

QUEER RIGHTS  
ARE CHILDREN'S RIGHTS



MAP OF RIGHTS

# ABOUT THE MAP

**This mapping aims to clarify and strengthen the relationship between children's rights and LGBTQI rights, in particular by showing how the UN Convention on the Rights of the Child protects the rights of LGBTQI children.**

Note! LGBTQI children are obviously covered by all the rights outlined in the Child Convention. However, certain rights are particularly relevant to LGBTQI issues and these are the rights included in the mapping.

This mapping illustrates some examples.



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**Rädda Barnens**  
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# LEGEND

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## **THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)**

Article 2, 3, 6 and 12 are the Convention's guiding principles. They guide the application, implementation and interpretation of the CRC and are underlying every right and every article of the Convention. Countries that have committed to following (ratified) the CRC must obey the Convention in accordance with international human rights law. Today, 196 countries have ratified the CRC.



## **THE GENERAL COMMENTS OF THE UN COMMITTEE ON THE RIGHTS OF THE CHILD**

The Child Rights Committee is considered the leading expert body on children's rights from a legal perspective. The committee publishes so-called general comments on the Child Convention, which provides guidance on how the CRC should be interpreted.



**THE YOGYAKARTA PRINCIPLES** clarify how international human rights law should be interpreted in relation to the specific situations and experiences faced by LGBTQI individuals, consolidating and clarifying governments' obligations. The Principles were developed by human rights experts from several countries. The UN uses them when writing recommendations to the member states.



**PREVIOUS RESEARCH** is used in order to illustrate how LGBTQI children have their rights violated.

# GLOSSARY

**LGBTQI:** an umbrella term for lesbian, gay, bisexual, transgender, queer and intersex people. The term is used for practical purposes as one of the most common terms and is meant to include all those with divergent sexual orientation, gender identity and expression, and sex characteristics (SOGIESC).

**Sexual orientation:** a description of which gender or genders a person is attracted to or fall in love with.

**Gender identity:** a person's self-perceived gender, that is, the gender they feel and know they are.

**Gender expression:** how a person publicly presents gender through clothing, body language, hairstyle, voice, name, pronoun etc.

**Sex characteristics:** a person with intersex variation is born with natural variations to sex characteristics such as variations in chromosomes, hormones or anatomy.

# 2

## ALL CHILDREN HAVE THE SAME RIGHTS



No children shall be discriminated against. All countries must respect, protect and fulfill the rights in the Convention without discrimination on the basis of skin colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, or any other status.

LGBTQI children are at higher risks of rights abuses and violations.<sup>1</sup> Children face discrimination on the basis of their SOGIESC more often and in other ways than adults. This discrimination often intersects with discrimination based on factors like disability, age, religion, ethnicity, skin colour or socioeconomic status.<sup>2</sup>



Gender identity and sexual orientation are included in the term »any other status«. Governments should implement effective and targeted measures so that the rights of LGBTQI children are fulfilled.<sup>3</sup>



According to Yogyakarta Principle 2, LGBTQI children have the right to live free from discrimination based on SOGIESC. This protects them in school, at home, and in society in general. Moreover, governments should in their anti-discrimination efforts consider how discrimination based on SOGIESC is exacerbated by other forms of discrimination, violence, hatred, and exclusion on the basis of, for example, disability, age, religion, ethnicity, skin colour or socioeconomic status.

# 3

## THE BEST INTERESTS OF THE CHILD SHOULD BE A PRIMARY CONSIDERATION IN DECISIONS AFFECTING THEM



When adults make decisions about children an assessment of the child's interest must be carried out, and what is considered to be the child's best interests should be a major factor in the decision.



