The U.N. Convention on the Rights of the Child (CRC) is the most widely acclaimed human rights treaty in history. One hundred ninety-two nations have now ratified or acceded to this landmark instrument, with the exception of the United States (which has signed, but not ratified the CRC) and Somalia (which has signed the CRC, but has no internally recognized government to ratify it). The CRC reflects universal aspirations and standards for the recognition, care, and protection of our most vulnerable population—children. Those countries that have integrated the CRC into their legal systems and policies accept its central notions: that children are to be recognized as individuals with their own voice; that they should be nourished through education and healthcare; that they must receive protection from those that would hurt, exploit, or discriminate against them; and that they must be treated with their best interests at the forefront.

A. CRC PRINCIPLES

The CRC is a comprehensive framework for the rights of children, consisting of 42 separate articles addressing these rights, plus a Preamble. However, at its core, the CRC speaks to but a few simple and elegant convictions. These are:

- that the best interests of the child must be a primary consideration in all decisions or actions affecting him or her (Article 3);
- that the child must not be discriminated against for any reason (Article 2);
- that the child has the right to survival and development in all aspects of his or her life (Article 6); and
- that in all matters affecting him or her, the child has a right to be heard, and to freedom of expression (Article 12).

Beyond these fundamental rights, the CRC’s principles range across an expansive array of civil, political, economic, social, and cultural rights. These
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rights seek to both ensure the protection of the state, and guard against its failings and oppression, while complementing and supporting the role of parents or legal guardians as the primary caregivers. In other words, the CRC seeks to guard the child against an obtrusive or unresponsive state, while nurturing his or her development undertaken through the family.

One scholar has subdivided the panoply of CRC rights into four broad categories:

1. survival rights;
2. membership rights;
3. protection rights; and
4. empowerment rights.¹

With respect to survival and development, the CRC articulates not only the child’s right to survive (Article 6), but also recognizes those rights that sustain life, such as the right to an adequate standard of living (Article 27), social security (Article 26), health care (Articles 24 and 25), and rest and leisure (Article 31). Article 6, when read with Article 37(a), squarely conflicts with the practice of executing juvenile offenders, which still occurs in a few countries.

The CRC broadly reflects the view that the child is not a chattel, but a human being in his or her own right. As such, the child is entitled to be recognized as a person under the law, which U.S. courts have so ruled.² The CRC buttresses this view by specifying a number of “membership” rights endowed to the child.

One of the CRC’s most important membership rights is the child’s right not to be discriminated against, irrespective of the child’s or his or her parent’s or legal guardian’s race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, disability, or other status. (Article 2). In addition, the CRC holds that each child has the right to a name and a nationality (Articles 7 and 8).

Further, as the family is the basic societal unit, the CRC recognizes the child’s fundamental family rights. Article 5 provides that the state must respect the rights and responsibilities of parents and the extended family to

² See, e.g., Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 511 (1969) (“Students in school as well as out of school are ‘persons’ under our Constitution. They are possessed of fundamental rights under which the State must respect, just as they themselves must respect their obligations to the State.”)