



TOBAKSFAKTA

OBEROENDE TANKESMEDIA

**Barnets
Rätt
i
Tobaksfrågan**

Tobacco and the rights of the child

– New perspectives on strengthening the child's rights



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With the reservation that the texts are preliminary and may be edited.
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Introduction

This document is a result of the project, The Child's Rights Concerning Tobacco (CRCT). Tobaksfakta, an independent think tank, carried out the project with support from the Swedish Public Health Agency and in collaboration with several county councils and regions. The aim of the project is to strengthen the child's right to a tobacco-free childhood and adolescence, by different means of public education. The importance of that right is emphasized by two international conventions which support and strengthen each other: the U.N. Convention on the Rights of the Child, and the World Health Organization's Framework Convention on Tobacco Control — commonly referred to as CRC and the FCTC.

This document is intended to provide basic information about those two conventions and their importance for the everyday practical work of various organizations. It also contains analyses of how the CRC and the FCTC interact. The challenge is to take the child's rights a step further, now that 25 years have passed since the CRC was adopted.

Another aim of this document is to show how the CRC and the FCTC can be combined to support public health activities, by drawing attention to the clear connections between them and their common objectives. That support can be utilized by decision-makers in all sectors of society.

The CRC conveys a view of children which indicates how the state ought to look upon each and every child and to determine which values society should rest upon. Similarly, the FCTC indicates how society should regard one of our time's greatest public health problems — tobacco use. The FCTC conveys a view of tobacco which should shape legislation and guide its application.

Today in Sweden, the CRC is better known than the FCTC. County councils and municipalities have worked for many years to establish the CRC's view of the child as a basic principle for elected officials and civil servants. The FCTC, which has a shorter history, is concerned with public health rights and applies the CRC's view of the child to a concrete issue in a practical manner. Sweden has committed itself to follow both conventions, and to work for the best achievable child health.

The objective of the FCTC is to protect current and future generations from the devastating consequences of tobacco use and exposure to tobacco smoke. That is to be achieved with the help of measures to continually and significantly reduce tobacco smoke. That objective is in good agreement with what the CRC's says about the child's right to health and protection.

The risk of children being enticed to experiment with and begin using tobacco products can be reduced by means of legislation. Effective legal measures include prohibiting all marketing of tobacco products, age limits for tobacco purchases, and a proactive tax policy that results in high prices for tobacco products (especially important since children are much more affected than adults by price levels). These and a number of other measures are recommended by the FCTC.

By limiting the use, display and marketing of tobacco products, society demonstrates that it supports health and human rights, and opposes the tobacco. It is the combination of legislation and prevention which has been shown to have the greatest effect on the recruitment of young new smokers. Tobacco prevention measures may also lower the risk of children experimenting with narcotics, since there is much to indicate a connection between smoking tobacco and using narcotics.

Sweden has also ratified other conventions which, like the CRC, concern the rights of various categories of a human being. They include the U.N. Convention on the Rights of Persons with Disabilities, and the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The purpose of the FCTC is to protect children and adults from death and diseases by a combination of effective tobacco control; legislation, tax increases and information and education. The Swedish government and parliament has a responsibility to conduct a public health policy that lives up to the FCTC, which is directly linked to human rights. Tobaksfakta wishes to stimulate a public debate for the purpose of reaching broad agreement on where to set the absolute boundaries for measures to protect children and provide them with a nurturing environment in accordance with human rights norms.

The Child's Rights Concerning Tobacco — purpose and goals of the project

The purpose of the Child's Rights Concerning Tobacco project is to establish links between the U.N. Convention on the Rights of the Child, and the World Health Organization's Framework Convention on Tobacco Control. The project will call attention to the fact that tobacco use is very much an issue of children's rights and the practical consequences that may have for society. Tobaksfakta wishes to increase awareness of this among the general public and politicians at all levels. Tobaksfakta also wishes to demonstrate what a valuable resource children can be when they participate in decisions that affect their lives.

The project will create favourable conditions for a dialogue between experts and representatives of various professions. That dialogue will ensure that the most recent experience and scientific knowledge of tobacco-related matters will benefit children.

