able to avail themselves of qualified legal aid when such aid proves indispensable for the protection of their persons and property. If judicial proceedings are instituted against them, the legal procedure applied shall take their physical and mental condition fully into account.

Slide 41

UN Convention on the Rights of Disabled Persons:

- **ARTICLE 7 - CHILDREN WITH DISABILITIES**
 - Enjoy all human rights and fundamental freedoms on an equal basis with other children;
 - Best interests of the child are a primary consideration;
 - Have the right to express their views freely on all matters affecting them on an equal basis with other children and to be provided with help to realize that right.
- o Note: this is a NEW Convention, adopted by the UN General Assembly on 13 December 2006. It can now be ratified by States.

Slide 42

Convention on the Rights of the Child

- Article 23
Recognizes the right of a child with physical or mental disabilities to "special care" and to assistance to realize dignity and rights.

Slide 43

Canadian Charter

- Section 15
- guarantees equality rights plus freedom from discrimination for people who have a mental or physical disability, as well as for other categories of people who face discrimination.

Slide 44

YCJA

- If a youth feels that he or she may be medically, psychologically or psychiatrically disabled, including having a learning disability, she or he can ask for an assessment to determine whether s/he is fit to stand trial or participate in other measures.

WHAT IF I GET INTO TROUBLE?

Slide 45

Disabilities can

- Make it hard for you to understand rules and laws;
- make it hard for you to understand or do what is expected by authorities when you get into trouble;
- Make you behave in a way that looks like you have a poor attitude, lack of remorse or disrespect for authority, when that's not what you mean.

Slide 46

If you think you might have a disability

Get help!

- Talk to a teacher or counselor;
- Talk to your parents;
- If you're in trouble, tell your lawyer.

We may or may not have a disability assessment for our students/participants. This information is in place to help them if they have concerns about their own capacity.

Slide 47

Looking back:

We have talked about

- The Universal Declaration of Human Rights "UDHR"
- The Convention on the Rights of the Child "CRC"
- The Canadian Charter of Rights and Freedoms "Charter"
- The Youth Criminal Justice Act "YCJA"

At this point, we are asking participants to reflect back on the information they have received so far.

WHAT IF I GET INTO TROUBLE?

Slide 48

Please take a moment to think:

- Human Rights = Human Dignity
- What do you do to promote and protect it?
- What more could you do?



Now we ask participants to personalize the information:

How do they use this information?

How might they use it?

How might it affect their behaviour in the future?

Alternate Activity 4: Getting to Know the Youth Criminal Justice Act

Time: 20 minutes to 1 hour

Legal Rights 4 U

Note to the facilitator: to use the material you must be able to access the Internet.

Site: <http://www.legalrights4u.ca>

This BC Law Courts Education Society web site has nine animated scenarios designed to introduce youth to their rights under the Youth Criminal Justice Act. Each scenario is 6 – 9 minutes long. The site includes a teachers' manual, student handouts and role plays. Scenarios 1 – 3 may be presented separately or as a unit. There is material to use in either case.



Participatory Training Technique: Effective Presentations II

Presentation Tips:

- Check out the room where you be presenting in advance.
- Practice your presentation a number of times.
- Take along a bottle of water.
- Maintain regular eye contact with the audience (i.e., the participants).
- Use a conversational tone.
- Convey your enthusiasm for the material and the audience.
- Ask the audience periodically if they can hear and see everything.
- Move purposefully around the room, and use natural gestures. Avoid movements and gestures that may distract the audience.
- Interact with the participants to create positive rapport with them.

Using Visual Aids (blackboard, overheads, flipcharts or computer presentations)

- Use visual aids to stimulate and focus participants' attention
- Check the equipment before the session to make sure it works and you know how to use it
- Consider creating visual aids during the presentation
- Encourage the participants to take notes
- Make each visual count
- Reveal visual information gradually rather than all at once
- Provide handouts of computers presentations with space for additional notes

Source: University of Waterloo, Teaching Resources and Continuing Education. (2002). Lecturing Interactively in the University Classroom. Available from: <http://www.adm.uwaterloo.ca/infotrac/interactiveUclassroom.html>.

Looking back at the Convention on the Rights of the Child, recall: UCCB Grade 8 p. 66

Justice and Youth Offenders

Article 3

Your best interests should be considered first and foremost in all decisions which concern you. Governments have the responsibility to make sure that institutional standards are respected so that you are always adequately cared for and protected.

Article 9

You have the right to live with your parents and not to be separated from them unless this goes against your best interests. In any hearings or proceedings concerning a separation, you have the right to make your views known. You also have the right to keep in contact with both of your parents.

Article 12

You have the right to express your opinions freely and to have your opinions considered in anything that affects you, even in judicial or administrative proceedings. More weight should be given to these opinions as your capacities evolve and you prepare for adulthood.

Article 37

You have the right to be treated with humanity and respect, and to be protected from all forms of torture, capital punishment, and life imprisonment.

Article 40

If accused, you have the right to be treated with dignity, to be informed promptly of the charges, to receive legal assistance, and to be presumed innocent until proven guilty in a prompt and fair trial.

Materials for Section Three

Comparison Chart: CRC, Charter and YCJA

For the Facilitator:

Comparison Chart of CRC, Charter of Rights and Freedoms and YCJA

CRC	Charter	YCJA
Article 40		
To be presumed innocent until proven guilty	To be presumed innocent until proven guilty	More respectful of the presumption of innocence than was the YOA
No child shall be deprived of his or her liberty unlawfully or arbitrarily. Arrest or detention shall be only as a last resort and for the shortest appropriate period of time.	protection from unreasonable search or seizure and arbitrary (done without a reason) detainment and imprisonment;	<p>A sentence should</p> <ul style="list-style-type: none"> • be the least restrictive sentence that can achieve the purpose of sentencing • be the sentence that is most likely to promote the rehabilitation and reintegration of the young person; and • promote a sense of responsibility in the young person and an acknowledgement of the harm done to the victim and the community. <p>YCJA aims to reduce Canada's youth custody rates, which were the highest in the world under the YOA.</p>
To be informed of the charges against him or her, through parents or guardians if appropriate.	Know and understand the charges against you.	Know and understand the charges against you. Parents should be informed of measures or proceedings and encouraged to support their children as they address their offending behaviour
To have legal or other appropriate assistance	the right to have a lawyer	the right to have a lawyer
To have the matter determined without delay in a fair hearing according to law.	the right to a fair trial, through due process of law	the right to a fair trial, through due process of law
	the right to equal protection and benefit under the law,	The criminal justice system for youth is different than the one

WHAT IF I GET INTO TROUBLE?

	without discrimination	for adults. The objectives of the youth criminal justice system are to prevent crime, ensure meaningful consequences for offending behaviour, and rehabilitate and reintegrate the young person. In these ways, the youth justice system can contribute to the protection of society.
Not to be forced to testify or confess guilt		Any statement must be voluntary and must be made in the presence of counsel or other appropriate adult named by the youth 146(2)(b). A statement made under duress is not admissible.
To examine or have examined witnesses		
To have any court decision or measures imposed reviewed by a higher authority.		
To have the free assistance of an interpreter.		Respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal YPs and of YPs with special requirements
To have his or her privacy respected at all stages of the proceedings	Privacy is not guaranteed under the Charter, however Canada has a Privacy Act. Section 8, Everyone has the right to be secure against unreasonable search or seizure, has been interpreted as a right to privacy by the courts.	Protects a child from stigma but does not guarantee privacy.
To have his or her best interests considered at all times.		Not guaranteed by the YCJA. However the preamble state that young persons have rights and freedoms, including those set out in the United Nations Convention

WHAT IF I GET INTO TROUBLE?

		on the Rights of the Child. ¹⁶
No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. (Art. 37)	Everyone has the right not to be subjected to any cruel and unusual treatment or punishment Section 12	Sentences must be the least Restrictive alternative, most rehabilitative ralternative, and must acknowledge harm done to the victim.
Every child deprived of liberty shall be treated with humanity and respect for human dignity.(Art. 37)	Everyone has the right to life, liberty, and security of the person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice. Section 7	
Children deprived of their liberty should be separated from adults in custody, and shall have contact with family. (Art. 37)		Youth criminal justice system shall be separate from the adult system. Youth have the right to contact a parent or other responsible adult.
To have prompt access to legal and other appropriate assistance and the right to challenge the legality of deprivation of liberty and a prompt decision.		Promptness and speed by persons responsible for enforcing the Act. Youth have the right to contact a parent or other responsible adult and a lawyer.
The right to express his/her views freely in all matters affecting him/her (Art. 12)	Freedom of expression. Section 2(b)	Right to be heard and to participate in the process of making decisions which affect them. ¹⁷
The right to be heard in any judicial and administrative proceedings affecting him/her. (Art 12)		Right to be heard and to participate in the process of making decisions which affect them.
Freedom of expression (Art. 13)	Freedom of expression. Section 2(b)	
Freedom of information		

¹⁶ WHEREAS Canada is a party to the United Nations Convention on the Rights of the Child and recognizes that young persons have rights and freedoms, including those stated in the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*, and have special guarantees of their rights and freedoms; Fourth preambular paragraph of YCJA 2002.