Adults often fail to properly assess the child's best interests when making decisions regarding LGBTQI children, particularly in cases related to a child's right to gender-affirming care and treatment,<sup>4</sup> legal gender recognition, or medical and surgical interventions for intersex children.<sup>5</sup>

The principle of the child's best interests is sometimes misused to justify actions that violate children's rights. For instance, it has been used in order to prohibit discussions about LGBTQI issues on the grounds that they could hinder a child's »moral development«, or to justify conversion practices\* on LGBTQI children.<sup>6</sup>



It is essential to take the child's identity (in which issues of SOGIESC can play a major role) into consideration when assessing their best interest.<sup>7</sup> The Child Rights Committee further asserts that in order to fully understand what is in the child's best interest, it is essential to listen to and consider the child's own views (art. 12).<sup>8</sup> Moreover, the Committee stresses that the principle of the child's best interests must not be used to justify actions that violate any other rights.<sup>9</sup>



The concept of the child's best interest should not be used against children who identify as LGBTQI – LGBTQI issues should not be seen as »incompatible« with the idea of the child's best interests. This is underlined in Yogyakarta Principles 24 and 32.

# 6

## EVERY CHILD HAS THE RIGHT TO LIFE, SURVIVAL, AND DEVELOPMENT



Every child's right to life must be recognised, and governments must do everything they can to ensure the survival and development of every child.

The right to life, survival and development is violated for many LGBTQI children who experience violence on SOGIESC grounds. One of the examples are hate crimes: LGBTQI children are murdered<sup>10</sup>, assaulted<sup>11</sup>, subjected to verbal abuse, terrorist attacks<sup>12</sup>, online hate<sup>13</sup> and sexual exploitation<sup>14</sup> because of their LGBTQI identity. Suicide attempts, suicidal thoughts and suicide are also more common among LGBTQI children and young people compared to their heterosexual cisgender\* peers.<sup>15</sup>



In order to live and survive, LGBTQI children need their most basic needs met, such as protection from violence, adequate housing, and access to education and the best possible health. In order to develop, LGBTQI children need their identity affirmed, to feel safe in school and during their free time and to be able to exercise influence over things concerning them.<sup>16</sup>



As outlined in Yogyakarta Principle 4, no one should face execution or deprivation of life due to their SOGIESC. Governments must take action to combat hate crimes targeting LGBTQI children based on their identity.

# 12

## CHILDREN HAVE THE RIGHT TO EXPRESS THEIR VIEWS



Children have the right to participate in decisions and issues that affect them and to have their opinions recognized and considered, for instance, in relation to relationships and expression of sexual orientation and gender identity. Therefore, Article 12 is closely related to Article 8 – the right to identity, and Article 16 – the right to privacy. Under Article 12, children also have the right to exercise influence in politics and on a societal level.



LGBTQI children's opinions are often not taken seriously due to age-related social norms that depict children as immature, unreliable, underdeveloped and in need of protection, as well as an adult-centric, often cis-heteronormative\*, view on sexuality and identity that assumes an adult's way of expressing sexual orientation, gender identity and gender expression.<sup>17</sup> Intersex children are often exposed to medical and surgical interventions aimed at creating more typical sex characteristics. This type of intervention is a rights violation if medically unnecessary and performed before the child has the capacity to express their views and give full informed consent.<sup>18</sup>

Young LGBTQI people who make their voices heard on political and social issues through civil society are subjected to significant threats and hatred due to their identity.<sup>19</sup>



Children have the right to express themselves freely and have the right to have their physical and mental integrity, gender identity and growing autonomy respected.<sup>20</sup> Age and maturity are factors to consider when assessing what is said and expressed by the child, but should never be used as an excuse to exclude children from participating.<sup>21</sup>



Yogyakarta Principles 25 and 27 highlight the importance of ensuring LGBTQI people's right to participate and exercise influence at a societal level, without discrimination or limitations. Principle 32 of the Yogyakarta Principles (the right to physical and mental integrity) underscores that children's full and informed consent must be obtained before any interventions can take place to alter their sex characteristics, or their right to participate in decisions that affect them is violated.

# 19

## CHILDREN SHOULD BE PROTECTED FROM ALL FORMS OF VIOLENCE



Governments must do everything they can to protect children from physical and psychological violence, harm, abuse, neglect, negligent treatment, maltreatment or exploitation, including sexual abuse.