The state should assume a greater responsibility for placing restrictions on tobacco use and the tobacco industry. It is equally important to contribute to increased knowledge and awareness among the general public about the working methods of the tobacco industry and the damaging effects of tobacco. Historical examples indicate that the position taken by the state can influence how individual citizens act on issues relating to children. When Sweden prohibited corporal punishment of children in 1979, for example, there were many critical voices. But spanking a child, violence within the family, is harmful and the effect of that legislation is unequivocal: Today, it

is widely accepted that corporal punishment of children is not permissible. We must achieve the same type of attitude shift regarding tobacco and put an end to its use. By ensuring the right to a tobacco-free childhood and adolescence, we can realize the vision of a tobacco-free society. We can reach that goal with a common effort to protect the health of the child by means of effective measures.

To summarize, the goals of the CRCT project are to:

- contribute to the development of methods and procedures for practical application of the U.N. conventions.
- provide effective conditions for municipalities and county councils/regions to conduct pilot projects for testing and gaining public approval for various methods and procedures concerning tobacco.
- provide good examples that can be applied throughout the country.

Additional matters

It is the wish of Tobaksfakta, an independent think tank, that this document "will help to improve arguments for the development, at various political levels, of tobacco control policies to support the goal of tobacco-free children".¹ The purpose is to develop changes in methods and procedures for applying the FCTC in practice. Tobaksfakta wants to stimulate a long-term process of change that is integrated with ordinary activities. Such integration may, for example, occur through political decisions regarding annual reports — i.e. annual follow-ups by government bodies that report on measures which have had an effect.

This document does not provide practical suggestions on how to discuss these issues with children. It can, however, provide a basis for deciding how to argue for and develop collaboration within and between organizations in order to achieve the best possible health for all children.

During the project we have focused on, among other things, selected articles of the FCTC and analysed them within the perspective of children's rights. We have summarized those analyses on special information sheets, one per convention article. They provide concrete details of the more general contents of this document, and it is hoped that they can also provide inspiration for change. Among other things, the information sheets indicate points of connection with articles of the CRC.

The information sheets are included as annexes to this document and can be used as a basis for arguments regarding certain issues, for example exposure to tobacco smoke (Article 8). The articles selected from the FCTC are those which Tobaksfakta regards as most relevant for future efforts. Each information sheet begins with a brief introduction to the contents of the article in question and how it relates to the rights of the child. It also explains what unites the two conventions, and ends with a section entitled "The Work Continues" which indicates what may

be needed for Sweden to fulfil the demands of the FCTC and the CRC via every municipality, county council and regions.

The information sheets can be read individually, or as a more or less concrete and practical compilation based on this document and the articles of the FCTC. The idea is that they can be used at the local and regional decision-making levels; therefore, they also include a brief summary of what is needed at various levels.

Two conventions that strengthen each other

Preventing children and adolescents from being lured into tobacco addiction is a primary concern of the Tobacco Convention. That is also one of the most important objectives of the Swedish Tobacco Law (1993:581). The U.N. Convention on the Rights of the Child constitutes an additional argument for protecting children so that they do not begin using tobacco. Article 24 of the Children's Convention notes, for example, that the signatory states acknowledge the child's right to enjoy the best possible health. It also states that all children have complete and equal value as human beings. Children shall be respected and may not be discriminated against on any basis,² nor may they be discriminated against due to the actions of their parents. Discrimination often consists of making distinctions between various groups or individuals on certain grounds, and is discussed both in other conventions and in national legislation.

U.N. Convention on the Rights of the Child

Sweden ratified the U.N. Convention on the Rights of the Child one year after it was adopted by the General Assembly in 1989. It has now been ratified by 194 states, which have thereby committed themselves to implement the Convention. The CRC contains 54 articles, of which 41 are so-called substantive articles that stipulate the rights to which children are entitled. The other nine articles, called general measures of implementation, describe how the signatory states are to work with the Convention.

The substantive articles shall be considered together as a whole, and one usually speaks of the CRC as complete and indivisible. Four of the substantive articles are regarded as basic principles, and shall guide interpretation of the other articles. The four basic principles are: Article 2 on non-discrimination; Article 3 on the child's best interest; Article 6 on the right to life, survival and development; and Article 12 on every child's right to be heard.