¹⁷YCJA 3.d(i) young persons have rights and freedoms in their own right, such as a right to be heard in the course of and to participate in the processes, other than the decision to prosecute, that lead to decisions that affect them, and young persons have special guarantees of their rights and freedoms,

WHAT IF I GET INTO TROUBLE?

(Art. 13)		
States shall:		
Establish a minimum age below which children are presumed not be able to commit a crime		Persons under 12 cannot be charged with a criminal offence
Provide measures for dealing with children without resorting to judicial proceedings provided human rights are respected		Community Referrals, Extra-judicial measures, Extra-judicial sanctions.
In all things consider the best interests of the child (Article 3)		Preambular paragraph incorporates the CRC ^{18,19,20,21}

¹⁸ Appendix T, Canada's Response to Questions from the Committee on the Rights of the Child 2003: http://www.pch.gc.ca/progs/pdp-hrp/docs/crc-2003/rep_e.cfm

¹⁹ Concluding observations of the Committee on the Rights of the Child to Canada's Second Report (2003): <http://www.pch.gc.ca/progs/pdp-hrp/docs/COs%20-en.pdf>

Best interests of the child

24. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of all legislation, programmes and policies concerning children and is aware of the progress made in this respect. However, the Committee remains concerned that the principle that primary consideration should be given to the best interests of the child is still not adequately defined and reflected in some legislation, court decisions and policies affecting certain children, especially those facing situations of divorce, custody and deportation, as well as Aboriginal children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

25. The Committee recommends that the principle of "best interests of the child" contained in article 3 be appropriately analysed and objectively implemented with regard to individual and groups of children in various situations (e.g. Aboriginal children) and integrated in all reviews of legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood, and that this principle is effectively implemented.

²⁰ Bala, Nicholas. "Canada's Juvenile Justice Law & Children's Rights" presented at Conference on *Making Children's Rights Work: national and International Perspectives*. International Bureau for Children's Rights, Montreal, Nov. 19, 2004. p. 9 www.ibcr.org/PAGE_EN/2004%20Conference%20documents/Bala%20_ENG.pdf –

Provide a variety of options as alternatives to institutional care.		Extra-judicial measures.
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In some important respects the *Y.C.J.A.* is consistent with Canada's obligations under the *Convention on the Rights of the Child*, most notably in its protections of legal rights. The *Y.C.J.A.* also establishes a minimum age of criminal responsibility – 12 years of age – that is relatively high by international standards, and encourages diversion from the courts and imposition of community-based sentences. Further, the *Y.C.J.A.* places greater emphasis on rehabilitation than does for Canada's laws for adults. However, a major focus of Canada's youth justice law is on accountability and protection of the public, which is not fully consistent the principle of the "best interests of the child," a principle that is prominent in the *Convention*, and receives no explicit recognition in Canada's *Youth Criminal Justice Act*. Further, young offenders in Canada do not have the right of access to rehabilitative services, and judges can not order that they receive such services. It is for the provinces to decide what services youths will receive. Canada's decision to reserve on Article 37(c) and allow placement of young offenders with adults even if it is not in their interests to do so is clearly inconsistent with the spirit of the *Convention*, though international law allows for this. Interestingly, the Quebec Court of Appeal decision in *Reference Re Bill C-7*, which relies heavily on the *Convention*, will mitigate some of the most punitive aspects of the *Y.C.J.A.* in regard to adult sentencing.

²¹ INTERNATIONAL OBLIGATIONS AND STANDARDS

9. The Preamble of the YCJA specifically acknowledges and incorporates Canada's ratification of the United Nations Convention on the Rights of the Child (the "UNCRC"). This Court has held that Canadian law must be interpreted as being compliant with Canada's international treaty obligations, such as its obligations under the UNCRC. Because of the Preamble, this obligation is heightened with respect to the YCJA. Furthermore, the Supreme Court of Canada has increasingly recognized the *Convention on the Rights of the Child* in other contexts where children's rights are affected.

Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General), [2004] 1 S.C.R. 76 at para. 32 [TAB 1]
Baker v. Canada (Minister of Citizenship and Immigration), [1999] 2 S.C.R. 817 at para. 69 [TAB 2]
R. v. Sharpe, [2001] 1 S.C.R. 45 at para. 19 [TAB 3]
Winnipeg Child and Family Services v. K.L.W., [2000] 2 S.C.R. 519 at para. 7 [TAB 4]

Applying Rights in Action

In this section of the training, participants will have the opportunity to practice applying their knowledge of the rights of children and youth to specific case studies. They will also have the opportunity to role play situations in which they will apply their learning in action.

Objectives

By the end of this section, participants should be able to:

- apply the principles of the CRC, the Charter of Rights and Freedoms and the YCJA in the analysis of case studies;
- apply the principles in role play situations;
- be able to explain how they can use these instruments in real life situations.
-

Activity 1: Looking at Case Studies

Time: 40 Minutes

Materials: Copies of case studies to hand out, if needed.

Case Studies

ROBERTO

My name is Roberto and I am scared. I am 13 years old and live in Vancouver. My family is poor and we can't always afford to buy food for my lunch when I am in school. I was very hungry so I took some fruit from a market and did not pay. The police caught me and now I am in jail. I've been here for many hours and no one has told me what is going on. I'm in a cell with older men, and none of the police will answer my questions. I don't even know if my parents know where I am.

Discussion Questions:

- Were any of Roberto's rights violated before he took the fruit?

- Should Roberto have taken the fruit from the market without paying? Why?
- Which of Roberto's rights are being violated while he is in jail?
- Who is responsible for making sure Roberto's rights are respected while in jail?
- What could Roberto have done for food instead of stealing?
- What could the police have done instead of taking Roberto to jail?
- What could the community, or the school do to help Roberto?²²

MARK

Mark, 17, was at a family gathering and having a good time. He had been drinking for several hours but was convinced that he hadn't had too much and that he was fine. Driving home, he accidentally hit a twelve-year old girl and injured her. He was arrested and, not only was he under legal age to drink alcohol, the breathalyzer indicated his alcohol level was definitely over the limit. He was in serious trouble.

Discussion Questions:

- What does Mark need to do now?
- What are his rights?
- What are the rights of the victim?
- Would Mark be a candidate for alternative measures? Why or why not?
- Could Mark be tried as an adult?²³
- If you know someone has been drinking and plans to drive home, what can you do?
- How can you use the Convention on the Rights of the Child to convince your friends that drinking and driving is a violation of rights?
- What choices does Mark have, now that he has been arrested and charged?

Adapted from: UCCB Child Rights, Grade 8, p. 54

JULIE

²² Adapted from: Macintyre, Peter. Child Rights, Grade 6. University College of Cape Breton, p. 112.

²³ No. But he could be sentenced as an adult if he is found guilty of a presumptive offense. That is, an offence for which an adult could be sentenced to a term of two years or more in custody.

Julie has decided to throw a party to celebrate the end of the school year, while her parents are on vacation. During the party some drugs are found. The drugs are not Julie's, but it is her parents' house. Julie is very surprised when the police arrive and charge her. Without explaining the charges against her, the police are physically rough with Julie and search her parents' house without a warrant.

Discussion questions:

- What rights are being violated in this situation?
- Are the only rights being violated those of the young person in this situation? If not, who else's rights are being violated?
- In a situation such as this one, when the law is obviously being broken, do the police have the responsibility to respect a person's rights and tell the person why they are searching the house? Why the person is being charged?
- Are the police justified in using physical force in all situations? If not, when is it appropriate?
- Reinvent this scenario so that the rights of everyone in this situation are being respected and a more positive outcome is reached.

Ibid. p. 74

JOE

Joe no longer lives at home. His parents threw him out of their house when he was 15 years old. Joe has always had a hard time keeping up in school and has dropped out. Unable to find work, Joe resorted to shoplifting CD's and selling them in order to get enough money for food. It has been two years now, and Joe has become very good at stealing CD's. However, on this particular day, Joe made a mistake in his routine and was arrested and charged with shoplifting. It is Joe's first offence. To make matters worse, Joe was put into a holding cell with five adult offenders, who roughed him up physically. Although the officer on duty was aware that this was taking place, he did nothing to stop this from happening.

Discussion Questions:

- What rights of Joe's are being violated? Why?
- Is there anything special about Joe that we should consider?
- Did Joe violate anyone's rights when he was stealing?
- Joe's parents have thrown him out of the house and he is no longer in school. Who can he contact?

- Should the police have any responsibility for Joe being beaten up while in custody?

Adapted from: Ibid. p. 75

Participatory Training Technique: Case Study



The case study is an ideal technique when a holistic, in-depth investigation is needed for an issue. It is designed to develop problem-solving and decision-making skills and to encourage multiple perspective-taking in an objective manner.