LGBTQI children are more likely than other children to experience various forms of violence on the basis of who they are, both in real life and online.<sup>22</sup> For instance, it is common for children defying norms around SOGIESC to be subjected to conversion practices\*. These practices involve, among other things, physical or sexual violence, psychological or verbal abuse, with the aim of changing or influencing a child's SOGIESC.<sup>23</sup> Compared to heterosexual cisgender\* individuals, it is more common among young LGBTQ people to have experienced sexual violence, abuse, harassment and exploitation.<sup>24</sup> For young LGBTQ people living in contexts of honour-based violence\*, there is a high risk of sexual violence when their sexual orientation or gender identity becomes known, with the aim of «educating» them not to be LGBTQ.<sup>25</sup> Surgical or medical interventions on intersex children, performed without their consent, should be considered a form of violence when they are not medically necessary.<sup>26</sup>



Governments must address all forms of violence and discrimination committed against vulnerable or marginalised groups, such as children who are lesbian, gay, transgender and/or intersex. Governments must work preventively to ensure these children are guaranteed the right to protection and non-discrimination in the same way as other children.<sup>27</sup> Moreover, the Child Rights Committee has condemned all attempts to »change« a child's sexual orientation and gender identity, as well as forced surgical or other treatments of intersex children.<sup>28</sup>



According to Yogyakarta Principle 5, LGBTQI individuals have the right to personal security. Governments must ensure that LGBTQI people are protected from all forms of violence, whether this violence occurs at home, in school, or at a societal level. Yogyakarta Principle 35 states that these rights also apply online. Yogyakarta Principle 10 states that everyone has the right to be free from torture and other cruel, inhuman or degrading treatment on the grounds of sexual orientation, gender identity, gender expression or sex characteristics. This includes conversion practices\*.

# 22

## CHILDREN SEEKING REFUGEE STATUS HAVE THE RIGHT TO PROTECTION



Children displaced from their home country should get help and have the same rights as children born in the receiving country.