Every state reports to the U.N. Committee on the Rights of the Child (see below, "Child rights committee"), first two years after ratification and then every fifth year. After each report, the committee expresses its views on how well the state is living up to the Children's Convention. The committee does not consider complaints by individuals. There is a supplementary protocol³ concerning the possibility of submitting complaints, but it has not

1. Applications for financial support for specific development projects ANDT area in 2014, the project application, Tobaksfakta 2013-11-22

2. Elizabeth Englundh, *Barnet i främsta rummet* p 49.

3. Sweden has ratified the two former additional protocols on child prostitution and armed conflict.

been ratified by Sweden. The Committee on the Rights of the Child has prepared "General Comments" on various articles which serve as guidelines for interpretation.

The child's perspective — seeing through other eyes

The concept of the child's perspective has been interpreted in several different ways in research and public inquiries. But the basic point of departure is that the child's perspective includes both adults' and the child's views on a given issue.

In order to understand how the Tobacco Convention can be seen within a child's perspective, it is necessary to briefly explain what is meant by the expressions "child's perspective" and "child rights perspective" in this document.

The concept of child's perspective is of central importance in the Children's Convention and embodies the view of the child that signatory states shall apply. Among other things, applying a child's perspective means analysing the consequences that decisions and measures may have for individual children or groups of children. The child's perspective shall be the point of departure for all decisions that concern the child.⁴ The child's perspective is shaped by adults who try to understand the child's situation.

The child's perspective of an adult is shaped by each individual's own experience, culture, education and religious training and of his or her own experience of what it is like to be a child. In order to be able to assess the effects of a specific decision for an individual child or group of children, it is necessary to be aware that such subjective factors influence the assessment. That calls for increased awareness among adults concerning which changes can be necessary for the welfare of the child. For example, although most marketing of tobacco is prohibited in Sweden (according to FCTC in all countries), the tobacco industry still finds many ways to advertise its products to children, e.g. via product placement in films, point of sales advertising, on tobacco packages and in computer games. Thus, from a child's perspective, the existing prohibition against marketing tobacco products is not enough. In order to have sufficient effect from a child's perspective, there is a need for additional laws which, among other things, a display ban at point of sales and a law that require standardized plain packaging for all tobacco products.

The child's best interest — just words or a reality?

The now generally accepted concept of the child's best interest, which focuses on the individual child's needs and rights, is included in various Swedish laws. The meaning of the concept is influenced by the culture in which it is to be applied, which in turn influences legislation. The concept's meaning and application are also affected by the spirit of the times; not so long ago, for example, it was completely natural for the child to sit on the back seat of a car while its parents sat up front and smoked.

Over the years, many have conflated the child's best interest and the right to express oneself with the concept of self-determination. The idea is not that it is in the

child's best interest to be permitted to wear a cap in the classroom. Some teachers have said that they hesitate to teach children about their rights, out of concern that they will not know what to do if pupils think they can use the concept "against" teachers and the school's established rules. But the CRC emphasizes the child's right to express its opinion regarding all issues that concern it, which is not the same thing as self-determination.

At present, there is no clear definition of the child's best interest, nor was there when the CRC was adopted. The concept was not thoroughly discussed; perhaps the issue was consciously avoided. It is clear, however, that interpretations of the child's best interest should be based partly on decision-makers' objective assessments, taking knowledge and experience into account, and partly on subjective assessments. Subjective assessments of the child's best interest should be based on the child's right to be heard; the child must be asked to express its views, in other words.

All these conclusions shall then be weighed against other perspectives and interests in order to arrive at a final conclusion about how heavily the child's best interest should weigh in the relevant decision. In order to make the best possible assessment, the adult's or society's perspective on the child and the child's own perspective, as discussed above, must be taken into account. The child's best interest should be viewed from the standpoint of the child's entire reality.

Swedish law includes various interpretations of the concept of the child's best interest. An attempt of legislation which takes into account neither the CRC nor the FCTC is the paragraph in the Swedish Environmental Code regarding penalties for littering, which went into effect in 2011. That paragraph has been criticized because it stipulates that fines shall be assessed for "littering of normal degree",⁵ which is interpreted to mean littering of large objects or of great extent. Cigarette butts and snus portions are not included. But if one considers the problem from the child's perspective, the definition might be different. Cigarette butts contain many toxic substances, and small children may think that it is interesting to put them in their mouths. Also, butts sometimes are smouldering toxic smoke, which is a greater threat to the health of children because their lungs are smaller than adults' and therefore more vulnerable.

When does childhood begin?