The main features of a case study are:

- **Authentic.** This is not to say that cases must be literal accounts of actual incidents, though they might be; it means that the characters, situations and dilemmas described must seem true.
- **Concrete.** Concreteness helps create authenticity. It's the capacity of cases to represent the particulars of the situation/incident that makes them powerful in raising a variety of issues.
- **Narrative.** Cases engage our attention for some of the same reasons a piece of fiction does: we read to watch the action unfold, to find out what happens next, often identifying with the actors, feeling personally involved in their choices and playing out the consequences.
- **Open-Ended.** Complex and information-rich cases depict incidents that are deliberately open to interpretation - raising questions rather than answering them, encouraging problem solving, calling forth collective intelligence and varied perspectives, and promoting more reflective practice.

The case study focuses on the development of skills:

- In analysis and decision making rather than on the acquisition of knowledge
- In thinking of and appraising alternative courses of action, reaching a reasonable decision among them, and in planning to make the decisions effective
- In oral communication and persuasion
- In dealing with multi-dimensional issues, formulating appropriate action plans, and managing time

This technique does have some disadvantages. It does not actually provide real experience. Facts are presented; readers get little practice in seeking and recognizing facts and relationships; the situation may be oversimplified. As well, the case study doesn't convey many subtle but important overtones of human personality and conduct. In addition, it is incomplete, as it does not include the process of carrying out the decisions and checking on the results. The case study is not useful if the primary objective is to transmit facts and can be a waste of time and effort if not used properly.

Source: Etington, J.E. (1996). The Winning Trainer, 3rd Ed. Houston: Texas, Gulf Publishing Company.

Activity 2: Role Plays

Time: 40 minutes

Materials: Written roles to hand out to participants who volunteer to take parts. , masking tape or stickies to use for name tags for role players.

Handout: Rights Pocket Cards

Note to facilitators: These role plays are based on case studies.²⁴

Method: Explain to the participants that there will now be a chance to role play a case study so that they can practice what they might do in real life. As with the case studies, remind them to use a rights-based approach to the solution, referring to the Convention, the Charter and the YCJA.

Ask for two volunteers to play the roles. Give each volunteer a name tag: “Jerry” and “Cst Bill Smith”.

Give the two volunteers a chance to look at their roles. Then ask a volunteer to read the scenario aloud to the group.

Begin the play.

Role Play 1 : Jerry’s Hockey Bag

Scene: STORY: Jerry is 16 years old and plays defence on his local hockey team, the Hawks. It is a Saturday morning in early January and the team is supposed to travel to Prince George to play in a tournament.

The bus is scheduled to leave the high school at 5 AM. Jerry is walking to the arena, with his hockey bag, to catch the bus. He was a bit late leaving the house. He lives 5 blocks from the Arena. He is afraid he’ll be late and miss the bus, so he begins to jog.

²⁴ Case studies adapted from the BC Law Courts Education Society: <http://www.lawcourtsed.ca>

ROLES:

JERRY

It is dark and cold. You are worried about being late, and afraid you will miss your bus. You decide to jog to the arena to catch the bus. As you are running to catch the bus, you see a car approaching you. The car passes you, turns around, and pulls up beside you. You notice that it is a police car.

The car stops, and Constable Bill Smith gets out. . You recognize him because he questioned you last spring at a baseball game when you and some of your friends were caught drinking beer. You were given a warning but no charges were laid

CONSTABLE BILL SMITH, RCMP

You are doing a routine early morning patrol of the community. It's 4:50 AM on a cold January morning. As you are driving down the street, you see a youth running down the street with a hockey bag. You recognize him as someone who had been caught drinking at a baseball game last spring. You had questioned him and his friends at that time, but let them off with a warning.

You decide to turn the car around and investigate. You pull up alongside the youth, stop the car and get out. You are concerned that he is out at this hour, and you think you should find out why he is running and what he has in the bag....

Debrief the role play:

Ask “Jerry” how he feels about what happened to him. Was he able to catch his bus? Did he feel respected? Did his understanding of his rights help him to reach a good solution with the constable? If not, what happened? Looking back, is there anything he would do differently?

Ask the volunteer if s/he is ready to leave the role of Jerry. Take off the name tag. Calling the volunteer by name, as, if s/he has anything to say to Jerry. Thank the volunteer and ask her/him to return to her seat.

Next, ask “Cst. Smith” how he feels about the interaction between himself and Jerry. Was he able to do his job? Did he feel respected? Was he satisfied that no crime was being committed? Did he have any further concerns? Was he able to take a rights-based approach? Looking back, is there anything he would have done differently?

Ask the volunteer if s/he is ready to leave the role of Cst Smith. Calling the volunteer by name, ask if s/he has anything to say to Cst. Smith. Thank the volunteer and ask him/her to return to his seat.

Ask the group:

- What rights does Jerry have, and where do those rights come from?
 - A: Rights about searches are covered within the Charter of Rights and Freedoms, which applies to everyone in Canada.

Section 8: Everyone has the right to be secure against unreasonable search and seizure.

This section guarantees a general right to be secure from unreasonable search.

In this situation there must be a balance between protecting Jerry’s privacy with that of the government’s responsibility for public safety through law enforcement.
- When can the police search a person or their possessions, such as a vehicle?
 - A: The police may search a person or vehicle:
 - When the police have objective reasons for stopping the person and if the search was reasonably necessary in the circumstances;
 - If the person consents to such a search
 - When they have seen a criminal offence being committed.

- If Jerry refused to let the officer search his bag, what would happen?
 - A: If Cst Smith found something illegal in Jerry's hockey bag, and that led to Jerry being charged with a crime, Cst. Smith would then have to prove to a judge that he'd had objective reasons to stop Jerry and that the search was reasonably necessary under the circumstances.
- Can the police search a person if the person is arrested.
 - A: The police may search a person if the person is arrested.
- Can the police stop you when you're driving and ask to see your driver's license?
 - A: Yes. A request to see your driver's license and insurance papers is not a search. It does not violate your right to privacy. However, it does not automatically allow for unreasonable search of the vehicle. An officer would have to have objective reasons and be able to show that such a search was reasonably necessary under the circumstances.
- Can you think of some circumstances that might lead the police to search a vehicle they had stopped?

Role Play 2: A Shopping Trip

Story: Marie and Patricia, both aged 13, are hanging around on a Saturday at the local mall. Marie has very little money, but she and Patricia liked to window-shop. Sometimes, they also try on clothes in the stores

Characters:

Patricia

Marie

Store clerk

Police

MARIE:

You are 13 years old. You are hanging around at the mall with your friend Patricia, who is also 13. You don't have any money, but you like to window shop, and sometimes try on clothes.

You have found a sweater that you really like and you decide to try it on. You like it so much, that you leave it on, put your coat on over it, and begin to leave the store with Patricia.

At this point in the story, the clerk has caught you leaving with the sweater, and has called the police. This is the first time you have done anything like this.

What are your rights? What will you do?

PATRICIA:

You are 13 years old. You are hanging around at the mall with your friend Marie, who is also 13. You both like to window shop, and sometimes try on clothes.

You haven't found anything to try on in this shop, but Marie has gone to the dressing room with something to try. She has come out of the dressing room with her coat on and suggests that you both move on to another shop.

On the way out the door, you are both stopped by the clerk, who says that Marie has stolen a sweater. She tells you to come with her, and she phones the police.

At this point in the story, the police have arrived. What are your rights? What are Marie's rights? What will you do?

STORE CLERK

You work as a clerk in a fashion boutique. Two teenaged girls have come into your shop to look at clothes. One of them has taken some garments into a dressing room. You have been distracted by other customers.

As the girls are leaving, you notice a \$90 sweater hanging down below the jacket hem of one of the girls. You run after them.

You have stopped the girls at the door and rung the police. At this point in the story, a police constable has arrived. What are your rights as a victim? What do you want to happen to the girls? What will you do?

CONSTABLE JUDY ROGERS

You have just received a call to attend a shoplifting incident at a local fashion boutique. When you arrive you find two 13 year old girls, Marie and Patricia. Marie has been accused by the store clerk of attempting to steal a sweater. She was caught wearing the sweater under her coat as she left the store.

How will you handle this case? What are the rights of the teens? What are the rights of the victim?

Debrief as for Role Play 1, beginning with Marie. Follow with Patricia, the store clerk and Cst. Rogers.

Ask the participants:

- What rights does Marie have, and where do they come from?
- What rights does Patricia have?
- What rights does the clerk have?
- What responsibilities do Marie and Patricia have?
- What choices does Cst. Rogers have?
- How do you think this case should be dealt with?

Participatory Training Technique: Simulations



A simulation is an enactment of a real-life situation. Simulations allow learners to experience problem solving and decision making in "real" situations without worrying about the consequences of their decisions. Simulations also provide a way to apply knowledge, develop skills, and examine attitudes in the context of an everyday situation.