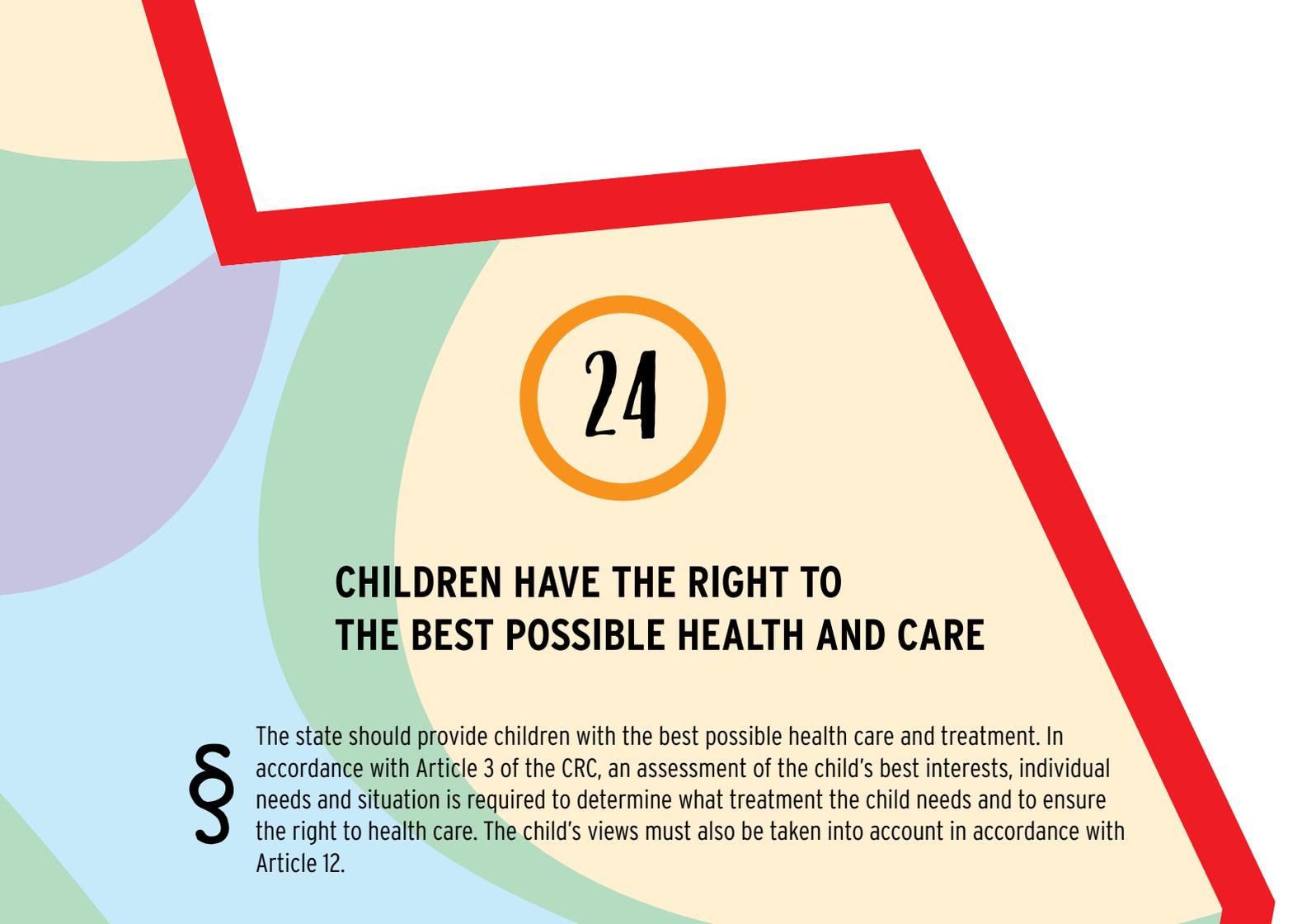
Children risk not having their own asylum claims assessed independently, as they are overshadowed by those of their parents.<sup>29</sup> For LGBTQI children, this is particularly important as their identity could be an asylum claim. When children are actually heard, their story and LGBTQI identity sometimes get questioned since there is an adult perspective and hetero- and cisnormative ideas that shape expectations of how an LGBTQI person should be.<sup>30</sup>



LGBTQI children who seek asylum due to persecution or punishment based on their sexual orientation or gender identity have the right to protection and to have their applications processed fairly.<sup>31</sup> Countries should take into account the unique vulnerabilities that migrating children may face due to their real or perceived SOGIESC throughout the whole migration process.<sup>32</sup> The Child Rights Committee emphasises that those representing the child in asylum matters should be familiar with the child's background and capable of advocating for the child's best interests. If there are any credibility concerns regarding the child's account, the decision should always be made in the child's favour.<sup>33</sup>



Persecution, fear of torture or other forms of cruel, inhuman, or degrading treatment or punishment based on one's sexual orientation or gender identity is a valid ground for asylum according to Yogyakarta Principle 23. In order for LGBTQI children seeking asylum to receive the protection and support they need, it is necessary, as outlined in the amendment to Yogyakarta Principle 23, to ensure respectful treatment, access to safe accommodation, as well as competent legal assistance and interpreters with expertise in LGBTQI issues.



24

## **CHILDREN HAVE THE RIGHT TO THE BEST POSSIBLE HEALTH AND CARE**



The state should provide children with the best possible health care and treatment. In accordance with Article 3 of the CRC, an assessment of the child's best interests, individual needs and situation is required to determine what treatment the child needs and to ensure the right to health care. The child's views must also be taken into account in accordance with Article 12.