An interesting question is: Who is a child? According to the CRC, it is every human being below the age of 18. The Convention does not, however, specify the starting point of childhood. The question of when the child is considered to have rights is of great significance for discussions about the foetus and a pregnant woman's right to decide over her own body. A woman's right to self-determinations is often considered to weigh more heavily than society's interest in protecting an expected child, or the child's own interest. Yet, being forced to begin life by being subjected to smoking is contrary to the intent of both the CRC and the FCTC.

4. (1997: 116, 1997) p 11

5. Miljöbalken (Swedish Environmental Code Chap) 15, § 30 and chap. 29 § 7

At what point life begins was a hotly debated issue when the CRC was being formulated. In the end, it was left to each signatory state to decide. The issue of abortion was and still is among some parties controversial and there is always a reluctance to infringe upon national sovereignty and self-determination in such matters. In Sweden, a stillborn foetus is regarded as a child after 22 full weeks of pregnancy. That has significance for abortion law, and also for national statistics and burials. The FCTC uses the same definition of underage child as the CRC. Throughout this document, the concept of child refers to everyone under below the age of 18.

Even though the moment of birth is regarded as the point at which the child acquires full legal rights,⁶ it is a vital issue which cannot be ignored, given the research which indicates that tobacco use and passive smoking are threats to the health of both the expectant woman and the child during pregnancy.

WHO Framework Convention on Tobacco Control

In May 2003 the World Health Assembly (WHA), the decision-making body of the World Health Organization (WHO), unanimously voted to adopt the world's first health convention: the WHO Framework Convention on Tobacco Control, which Sweden ratified in 2005. The FCTC is a legally binding international agreement which 180 countries (as of May 2015) have committed themselves to implement. The aim of the Convention, which contains 38 articles, is to protect children and adults from the harmful effects of tobacco use. Many of the articles concern measures which parties have agreed to implement, including:

- Ensure regularly increases in the prices of tobacco products to reduce the affordability of tobacco products.
- Make it difficult for the tobacco industry to advertise its products, and prohibit entirely the marketing of tobacco products.
- Inform the general public about the tobacco industry's methods for marketing and for its attempts to influence national public health policy.
- Inform the general public about the risks associated with all aspects of tobacco use.
- Regulate ingredients of tobacco products including additives that increase the attractiveness and the product packaging.
- Provide assistance to those who wish to stop using tobacco.
- Stop illicit trade of tobacco.
- Help tobacco growers to switch to other crops.
- Impede sales of tobacco products to children.
- Exclude the tobacco industry from public health policy.
- Co-operate and assist other countries on matters of tobacco control.

The FCTC is a framework for the signatory states' implementation of tobacco prevention measures at the national and international levels for the purpose of continually

and forcefully reducing tobacco use, exposure to tobacco smoke, and the environmental consequences of tobacco growing. Together with the CRC, it provides strong support for a healthy childhood and adolescence must be improved.

How are the two conventions related to each other?

When Tobaksfakta analysed the connections between the CRC and the FCTC, we followed a procedure which is illustrated by the figure of a house shown below. The selected article in the FCTC — in this example, Article 8 concerning everyone's right to protection from exposure to tobacco smoke — has been studied in relation to the CRC's principles and substantive articles.

The CRC proceeds mainly from the four basic principles that emerged when the original signatory states agreed on its formulation: Article 2, all children's equal rights; Article 3, the child's best interest; Article 6, the right to life, survival and development; and article 12, the child's right to be heard. Together with general measures of implementation 4, 42 and 44.6, the basic principles serve as an overarching framework to be reflected in all decisions and measures. We have studied what that can mean in relation to the selected articles of the FCTC and the tobacco issues that it deals with (protection from passive smoking in this example).

We have also investigated which of the CRC's substantive articles have especially clear connections with the selected articles of the FCTC. Several of the substantive articles can serve as guidelines for interpreting the FCTC and indicate which commitments Sweden has agreed to fulfil.

The example below focuses on three substantive articles that are clearly linked to the issue of children and passive smoking: Article 19 on the right to protection from negligence, etc.; Article 24 on the right to the best possible health; and Article 27 on the right to a living standard that enables healthy development in all areas of life.



Figure 1.

6. Convention on the Rights of the Child

Analytical dimensions

In 2008, Elizabeth Englundh discussed implementation of the Children's Convention in Swedish society. She chose the Sörmland County Council as her object of study, and her principal question was: "How does learning occur, and what knowledge processes are developed in the individual and the group in an organization that has assumed the task of implementing the Convention on the Rights of Child?"