Imagination is an important factor for the success of a simulation exercise. When participants have received the information for the simulation, the facilitator must let them create their own surroundings using their own imagination. Participants should study their roles carefully; however, they should try to create an identity for the character.

One of the major drawbacks to simulation can be the amount of time needed to prepare them. Since participants are asked to assume a role, clear and extensive descriptions of the roles being played and extensive knowledge of the situation being portrayed are needed (Hood, 1997).

Sources: Encyclopedia of Educational Technology. (2004). Simulation as an Instructional Tool. San Diego State University Department of Educational Technology. Available from: <http://coe.sdsu.edu/eet/>.

Hood, P. (1997). Simulation as a tool in education research and development. EdTalk: US.

Please find on the following page the Pocket Card hand out. for Activity Two

WHAT IF I GET INTO TROUBLE?

As a person between 12-17 years old, I have the right to:

- ✓ life and security of person
- ✓ information
- ✓ participate in decisions that affect me
- ✓ privacy
- ✓ safety (protection from violence, injury, abuse and neglect)
- ✓ health
- ✓ assistance if I have a disability
- ✓ rest and leisure
- ✓ participate in artistic and cultural life
- ✓ be treated with dignity and respect



LILLOOET LEARNING COMMUNITIES SOCIETY
LILLOOET RESTORATIVE JUSTICE PROGRAM

If I am suspected of a crime, I have the right to:

- ✓ be told what I am accused of and why, in words I understand.
- ✓ remain silent (except, I should give my name and address to police if asked).
- ✓ talk to my parents or other responsible adult
- ✓ be considered for restorative justice or alternative measures other than court
- ✓ talk to a lawyer at any time during the justice process
- ✓ be presumed innocent until proven guilty
- ✓ not be kept in jail, (unless I threaten public safety or to ensure I appear in court)
- ✓ have my privacy respected
- ✓ express my views and concerns and to be heard
- ✓ have a parent, lawyer or other adult with me if I make a statement to police.
- ✓ be treated with dignity and respect.

Youth Justice and Human Rights - The Youth Criminal Justice Act from a Rights-Based Perspective

If I am a victim, I have the right to:

- ✓ be treated with dignity and compassion
- ✓ be protected from discrimination
- ✓ know what's happening and to ask questions
- ✓ be heard and to express my views and concerns (worries)
- ✓ receive help
- ✓ privacy
- ✓ feel secure and not be harmed (safety) during the justice process
- ✓ compensation for being hurt, to help me get better
- ✓ be protected from further harm

I always have a duty to:

- ✓ Know and respect the human rights of all other people
- ✓ To treat other people in a way that respects their human dignity

My parents' phone number:

My lawyer's phone number:

Number for other helpful adult:

Police:

Fire:

Ambulance:



Department of Justice Canada
Ministère de la Justice Canada

Optional Activity: Song Writing

(included at the suggestion of Lillooet Secondary Students, grade 9)

Time: 60 – 90 minutes

Purpose: To give participants the chance to internalize their experience while preparing to transfer their learning to others by music.

Materials: Flip chart and markers

Process:

1. Have the group list topics from the training that they'd like to sing about. Have participants choose one from the list.
2. Have participants choose a tune to which words about the topic can be set. This can be a simple tune, like one from a nursery rhyme or folk song, or a tune that is popular at the moment ("We will rock you!")
3. Identify the message the students would like to give. It can be simple and repetitive. Set the words to the music.
4. Provide a chance for rehearsal and arrange for a time for the group to perform their song to others. If you have more than one group, there could be a sing out, where they have the chance to perform for each other, and then at a public venue.

Activity 3: Final Reflection

Time: 10 min.

Purpose: To give participants an opportunity to reflect on what they've learned and to think how they will apply it in action in the future.

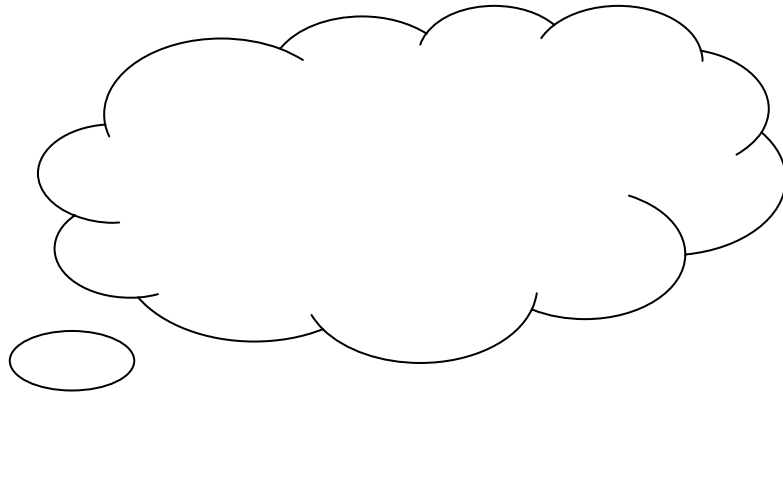
Materials: Pocket cards, reflection sheets

Process: Refer participants to the pocket cards they received during activity 2. Hand out photocopies of reflection sheet on the following page. Invite participants to take a few minutes to review the day's activities, and to write down on their sheet what they feel they've learned. After everyone has had a chance to write on their sheet, invite any comments that participants would like to share.

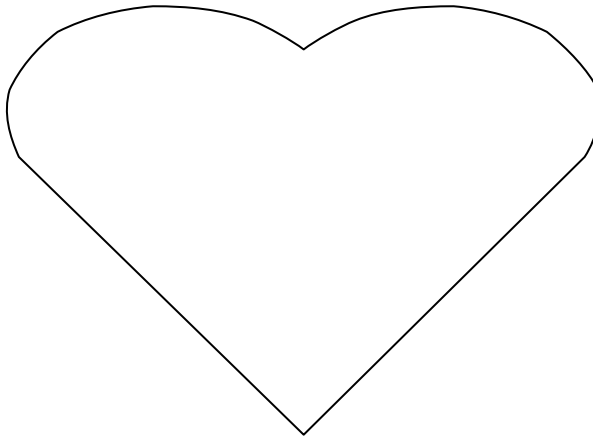
WHAT IF I GET INTO TROUBLE?

What Have I Learned?²⁵

Head: New ideas, concepts, facts, information, analysis. How do I think differently?



Heart Feelings, discoveries about self, changes in values or beliefs. How do I feel differently?



Feet: New skills, things I will do differently, ways in which my learning makes a difference to my life. What action steps will I take?



²⁵ HREnergizers: The Canadian Human Rights Foundation 2003 p. 79




Activity 4: Evaluation

Time: 10 min.

Objective: to give participants an opportunity to evaluate the training as a group; to give the facilitator feedback on process and content.

Process: This evaluation is done on a flip chart, in the format of a brainstorm.

The facilitator prepares ahead of time a flip chart with three columns. The 3 columns are to record what participants liked, what they didn't like, and what ideas or suggestions they have for improvement:

At the end of the training, the facilitator will synthesize participants comments into an evaluative report, which is aggregated with other evaluations from other classes.

Activity 5: Closing

Time: 5 minutes

The facilitator should choose an appropriate closing activity to bring the group together before the leave the training. This could be:

Affirmation pyramid,

Song related to human rights,

Closing circle,

Gift giving

Etc.

WHAT IF I GET INTO TROUBLE?

Materials for Section Four

How can respecting human rights help the police?

Protection of Juveniles: Human Rights Standards

The Human Rights of Victims

**Child – Friendly Version of the UN Guidelines on Justice in Matters
involving Child Victims and Witnesses of Crime**

Learning Disabilities and Criminal Law

How can respecting human rights help the police?

Respect for human rights by law enforcement agencies actually enhances their effectiveness. Where human rights are systematically respected, police officers have developed professionalism in their approaches to solving and preventing crime and maintaining public order. In this sense, respect for human rights by police is, in addition to being a moral, legal and ethical imperative, a practical requirement for law enforcement. When police are seen to respect, uphold and defend human rights:

- Public confidence is built and community cooperation fostered;
- Legal prosecutions are successful in court;
- Police are seen as part of the community, performing a valuable social function;
- The fair administration of justice and hence confidence in the system is served;
- An example is set for respect for the law by others²⁶ in society;
- Police are able to be closer to the community and therefore in a position to prevent and solve crimes through proactive policing;
- Support is elicited from the media, from the international community and from higher authorities; and
- A contribution is made to the peaceful resolution of conflicts and complaints.

An effective police service is one that serves as the first line of defence in the protection of human rights.

Its members carry out their work in a way that does not rely on fear and raw power, but instead on regard for the law, honour and professionalism.

