



RIGHTS
RESPECTING
SCHOOLS



MYTHS AND MISCONCEPTIONS

ABOUT THE CONVENTION ON THE RIGHTS OF THE CHILD



INTRODUCTION

This booklet breaks down some of the common myths and misconceptions about children's rights which we have come across in our work with teachers, parents and school communities through the Rights Respecting Schools Award.

As an international legal document, the Convention on the Rights of the Child (the Convention or CRC) may sometimes seem complex and difficult to interpret in practice. This can lead to misunderstandings about what each right means and how the Convention applies in the real world.

While we want the Convention to be accessible to everyone, it is important not to oversimplify it. This booklet seeks to deepen your understanding of the Convention by clarifying common misconceptions that can arise.

COMMON MISUNDERSTANDINGS ABOUT CHILDREN'S RIGHTS

- 1. Children have the right to be loved.**
- 2. Children have the right to be happy.**
- 3. Children have the right to have friends.**
- 4. Children have the right to have toys.**
- 5. Children have the right to make mistakes.**
- 6. With rights come responsibilities.**
- 7. Some rights are more important than others.**
- 8. The Convention is a useful tool to control children's behaviour at school.**
- 9. The Convention tells children how to behave towards other children.**
- 10. The Convention is a Unicef document.**
- 11. When you turn 18, you have new human rights that are just for adults.**
- 12. The Convention is out of date.**
- 13. The Convention is not part of UK law so it has no power.**

MISUNDERSTANDINGS EXPLAINED

1 & 2. Children have the right to be loved and to be happy

Inaccurate - Being loved and happy seem like the most obvious 'rights' children and young people should have but these are not listed in the CRC's 54 articles.

The CRC is a legal document with clear duties on how rights should be respected and fulfilled, and emotions such as love and happiness are impossible to legislate or put into law.

However, many articles of the CRC are about the conditions, resources, protections and freedoms that a child needs to grow up feeling happy and loved. The introduction of the Convention also recognises that "the child... should grow up in a family environment, in an atmosphere of happiness, love and understanding".

3. Children have the right to have friends

Inaccurate - Children have the right to meet with friends (for example under Article 15 on freedom of association) but we cannot legislate people's affinity to others so it cannot be a legal requirement for children to have friends.

4. Children have the right to have toys

Inaccurate - The Convention does say that every child has the right to play, relax and take part in cultural and artistic activities (article 31) but this right does not include a child's right to have his or her own toys.

However, the Committee on the Rights of the Child recommends that States should allocate adequate human and financial resources to ensure children and young people can enjoy their right to rest, leisure and play.

5. The right to make mistakes

Inaccurate - Although making mistakes is a valuable part of the learning process and an important part of growing up, it is not a right in the Convention.

The CRC does not legislate on concepts that are hard to qualify and quantify. But keep in mind that the human right principle of dignity means children should be treated with dignity and respect at all times, including when they make mistakes.

6. With rights come responsibilities

Inaccurate - There is a common misunderstanding that children's rights are linked with responsibilities. But this is not correct.

Children's rights, like all human rights, are unconditional. This means there are no conditions attached to rights. Rights can never be a reward for the fulfilment of a responsibility and they can never be taken away because a 'responsibility' hasn't been met.

Children's rights are also universal, so both adults and children should be encouraged to respect rights but this does not mean that a child's rights are dependent on them respecting the rights of others.

This is why within the Rights Respecting Schools Award, we talk of rights **and** respect, and **not** about rights and responsibilities.

7. Some rights are more important than others

Inaccurate - A key aspect of the Convention is that it must be considered as a whole and that all rights are connected. This means children should enjoy all the rights in the Convention and that no right is more important than another.

Some nuances are useful to note:

- **General principles:** four articles of the CRC are seen as special because they play a fundamental role in realising all the rights in the Convention and help to realise and interpret the Convention's articles. They are called 'general principles' and include non-discrimination (article 2); best interests of the child (article 3), life, survival and development (article 6) and respect for the views of the child (article 12).
- **Balancing rights:** it can happen that adults, as duty bearers, sometimes need to balance one right against another. For example, a child may be separated from his or her parents in specific circumstances if this is in the child's best interests.
- **Restricting rights:** there are also some rights that can be subject to restrictions, which would then usually be defined by law or a set of rules. For example, the right to freedom of expression (article 13) might be restricted if someone uses their right to freedom of expression to abuse other people and/or deny them their rights.