Elizabeth Englundh analysed national decisions in terms of four different dimensions in order to, as she explained, "reflect the interdisciplinary nature of the conventions". The four dimensions are: political, legal, pedagogic and ethical. She pointed out that they were applicable to all levels of society.

It is also important to keep in mind that decisions and measures include several different dimensions when analysing the relations between the CRC and the FCTC. Elizabeth Englundh's four dimensions are also well suited to that context.

The illustration below shows the Conventions based on four dimensions all of which are important for the Swedish implementation. The relationship between the political, legal and educational dimension reflects society's perception of the child as a citizen, the ethical dimension can be seen as different social fields that can be represented as shown, therefore concerns many areas of society. The illustration below shows the four dimensions. They are not locked in opposition to each other, but can be moved about in any configuration. The illustration shows how they are related to each other; it is not a hierarchical order.

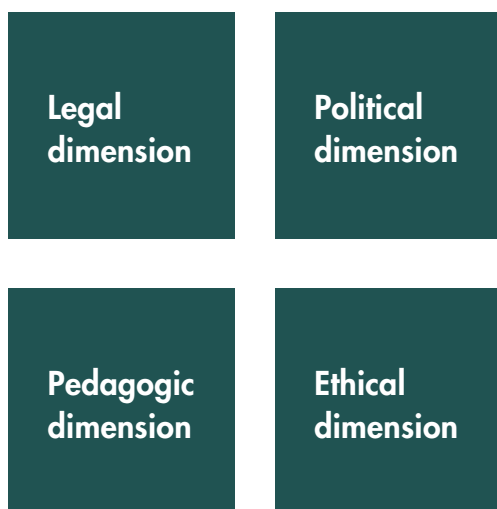


Figure 2.

Political decisions influence and create conditions for the religious and pedagogic dimensions, and the ethical discussion also influences the choices made when rights are applied.

When the focus is on the legal and political dimensions, the ethical and pedagogic dimensions must also be included in order to understand, apply and implement the CRC and FCTC.

The illustration of the four dimensions can be regarded as a clarification of why the Swedish state — at all levels, to its best ability and to the full extent of its available resources — has an obligation to provide its citizens with a good start in life, and the best possible childhood and adolescence, with the support of the FCTC.

The legal dimension

The legal dimension describes the relationship between national law and international law. The two conventions have international status and are legally binding on the states that have ratified them. The Swedish government has entered those agreements, which must be honoured in accordance with conventional legal principles. The government is therefore ultimately responsible for implementation of the conventions — regardless of the form of government which, in the case of Sweden for example, grants considerable independence to municipalities.

The political dimension

The form and contents of the law not only influence our perception of what is permitted or forbidden, right or wrong, it also conveys more implicit notions of what is important in society and whose perspective should predominate.⁷ The need for a more distinct child's perspective has been repeatedly noted by various public inquiries into a number of different matters, and in many other contexts. The government and parliament therefore have important tasks to accomplish before we can be regarded as having fulfilled our commitment to take all appropriate legislative measures for ensuring the rights to which every child is entitled.

Municipalities, county councils and all other governmental authorities have a responsibility for developing adequate procedures and local guidelines for ensuring the rights of the child. This requires a high-quality management system which can ensure that the best interests of the child are satisfied and that decision-makers possess the knowledge of how that is to be done. Everyone usually wants the best for children. But it has, for example, been stated innumerable times that tobacco is an adult issue, which indicates that decision-makers often do not understand the situation or that their thinking does not include the child's perspective of the CRC.

Political decisions constitute the basis of the law, which in turn affects political deliberations on forthcoming decisions. It has been shown that political decisions at the local level are extremely important for the acceptance and long-term relevance of a convention within an organization.⁸

All residents of a municipality can individually and together contribute to better public health through increased awareness and perception of the child's rights, among other things with demands for continuing education, effective procedures and satisfactory regulations concerning tobacco.

7. (Elisabeth Rynning, *allmänna barnhuset ...* p 149

8. (Englundh, 2008) p 139.

Supportive national strategies

It follows that all tobacco policy decisions and measures that have consequences for children should safeguard the child's right to health and development. That is a fundamental principle of the CRC and this document.