²⁶ Office of the High Commissioner for Human Rights. Professional Training Series No. 5/Add. 2: Human Rights and Law Enforcement: a Trainer's Guide on Human Rights for the Police p. 16

Protection of Juveniles

Human Rights Standards²⁷

Children are to benefit from all the human rights guarantees available to adults. In addition, the following rules shall be applied to children:

Children shall be treated in a manner which promotes their sense of dignity and worth; which facilitates their reintegration into society; which reflects the best interests of the child; and which takes into account the needs of a person of that age

Children shall not be subjected to torture; to cruel, inhuman or degrading treatment or punishment; to corporal punishment; or to life imprisonment without chance of release

Detention or imprisonment of children shall be an extreme measure of last resort, and detention shall be for the shortest possible time

Children shall be separated from adult detainees (note: Canada has filed a reservation²⁸ to this principle as part of its ratification of the CRC).

Detained children shall receive visits and correspondence from family members

A minimum age for criminal responsibility shall be established

Non-judicial proceedings and alternatives to institutional care shall be provided for

The child's privacy shall be respected, and complete and secure records are to be maintained and kept confidential

The use of physical restraints and force on children shall be exceptional, employed only when all other control measures have been exhausted and failed, and shall be employed for the shortest possible time

Weapons shall not be carried in juvenile institutions

Discipline shall respect the child's dignity, and shall instill a sense of justice, self-respect and respect for human rights in the child

Officials dealing with juveniles shall be specially trained and personally suited for that purpose.

²⁷ Office of the High Commissioner for Human Rights. Professional Training Series No. 5/Add 3: Human Rights Standards and Practice for the Police: An Expanded Pocket Book on Human Rights for the Police, p. 38 ff.

²⁸ A reservation is a statement made by a country at the time of ratification or accession to a treaty that says that it will not honour that particular article of the treaty, or will honour it in a different way than that articulated in the treaty. Canada has said that while it will attempt to honour this provision, it cannot guarantee that youth will be separated from adults if incarcerated.

Periodic as well as unannounced visits of inspectors to juvenile facilities shall be provided for.

Parents are to be notified of any arrest, detention, transfer, sickness, injury or death

Human Rights Practice

All police officials

- Enrol in specialized training on the effective and humane treatment and care of juvenile offenders
- Participate in educational programmes for children, to help in preventing juvenile crime and juvenile victimization
- Get to know the children in your duty area, and their parents
- Be alert to places and adults presenting criminal risks, and to the presence of children in such places or in contact with such adults
- If children are seen away from school during school hours, investigate and notify parents and school authorities
- Promptly investigate any evidence of neglect or abuse of children in their homes, communities or police facilities
- Meet regularly with social workers and medical professionals to discuss children's issues relating to your work
- For non-serious crimes, return juvenile offenders to parents or social agencies
- Keep all records pertaining to children in separate and secure storage
- Report to superiors any information indicating that a colleague is not appropriately suited to deal with juveniles

Command and supervisory officials

- Encourage the use of a variety of arrangements as alternatives to institutional treatment of children, including care, guidance and supervision orders; counselling; probation; foster care; educational and vocational training programmes; and other appropriate and proportional measures
- Keep complete and secure records on all detained juveniles, including identity; reasons for commitment; day and hour of admission, transfer and release; details of notifications to parents; physical or mental health problems; and staff charged with care and treatment
- Establish procedures for direct complaints and communications to be made by juvenile detainees to the director of the institution, or to judicial authorities, and to social agencies

WHAT IF I GET INTO TROUBLE?

- Assist in the development and implementation of community programmes for the prevention of juvenile crime
- Recruit, hire and specially train personnel expert in and appropriately suited to dealing with juvenile offenders
- Provide for periodic review and revision of policies for the treatment of juvenile offenders, in consultation with social agencies, medical personnel, the judiciary and community representatives
- Establish expedited procedures for bringing detained juveniles before a court, where judicial action is appropriate
- Establish close liaison and cooperation with juvenile justice, child protection, medical and social agencies
- Develop strategies for regular attention to children in especially vulnerable circumstances, such as extreme poverty, homelessness, abusive households, or high crime areas
- If possible, establish a special juvenile unit for expert attention to juvenile crime and juvenile victimization incidents
- Issue clear orders on the confidential handling of juvenile records
- Closely supervise staff assigned to deal with juveniles, and investigate and redress any incidents of abuse, mistreatment or exploitation of children

The Human Rights of Victims²⁹

Human Rights Standards

All victims of crime, abuse of power or human rights violations shall be treated with compassion and respect

Victims shall have access to mechanisms of justice and prompt redress

Redress procedures shall be expeditious, fair, inexpensive and accessible

Victims shall be informed of their rights in seeking redress and protection

Victims shall be informed of their role in formal proceedings, the scope, timing and progress of proceedings, and the disposition of their cases

Victims shall be allowed to present their views and feelings on all matters where their personal interests are affected

Victims shall receive all necessary legal, material, medical, psychological and social assistance, and shall be informed of their availability

Inconvenience to victims shall be minimized in the handling of their cases

The privacy and safety of victims shall be protected

Unnecessary delay in the handling of victims' cases shall be avoided

Offenders should, where appropriate, make restitution

Governments should make restitution where public officials are at fault

Financial compensation should be made available from the offender or, if not available, from the State

Police shall be trained in the needs of victims, and should be provided with guidelines to ensure proper and prompt aid

²⁹ ²⁹ Office of the High Commissioner for Human Rights. Professional Training Series No. 5/Add 3: Human Rights Standards and Practice for the Police: An Expanded Pocket Book on Human Rights for the Police, p.52 ff.

**CHILD-FRIENDLY VERSION
OF THE
UNITED NATIONS GUIDELINES ON JUSTICE
IN MATTERS INVOLVING CHILD VICTIMS AND WITNESSES OF CRIME³⁰**

Getting started

These guidelines were created to help make sure that children who have been harmed by crime and children who have seen others harmed are protected and treated fairly when they tell about what happened to them in a court of law.

Laws are rules that everyone should follow so that people can respect each other and live together safely. A crime is committed when someone breaks the law.

When a person is accused of breaking the law, they are brought to a court of law to explain what happened. Others will also be asked to come and tell their side of the story. The people in the court will listen to everyone and then decide if the law was broken and what to do about it. They also will decide how best to help the people who were harmed.

Children who have been harmed or have seen others harmed by crime may be asked to tell what happened and what they remember. In that way, they can help to prevent other children from harm. When a child tells what happened in a court of law, the record of what they said is called their testimony.

Sometimes children who are asked to go to court are frightened or worried because they think their testimony might cause the person accused of breaking the law to be punished. The person accused may be someone they know or care about. It is important for children to remember that by telling the truth about what happened they can help to protect others and make the world a safer place.

Getting Started

When people have committed crimes, they can be brought to a court of law in order to be judged.

³⁰ For the official version of the UN Guidelines see Economic and Social Council resolution 2005/20 of 22 July 2005. This child-friendly version, which has been produced by UNICEF and UNODC with the support of the Innocenti Research Centre and IBCR, is meant as guidance for children and child professionals and is not an official UN document.

If you have seen such persons committing a crime, then it is important that you tell what happened to the court, so that those who are responsible are punished and those who are innocent are released.

What is it?

This document is called "Guidelines on justice in matters involving child victims and witnesses of crime." Guidelines are official advice and explain what should be done and how people should act in certain situations.

These guidelines were created to help make sure that children who have been harmed by crime and children who have seen others harmed are protected and treated fairly when they tell their stories in a court of law. The document will also help protect children when they talk to the police, lawyers, social workers and any other people they meet before and after they go to court.

People from many different countries around the world worked together to develop these guidelines. They looked at good actions and laws that were already protecting and helping child victims and witnesses of crime. They also thought about the promises countries had made in order to protect children from harm. In 2005, the guidelines were adopted by the [United Nations](#). They are to be used by governments and by all people who work with children who have been harmed by crime or have seen others harmed.

At the end of this document, you will find a list of words and their meanings. It will help you better understand words that may be new to you.

A **crime** is an act that breaks the law. This can also include not doing what the law requires.

A **victim** is someone who has suffered harm or has been hurt by someone who has broken the law.

A **witness** is someone who goes to court to tell about what they know or saw happened.

When a person goes to a court of law to tell the truth about what happened, that person **testifies** before the court.

Everything said in court is written down so that no one forgets and this written record is called **testimony**.

Don't be ashamed if you feel frightened before going to the Court. This is natural. The present document, which is called "Guidelines", is precisely aimed at making sure that your experience before the court goes as smoothly as possible and that you are provided everything you may need during this process.

Guidelines on justice for child victims and witnesses of crime³¹

Countries around the world have agreed that people should be treated fairly and live together in freedom and in peace. This is based on the idea that every person has equal “rights” and that the rights of each person should be recognized and respected by everyone. All children have the same rights and they are recognized in the [United Nations Convention on the Rights of the Child](#). These rights are intended to make sure that children have what they need to grow, develop and learn in safety and in good health, to become full members of their community. All these rights are important and need to be respected at all times.

These guidelines help make sure that the laws and rules in a country fully protect the rights of child victims and witnesses of crime.

As a child, you have rights.
Your rights are written in a treaty which has been adopted by the United Nations.