Remember that in all these circumstances, any action or decision that could stop a child from enjoying his or her rights should only happen in specific instances, within a time limit and with the child's best interests in mind. The child's right to be heard and taken seriously must also be respected at all times, and all actions must be done in a

way that respects the child's dignity.

8. The CRC is a useful tool to control children's behaviour at school

Inaccurate - When children know about the Convention and learn in an environment that respects their rights, they gain a deeper understanding of other people's rights and the need to respect them.

This in turn improves relationships at all levels as well as behaviour and attitudes. However, the rights in the Convention should not be used to control children nor be considered as a bargaining tool for positive attitudes or behaviour. Keep in mind that there are no conditions attached to rights and rights cannot be taken away or earned.

It's also useful to note that if school behaviour policies are developed using a rights-based approach, it is more likely that the children will embrace its ethos and be respectful of the rules in place. Not only should human rights principles such as non-discrimination, dignity and respect underpin all school policies, but children and young people should also be meaningfully involved in the development or review of the policy.

All children and young people should also be fully informed of the content of the policy and understand how the rules and principles apply.

9. The CRC tells children how to behave towards other children

Inaccurate - In our experience with Rights Respecting Schools, we have seen that when children learn about their rights, their relationship with other children (and adults) tends to improve as they develop a stronger sense of empathy and an awareness of how their actions can impact on others.

However, it's important to remember that the Convention is a human rights treaty that establishes a relationship between the State and children, and more broadly between adults and children.

Some rights in the Convention talk about children's relationship with each other (for example in article 15 on freedom of association) or the need to not stop other people from enjoying their rights in the exercise of your own rights (for example in article 14 on freedom of thought, belief and religion) but the aim of the Convention is not to define and put a duty on a child's relationship with other children.

10. The Convention is a Unicef document

Inaccurate - The Convention is a universal legal document. This means it is not the property of Unicef and its articles are not 'Unicef rights'. What is true is that Unicef's work is guided by the Convention and that, as the leading children's agency in the UN system, Unicef is mandated by the United Nations General Assembly "to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential".

Unicef is also the only agency explicitly named in the Convention (article 45) and we were part of the working group, alongside other organisations and individuals from across the world, that drafted the text of the Convention.

11. When you turn 18, you have new human rights that are just for adults

Inaccurate - All human rights treaties apply to adults and children alike, regardless of age or any other status.

This means that when children reach the age of legal majority and cease to be protected under the CRC, they continue to be protected by other human rights treaties. This includes the International Bill of Human Rights which consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.

So while the CRC only applies to people under 18 and contains rights that are unique to children, the International Bill of Rights applies equally to everyone, regardless of whether they are an adult or a child, and whatever their race, language, gender, national origin or any other status.

12. The CRC is out of date

Inaccurate - The Convention took years to develop and was adopted by the UN General Assembly in 1989. While the text of the Convention itself (its preamble and 54 articles) has not been changed since, the Convention as a whole is a living instrument that has evolved over time and adapted itself to many new realities that children face.

Indeed there are regular reviews and additions to how the Convention should be interpreted and how governments must implement the Convention. For example, the Committee on the Rights of the Child, the body of experts that monitors the implementation of the Convention, regularly publishes General Comments. These aim to clarify and elaborate on specific articles or themes that are relevant to children's rights. The Committee also organises Days of General Discussions on specific topics to deepen the understanding of certain areas of children's rights, for example on violence against children, digital media and children's rights or children and the environment.

In addition, there are a number of agreements that add further unique rights for children which are optional for countries, called Optional Protocols. Put together, these various mechanisms and texts help to keep the Convention a legal instrument that is alive and constantly evolving.

13. The CRC is not part of UK law so it has no power

Inaccurate - The UK agreed to follow the Convention in 1991 but unfortunately it still hasn't become part of UK law. This means it is difficult to go to court on the basis of the CRC only. However, by ratifying the Convention, it becomes international law and implies the government must follow it.

Every five years, the government also has to report on the status of children's rights in the UK to a UN committee of child rights experts. The committee then gives them recommendations on how to improve protection of children's rights and often highlights where the government has failed to realise children's rights.

These reports - which are in the public domain - and mechanisms have a strong impact despite not being legally binding. It also provides an effective tool for advocacy and campaigning by civil society organisations.