Having a non-normative sexuality and/or gender identity often place individuals at a heightened risk in relation to both physical, mental and sexual health.<sup>34</sup> LGBTQI children and young people, for instance, face an increased risk of depression, anxiety, substance abuse and suicidal tendencies.<sup>35</sup> For intersex children, the right to health is often violated at an early age. Medically unnecessary interventions performed without consent on intersex children have often been shown to result in negative mental and physical effects.<sup>36</sup>

Many LGBTQI children avoid seeking care due to fear of discrimination and negative reactions. Others are left waiting for years for healthcare related to their LGBTQI-identity or are denied care.<sup>37</sup>



It is the state's obligation to ensure that all children have access to the best possible health care, without discrimination on the grounds of, for instance, sexual orientation and/or gender identity.<sup>38</sup>



Yogyakarta Principle 17 states that all people have the right to the highest attainable standard of physical and mental health without discrimination based on sexual orientation, gender identity or gender expression. This means that LGBTQI children should have access to healthcare and psychosocial support, including gender-affirming care. Moreover, they should not be subjected to harmful treatments, such as conversion practices\* or non-essential medical or surgical procedures, such as those performed on intersex children at an early age.

According to the additional state obligations relating to Yogyakarta Principle 17, the state must ensure that healthcare training includes content on sexual, physical and psychological diversity, as well as the human rights of LGBTQI individuals.

# 28

## CHILDREN HAVE THE RIGHT TO EDUCATION



Every child has the right to accessible education and the opportunity to fully benefit from it.



Both overt and subtle discrimination, based on any of the grounds outlined in Article 2 of the CRC, can hinder or entirely prevent a child's ability to access and benefit from education.<sup>41</sup>



In school, LGBTQI children often face various barriers to education due to different forms of violence, bullying, harassment and discrimination, while also facing ignorance and a lack of understanding.<sup>39</sup> This can lead to absenteeism, poor academic performance, and high dropout rates, as well as a negative impact on their health. Additionally, many educational systems lack inclusive policies and curricula that address the needs and rights of LGBTQI students.<sup>40</sup>



Children, regardless of their sexual orientation or gender identity, have the right to an inclusive, safe, and non-discriminatory education according to Yogyakarta Principle 16. To ensure this there must be clear procedures for students to file complaints and report incidents of violence and discrimination. School curricula should also, as outlined in the additional state obligations to Yogyakarta Principle 16, promote respect and understanding for diversity in relation to SOGIESC.

# 31

## CHILDREN HAVE THE RIGHT TO PLAY, FREE-TIME, REST AND RECREATIONAL ACTIVITIES



LGBTQI children often feel unwelcome, unsafe, or unable to participate in recreational activities or in public spaces. This is often due to past experiences of mistreatment on the basis of their SOGIESC during their free time.<sup>42</sup> LGBTQI children are also more often subjected to threats and hate online than other children.<sup>43</sup>



In order to fulfill Article 31, governments must put in effective measures combating social exclusion, prejudice and discrimination on the basis of SOGIESC, and promote safe, secure and accessible recreational spaces. These efforts should include measures equipping children with tools and knowledge with which they can be safe and responsible online. Children should also be able to report incidents of violence that they experience or witness.<sup>44</sup>



According to Yogyakarta Principle 35 and the additional state obligations of Yogyakarta Principle 2, it is important to ensure that everyone, regardless of their SOGIESC, has access to safe public changing rooms and toilets, and can participate in sports activities in line with their gender identity without facing discrimination.

\* **CONVERSION PRACTICES:** any intervention that seeks to change or hide someone's sexual orientation, gender identity or gender expression.

\* **CISGENDER:** a person whose gender identity corresponds with the sex registered for them at birth.

\* **CIS-HETERONORMATIVITY:** the assumption that heterosexuality and being cisgender are the norm, which furthers the marginalization of queer and gender diverse people.

\* **CONTEXTS OF HONOUR-BASED VIOLENCE:** a context in which the individual's actions are seen to affect the reputation and honour of a family or community. These ideas may result in pressures to adhere to strict norms and to sacrifice your human rights in order to preserve honour.

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