I. What are your rights?

A. You have the right to be treated with dignity and compassion. This means that people should show respect at all times.

1. Child victims and witnesses should be treated in a caring and sensitive manner throughout the **justice process**.
2. Every child should be treated as an individual with his or her own needs, wishes and feelings.
3. People who [investigate](#) a crime should spend only the amount of time with the child that is necessary to find out what happened.
4. People who interview a child victim or witness should be specially trained so that they ask appropriate questions and in the appropriate way. They should think about what the child needs, and treat the child with fairness and with respect.

The **justice process** involves many steps to repair the harm that was caused by a person who breaks the law. It begins when the police, or other people who make sure laws are obeyed, discover that the law was broken. This is usually followed by an investigation to collect [evidence](#). If there is a [trial](#), that comes next. Finally, decisions are made about what can be done to help repair the harm that was caused.

The goal of the justice process is to be fair at all times.

³¹ http://www.crin.org/docs/unicef_child_fr_justice.doc

WHAT IF I GET INTO TROUBLE?

5. All people who have contact with a child victim or witness should consider the child's needs, thoughts and feelings. They should talk to the child in a place where the child feels comfortable and secure and in a language that the child uses and understands.

People involved in the justice process – policemen, judges, etc. – shall behave nicely. When you meet these people, you can tell them if you don't feel good – for whatever reasons – or if there is something you need in particular. They should do everything they can to assist you and if they can't, they will tell you why. When they interview you and you don't understand what they say, ask them to explain. When you feel tired, just say it.

B. You have a right to be protected from discrimination. This means you have a right to be treated with fairness. Every child in the world looks different and has different ideas and traditions. These differences are similar to a rainbow where each color brings a special beauty into the world and makes the world more interesting. It is important that differences among people are always respected.

1. Child victims and witnesses should be treated fairly and equally no matter who they are, where they live, what their parents do, what language they speak, what their religion is, what they think or say, whether they are boys or girls, rich or poor. This includes migrants and refugees and children who are sick, can't hear or speak, or use a wheelchair or crutches.
2. Some children, because of the way they have been harmed, need special help and protection. This might be the case for children who have been **sexually assaulted**. Also, girls and boys may have different needs. Special services should be offered to help these children according to their special needs.
3. Children of all ages have a right to participate fully in the justice process, unless it is not in their **best interest**. When a child is a witness, the child's testimony should be respected as true unless it is proven otherwise, and as long as the child understands the questions and has responded without assistance. The child should not suffer harm or be at risk for participating in this process.

All children have the same rights, no matter their race, colour, sex, language, religion, origin, property, disability, birth, status or those of their parents.

C. You have a right to be informed. This means you have a right to know what is happening and to ask questions if you do not understand.

1. Child victims and witnesses, their families and the people who defend them, from their first contact with the justice system and throughout the justice process, have the right to be given the following information as soon as possible:

WHAT IF I GET INTO TROUBLE?

- They have a right to be told what kinds of health, psychological and other services are available to help them, and how to use these services. They also have a right to know how to receive other types of advice or help. Depending on the situation, they may have a right to financial help for the harm caused or to receive emergency money to help them meet their immediate needs.
- They have a right to be told what will happen at all stages of the justice process. Children should be told what is expected of them when they **testify**, why their **testimony** is important, when it will happen, and how. They should be told how it will help to establish the truth. They should also be told about the different ways they might be questioned during the investigation and trial.
- They have a right to be told when and where **hearings** and other important events will take place.
- They have a right to be told what rights child victims and witnesses have as explained by the Convention on the Rights of the Child and the **Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**, and how these rights will be protected.
- They have a right to be told what is happening to the person suspected of breaking the law, also called **the accused**. This includes being told if the accused has been captured or arrested, where the accused is being held and for how long, and what will happen to the accused after the trial.
- They have a right to be told whether it is possible to receive compensation to help recover from the harm that was done, either from the person who has broken the law or from the government, and when this is possible, how to receive it.

Do not hesitate to ask everything you want to know about the justice process and the way people can assist you during the justice process.

Also, you must remember that you shall always tell the truth to the people involved in the justice process. If, for whatever reasons, you feel frightened about telling the truth, remember that policemen, judges and other people involved in the justice process are here to assist you and, if necessary, protect you.

D. The right to be heard and to express views and concerns. This means you have a right to give your opinion, to be listened to and taken seriously. Every child has the right to say what they think should happen when adults are making decisions about their lives. This includes decisions made in a legal process. As children grow, they will have more responsibility to make choices that affect their lives.

WHAT IF I GET INTO TROUBLE?

1. Professionals and other people in the justice system should make every effort to allow child victims and witnesses to express themselves freely and in their own way about what they think and feel by:
 - Making sure that child victims and witnesses are able to talk about their worries and fears of being involved in the justice process. Children should be allowed to decide how they give their testimony and be encouraged to talk about their feelings after the trial is over;
 - Making sure that adults take seriously the concerns and opinions of children. When it is not possible to do something the child has asked it is important to explain, so that the child understands why.

People involved in the justice process - policemen, judges, etc.- are interested in what you want to tell them.

Do not hesitate or feel stupid because you don't find your words or you don't know how to explain what you have to say. Just help them to understand that you have something to say, and they will help you.

If you want to speak to a person in particular and you don't want other people to hear what you say, you can ask this person to speak to him or her in private.

E. The right to effective assistance. This means you have a right to receive help.

1. Child victims and witnesses and, when needed, family members should be able to get help from trained professionals, such as doctors, nurses, lawyers, judges, police, social workers and all other people who work with child victims and witnesses of crime.
2. Help may be received in the form of legal help, health care, social or educational services, and money. It can include medical and psychological services that can help children if they have been hurt or suffered harm. It includes any services that may be needed to help children recover and feel secure.
3. Professionals should make every effort to work together when they help child victims and witnesses so that children don't have to spend more time in the justice process than is necessary.
4. Child victims and witnesses should receive help from specialists trained to assist them. The job of these specialists is to explain to children what will happen at each step of the justice process and what will be expected from them. These specialists also explain to children and their families where to go for different kinds of support.
5. Professionals should develop ways to help children testify or give evidence more easily. This may include:

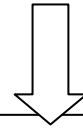
WHAT IF I GET INTO TROUBLE?

- Making sure that child victim and witness specialists are available to help children who may have special needs;
- Making sure that specialists or close family members are with the child during his or her testimony whenever needed, as long as it's in the child's best interests;
- Making sure that an adult is appointed by the court to be the child's "legal guardian." This may be necessary if a child's parent or person who is responsible for that child is not available to make decisions that are in the best interests of the child.

If you are frightened by the people who are interviewing you or if you feel uneasy, then ask to speak with a person involved in the justice process you may trust and who is kind to you. Do not hesitate to ask for everything you may need during the justice process. If your needs cannot be fulfilled, people should explain why and should always do their best to find a solution and improve your situation.

F. The right to privacy. This means you have a right to keep your personal information to yourself. It means other things too.

1. It is very important that all child victims and witnesses have their privacy protected.
2. When a child is involved in the justice process, nobody except those people whom the child trusts has the right to know the child is involved. Adults should keep the child's name private and not give any information that would identify the child.
3. To protect the child, the public and the **media** should be kept out of the courtroom during a child's testimony.



The right to privacy means that you have a right to:

- keep your personal information to yourself;
- keep your identity private in certain situations;
- live your life without being watched by other people;
- talk to people you want to talk to without others listening;
- be left alone.

Your participation to the justice process is secret: nobody but the persons involved in the justice process should know about it.

When you speak in the courtroom the judge should prevent the public and journalists from attending.

G. The right to be protected from hardship during the justice process. This means you have a right to be protected from being treated badly from the moment a crime has been discovered, throughout the investigation of that crime and the trial.

1. Professionals should always be understanding and kind. They should also:

WHAT IF I GET INTO TROUBLE?

- Stay with child victims and witnesses through all stages of the justice process, providing help and support to the child;
- Make sure that when the child is expected to attend hearings and trials these are planned ahead of time so the child has time to prepare. Child victims and witnesses should meet with the same professionals to receive help throughout the process;
- Make sure that the trials are completed in as short a time as possible, unless a delay is in the child's best interest. Investigations involving children should be conducted as quickly as possible and there should be laws or court rules to make sure that cases involving children are heard first. A child should be asked to come to court only when necessary;
- Make sure that children are questioned in special rooms where they can feel comfortable and safe. Courtrooms should also be set up to make children feel at ease. Children should be able to take breaks during their testimony, and hearings should be scheduled during the time of day that is best for the age and maturity of the child. Everything possible should be done to make it easier for the child to testify.
- Limit the number of times a child is questioned, gives statements, and attends hearings. One way to do this is by recording what the child says with a video camera.
- Make sure the child has contact with the accused, also known as the alleged perpetrator, only when absolutely necessary. When children are questioned in court, it should always be out of sight of the accused. A child should never be questioned by the accused. Separate waiting rooms and private interview areas should be available for children who testify.
- Make sure, with help from the [judge](#), that children are questioned in court in a way that they understand and that does not frighten them.

People should do their best to make the justice process as short as possible and to limit the disturbances you may experience from it.

If you don't want to see the person who has committed a crime, then say it and people will make sure that you have no more contacts than necessary with him or her and that you are well protected every time you meet, so that he or she cannot harm or frighten you.

H. The right to safety. This means you have a right to feel secure and not be harmed.

1. When there is a chance that a child victim or witness may be harmed, it is very important that authorities are told about the possible dangers. Authorities are people who have the power to make sure that rules are followed. They may be police officers

or other adults who are able to provide protection. It is important to protect the child from any possible danger before, during and after the justice process.

2. Professionals who come into contact with children should be required to tell authorities if they suspect that a child victim or witness has been harmed or may be harmed. This is part of their job.
3. Professionals should be trained to stop people from attempting to intimidate, threaten or harm child victims and witnesses. A person is intimidated when the person is fearful that someone may force them to do or say something against their will. They may be threatened by someone who tells them something bad will happen if they refuse to do what the persons says. If there is any possibility that a child victim or witness may be intimidated, threatened or harmed, steps must be taken to make sure that child is kept safe.

Here are some steps that can be taken to keep child victims and witnesses safe:

- Make sure that the child does not have to meet, at any time, the person accused of breaking the law;
- Make sure that anyone who may harm the child is forced to stay away from the child by court papers called "restraining orders." The name of the person who is required to stay away should also be put on an official list so that police officers and all other people in the justice process know that the court has ordered that person to stay away from the child.
- If the person accused is threatening the child then they should be kept in jail until the trial begins or kept away from the child through special "no contact" bail conditions. Bail is an amount of money that the accused must pay to stay out of jail before and during the trial. When the accused appears for the trial, this money is returned. But if the accused does not appear for the trial, then the court keeps the money. A "no contact" bail means that the person accused is allowed to stay out of jail only by paying the bail money AND on the condition that the accused has no contact with the child victim or witness.
- Another step that can be taken to protect the child is to place the accused person under house arrest. House arrest means that the accused is not allowed to leave his or her house until the trial.
- Police and other protection officials or agencies can be asked to protect the child victim or witness whenever necessary. Another important way to protect child victims and witnesses is to keep them in a safe place and to keep that place a secret.

People involved in the justice process - policemen, judges, etc.- shall do their best to protect you, if necessary.

Judges may forbid people who may harm you to approach you. If you see such a person whom you know is forbidden to meet you, then report immediately to a person involved in the justice process and he or she will protect you and make sure that this person will stay away in the future.

If you feel like you may be in danger, then tell it to a person involved in the justice process you trust. He or she will do his or her best to protect you, or will reassure you if there is no threat.

I. The right to **reparation.** This means you have a right to receive compensation in return for being hurt, to help you recover.

1. Child victims should, whenever possible, receive reparation to help them recover from the harm they have suffered. Reparation is an official recognition of the harm that child victims have suffered. Reparation helps child victims recover their health and well-being. It can also help children to start a new life. Steps should be taken to make sure that child victims are able to apply for and receive reparation.
2. Whenever possible, the decision to provide reparation should happen at the time of the trial, as long as the child is protected and his or her needs and views are considered. Other types of informal and community justice procedures, such as restorative justice, should be encouraged. Restorative justice focuses on repairing the harm caused by a criminal act and not on punishment.
3. Reparation can come from different places and in different ways. The person who has been found guilty of breaking the law can be required to provide reparation to the victim. Reparation can also come from the government through programmes that help victims of crime. Whenever possible, reparation should pay for the cost of social and educational reintegration, medical treatment, mental health care and legal services. Rules should be in place to make sure that victims receive reparation.

What is reparation?

Reparation is given to repair a wrong. It helps people recover and heal. Reparation can be given as money or as medical care or other health and social support. When people show respect for the victim and recognize the harm that was suffered, this is also a form of reparation.

If you suffered from the commission of a crime, because you or your loved ones were harmed, then judges may decide, if possible, to grant you a reparation to help you to recover. The reparation can be for example an amount of money, medical care, or social support.

J. The right to special preventive measures. This means you have a right to be protected from further harm.

1. Rules exist to protect the rights of all children and to prevent them from being hurt and from suffering any harm. But adults should take extra steps to make sure child victims and witnesses are protected.
2. When there is a risk that a child victim may be harmed, special actions need to be taken to protect the child. Specific actions will be needed to protect children who have been hurt in their homes, children who have been used for sex, children who have suffered harm while living in institutions and children who have been moved from one country to another for purposes of work, sex or for other abuse.

People will also try to make sure that, after the justice process, crimes never happen again. In particular, if you were a victim of a crime - it means that you were directly harmed -, people will take specific measures to ensure that what happened to you will never repeat.

II. How your rights become real in your daily life

1. Professionals working with child victims and witnesses should be trained on how to protect and meet the needs of child victims and witnesses. They should be provided with all the latest information and training so that they can continuously improve their work.
2. Professionals should receive training:
 - To learn about human rights, especially the rights of the child. This includes the understanding that child victims and witness are not all the same and have different needs;
 - To learn the correct way to behave when working with children and how to explain their work to children;
 - To recognize when a child is in danger or has suffered harm by identifying marks or injuries or by noticing the way a child is acting, that may reveal the child has been hurt or threatened;
 - To know when to take immediate action to help a child, and where to bring the child for help, always making sure the child's privacy is protected;

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- To learn how to speak with children of all ages so that children feel comfortable and understand what is going on. This includes listening to children and helping to reassure children who are confused or afraid.
 - To learn ways of questioning children that will not frighten or harm them but will help to reveal the truth;
 - To learn about the different roles and jobs of professionals working with child victims and witnesses.
3. Professionals should make every effort to work together, each contributing what they can to make sure that child victims and witnesses receive the best possible care and protection. It may be necessary to create rules to make sure everyone does job their well.
 4. All countries should share important information and work together to find out about, investigate and take legal action against adults who travel to different countries to harm children.
 5. Professionals should use these guidelines to develop laws and other rules to help child victims and witnesses involved in the justice process.
 6. Professionals should think about whether the job they are doing is really helping children and whether other agencies in the justice process are also doing their jobs well. They should always think about how they can do a better job to protect child victims and witnesses so that these guidelines can make a real difference in the lives of all children.

Participation to the justice process should not be that fearful.

The United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime are here to help make sure that you receive all the assistance and protection you may need during this process.

WORDS YOU MAY NOT UNDERSTAND

(the) Accused: When there are strong reasons to believe that a person has broken the law, that person is called the accused. The court decides whether the accused actually broke the law and, if so, what steps can be taken to repair the harm caused and prevent further harm.

Best interests of the child: Any action that affects children should be good for them and help to fulfill their hopes and dreams for the future. When adults make decisions they should think about how their decisions will affect children. This includes making sure children are protected from violence, abuse and neglect from the moment they are born. It also includes making sure children are properly cared for and that they have clean water, nutritious food, a clean environment, and are supported so that they can be healthy and feel good as they grow to become adults.

Convention on the Rights of the Child: A Convention is an agreement between countries. Conventions are sometimes called treaties or covenants or international agreements or legal instruments. The Convention on the Rights of the Child recognizes the rights of all children. These rights are intended to make sure that children have what they need to grow, develop and learn in safety and in good health and to become full members of their community. By signing the Convention on the Rights of the Child, countries make a promise to treat all children everywhere with respect and to protect their rights. The Convention is the most universally accepted human rights treaty in history and has been approved or "ratified" by every country in the world except two.

Child victim: Someone under the age of 18 who has suffered harm when the law was broken. All children have the same rights to be protected, no matter what role they may have had in the crime or in the trial of the accused.

Child witness: Someone under the age of 18 who saw or heard what happened or knows something that can help to explain the truth about what happened when the law was broken.

Court of law: When a person is accused of breaking the law, the person is brought to a special place called a court of law and explain what happened. Others will also be asked to come and tell their version of the story. The people of the court will listen to everyone, make clear what the law says, and then decide if the law was broken and what to do about it.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: This Declaration was adopted in 1985 by the United Nations to protect the rights of all people who have been victims of crime and who have been harmed by people who have broken the law. The Declaration says that countries should make sure all victims of crime are treated with fairness and receive the help they need to heal and recover from the harm they have suffered.

Discrimination: Every person in the world looks different and has different ideas and traditions. When people are not treated with fairness because of these differences, they experience discrimination. It is important that people's differences are always respected. This is true for boys and girls, no matter who they are, where they live, what their parents do, what language they speak, what their religion is, what they think or say, what their sexual orientation is, whether they are rich or poor.

Evidence: Information or objects that are used to help prove the guilt or innocence of someone accused of a crime.

Hearings: The session during which the accused, victims and witnesses tell their story as they remember it. During a hearing, witnesses are questioned about what happened and asked to explain what they saw and what they did.

Investigate: To look carefully at all the facts in order to find out what happened and why and who is responsible. Specially trained people investigate crimes by asking questions and looking for clues and evidence.

Judge: The person who makes sure that the law is respected, and the truth is made clear, and that everyone follows the rules in court.

Law: Laws are rules that everyone has to follow so that people can respect each other and live together safely. There are many different kinds of laws and together they help people do what is right.

Lawyer (Counsel): A lawyer - or a counsel - is a person who makes sure that the justice process is fair to the person he or she assists. Accused are assisted by lawyers, who are called "defence counsel". Victims may also, in certain States, be assisted by a lawyer. If you are assisted by a lawyer, he or she is the one most concerned about your protection and the respect of your rights. If there is something you don't understand or if you feel that something is going wrong, you can speak to your lawyer who will explain what happens and see what he or she can do to help. You can say everything to your lawyer: he or she has to keep what you say secret and will not repeat it to anybody, not even to your parents, if you don't agree.

Legal process or action: Acts that help to ensure respect for the law.

Media: People who provide information to the public through their work in television or radio or with newspapers, magazines or the internet. The media report on what happens in their communities and in the rest of the world.

Prosecutor: A prosecutor is the person in charge of presenting evidence that the law has been broken and that the accused is the person responsible. During the justice process, he is opposed to the defence lawyer, who is in charge of presenting evidence that the law was not broken or that the accused is not responsible. He or she represents society in a court.

Reparation: Compensation given to a person who was harmed to help them heal and recover.

Rights: Every child has equal "rights" before the law. These rights are stated in the United Nations Convention on the Rights of the Child. They include the right to life and respect for human dignity, the right to survival; the right to health care, the right to education, the right to protection from violence, abuse and exploitation; the right to a family environment; the right to freedom of expression, and the right to participate fully in family, cultural and social life. All children have the same rights no matter where they live.

Sexual assault or abuse: Child sexual assault happens when someone forces a child or convinces the child to be involved in sexual acts. Child sexual assault includes touching the child's body in a way that makes the child feel uncomfortable or harmed. Strangers aren't the only people who sexually assault children. Children may be sexually assaulted or touched in a wrong way by people they know and trust.

Trial: When someone is accused of committing a crime the court meets to review what happened and to hear all the evidence. Then the people of the court decide if the law was broken and what should be done to repair the situation. This process is called a trial.

United Nations (U.N.): The United Nations is an organization formed by the governments of 191 member countries working together to bring peace and justice into the world. The United Nations was created in 1945 to prevent future wars, to safeguard human rights and to provide a place for all the countries in the world to come together and discuss important questions, issues and problems that affect the citizens of all countries.

Learning Disabilities and Criminal Law

This chapter presents an overview of how information regarding learning disabilities may be helpful if cases make their way to criminal court. In particular, the short time frame for youth court proceedings leaves little room for missed opportunities. Youth justice professionals, parents and advocates must be aware of early clues to the use of learning disabilities in the criminal justice process. This process includes carefully interviewing the youth and the youth's guardians, gathering educational records, procuring reports by educational and medical experts, and investigating educational services in the school. School officials must provide copies of the youth's special education plan and disciplinary records to the parents or their appropriate representatives.

Parents and juvenile justice professionals should start by contacting their provincial or territorial Learning Disabilities Association to obtain its procedures for providing and assessing special education services to youth. Many jurisdictions have several other groups or agencies that can also provide assistance when navigating the youth justice system.

Many studies and scholarly articles document the vast representation of persons with learning disabilities in the criminal justice system. Most criminal justice professionals have encountered cases in which an offender enters the system for a relatively minor offence which then escalates into a longer period of involvement because of the offender's inability to succeed in programs developed for low-risk offenders. This may happen either because the disability-related behaviour makes it difficult for the offender to understand or comply with program demands, or because his or her behaviour is misinterpreted as showing a poor attitude, lack of remorse or disrespect for authority.

Specifically with respect to youthful offenders, if the matter involves a youth with an identified or suspected learning disability, juvenile justice professionals should first consider whether school-based special education proceedings could provide services or other intervention that would preclude the need for formal court proceedings. In appropriate cases, the Crown prosecutor via defence counsel, parents or court work services may wish to be reminded that first-time offenders and/or youthful transgressors - who have committed offences that are not considered too serious for informal handling - should be placed in diversion or informal supervision programs. Through such programs, the court can impose specific conditions on youth, including participation in counselling, special education or involvement in community service programs.

Unfortunately, both youths and adults with learning disabilities are detained disproportionately. Many experts suggest that one reason for this is that persons with learning disabilities may lack the communication skills to make a "good" presentation to arresting officers, who are often responsible for referring the alleged offenders to diversionary programs. Behaviours interpreted as aggressive, impulsive or uninterested may be a reflection of the person's learning disability. Accordingly, it is important to establish the existence of special education needs or learning disabilities early on.

Criminal justice professionals and parents should be aware of the impact that learning disabilities can have on case presentation at this early stage, and work to dispel inaccurate first impressions.

Several evidentiary issues should be taken into consideration when assessing the circumstances in which the offender came into custody. Someone who is unable to explain to counsel what happened in relation to the alleged offence, or someone whose learning disability relates to the understanding of due process instructions, may have grounds to challenge an arrest and subsequent detention.

The **Youth Criminal Justice Act** permits a young person to ask the court to order that he or she be assessed medically, psychologically or psychiatrically by a qualified person and requires the person who conducts the examination to report the results in writing to the court. The assessment is to determine if the young person may be suffering from a disorder, including a learning disability, and states that a person who is "unfit to stand trial" is unable, on account of this disorder, to conduct or inform the defence at any stage of the proceedings.

A person is presumed not to suffer from a cognitive disorder (including learning disabilities), so as to be exempt from criminal responsibility, until the contrary is proved. The burden of proving, on the balance of probabilities, that an accused is suffering from a disability is on the party that raises the issue. A "qualified person" must be certified by law to carry out such an assessment, as the circumstances require. Not surprisingly, there are no reported Canadian decisions where a youth was found unfit to stand trial because of a learning disability, although this factor has been considered in sentencing.

Inevitably, both adult and youth offenders may be incarcerated for their offences. Records of a youth's special education history may be useful to defense counsel in deciding whether to solicit the advice of experts about the impact of the disability on such issues. Such special education needs may comprise an essential part of the pre-sentencing report prepared to guide the court when making its Disposition Order. Counsel should attempt to coordinate their court preparation in conjunction with experts on educational resources, in order to take advantage of the programs and services available through the correctional system.

Specific to youth, a Disposition Order should reflect the court's review of special education evaluations and goals, and services to be provided to the youth. If the youth is to be placed in a custodial facility, parties should make inquiries regarding the facility's educational services. If it is suspected that the youth has a learning disability, the court is able to use its powers to ensure a special education evaluation.

Until the characteristics of the learning disabilities and the existence of effective interventions are recognized, all offenders with learning disabilities stand a heightened chance of being treated harshly by the criminal justice system - often through incarceration - based on the misunderstanding of their disability. All justice professionals

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and participants should respond appropriately to the evidence of such disabilities by helping to ensure that timely medical, educational and other services are available.

http://www.ldac-taac.ca/LDandtheLaw/ch13_Law-e.asp

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Resources

BC Law Courts Education Society: <http://www.lawcourtsed.ca>;
<http://www.legalrights4u.ca>

Canadian Heritage: Human Rights Program

http://www.pch.gc.ca/progs/pdp-hrp/docs/crc-2003/rep_e.cfm

Child and Youth Officer for BC <http://www.gov.bc.ca/cyo>

Child Rights Centre, University of Cape Breton <http://discovery.uccb.ns.ca/children/>

Child Rights Information Network. <http://www.crin.org/>

Department of Justice Canada: Youth Justice Renewal
<http://www.justice.gc.ca/youth>

Equitas International Centre for Human Rights Education (Montreal)
<http://www.equitas.org>

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Human Rights Education Associates: <http://www.hrea.org/pubs/>

Human Rights Resource Centre University of Minnesota. <http://www.home@umn.edu>

International Bureau for Children's Rights. <http://www.ibcr.org/>

Kids Help Phone 1-899-668-6868

Learning Disabilities Association of Canada <http://www.ldac-taac.ca>

Office of the High Commissioner for Human Rights. <http://www.ohchr.org>

RCMP National Youth Strategy <http://www.rcmp.ca/youth>

Save the Children, Canada. <http://www.savethechildren.ca/>

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Society for Children and Youth of BC <http://www.scyofbc.org/>

Teaching Human Rights: Practical activities for primary and secondary schools. Office of the High Commissioner for Human Rights (OHCHR), United Nations, 2004.1

UNICEF <http://www.unicef.org>; <http://www.unicef.ca>

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Youth Crisis Line 1-866-661-3311

Youth Criminal Justice Act Canada Pocket Guide (BC) QP#4500099103

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