In Sweden there are two national strategies that are important for the practical application of that principle. They have also been points of departure for Tobaksfakta's efforts to ensure the child's right to a tobacco-free childhood and adolescence.

The first is a combined five-year national strategy for alcohol, narcotics, doping and tobacco policy (ANDT) which was adopted by the Swedish parliament on 30 March 2011. The overall objective of the ANDT policy is a society completely free of narcotics and doping, with a reduction in alcohol-related medical and social injuries, and reduced tobacco use.

Achieving that objective requires the combined efforts of national authorities, municipalities, county councils, the business sector, non-profit organizations and civil society in general. The government has allocated funds for the ANDT-prevention efforts of non-profit organizations, which historically have played an important role in the development of Swedish general welfare.⁹

The other point of departure is the Strategy for Strengthening the Rights of the Child in Sweden which was adopted in 2010.¹⁰ It contains nine important principles that are all related to the Convention on the Rights of the Child. Most of them concern public health and emphasize the need for co-operation between various agencies and organizations in order to strengthen the child's rights. The government emphasizes that decision-makers and relevant professional groups must have good knowledge of the child's rights and apply that knowledge in relevant agencies and organizations. They must also have up-to-date knowledge about the living conditions upon which decisions and priorities concerning the child are based.¹¹

The child's physical and psychological integrity shall be respected in all contexts. The strategy also emphasizes that decisions and measures concerning the child shall be monitored and evaluated from the perspective of the child's rights.

In the view of Tobaksfakta, this means that decision-makers and professional groups need knowledge in order to protect children and adolescents from exposure to tobacco smoke, the tobacco industry's clever marketing techniques and the environmental consequences of tobacco growing. Too often, children and their parents have been left to bear that responsibility on their own. But it is the state and society that have assumed that responsibility. It is the child's right to grow up in a healthy environment. The CRC emphasizes the State's responsibility to provide appropriate assistance to parents. States Parties undertake to ensure the child such protection and care as is necessary for the well-being, taking into account the rights and

duties of the parents shall take all appropriate legislative and administrative measures. The States Parties shall also take appropriate measures to assist parents and others responsible for the child to implement this right¹². The parents should thus be given assistance, such as legislative measures, from the state, to be able to give their children a smoke-free environment, for example tobacco-free public places and train or bus station platforms.

Has Swedish law been adapted to the conventions?

An international convention is a legally binding agreement among the parties that ratify it. Countries that ratify a convention thereby commit themselves to implementing it in their own laws and in the application of those laws and to co-operate directly with each other or via relevant international agencies in order to fulfil their obligations.

However, it can often be problematical to decide how a country shall implement various parts of a convention, and there can be differing viewpoints about the extent to which the terms of a convention have been fulfilled.

In Sweden, there is strong public confidence in what can be achieved by legislation. The parliament has determined that Swedish law already conforms to the purposes of the CRC and the FCTC. The courts therefore base their rulings on the assumption that Swedish laws are in conformity with international commitments.¹³ This often makes it difficult to call attention to deficiencies in the application of laws, as the legal system relies on the assumption of conformity and declines to consider the relevance of international conventions.

Despite their legal status, both the CRC and the FCTC have become challenges for Sweden in implementing them.

The rights of the child challenge established legal concepts and ideas.¹⁴ The CRC concerns the individual child, not all children as a group. It is not enough if nine of ten children are granted rights; each and every child is entitled to them.

The principle of the child's best interest dominates Swedish legislation on the child's rights. But the articles of the CRC are to be regarded as an interdependent whole. No article may be considered in isolation; each is interrelated with the other articles. No one can, for example, maintain that genital mutilation is in the best interest of a child on religious grounds. In such cases, the principal of the child's best interest must be considered together with the other articles — which in this example includes Article 19 on the child's right to protection for all forms of violence, and Article 24.3 on the abolition of traditional practices that violate the child's rights. One of the fundamental principles of the CRC is that childhood has a value in itself — that it is not merely a step on the way to adulthood.

9. Polypropylene. 2004/05: 118.

10. Strategy to strengthen the rights of the child in Sweden. Social committee's report 210/11: SOU3

11. Strategy to strengthen the rights of the child in Sweden. Social committee's report 210/11: SOU3.

12. Rachel Hodgkin and Peter Newell, Implementation Handbook for the Convention of the Rights of the Child, p 236

13. SOU 1997: 116 s 79

14. Kommitte'direktiv 2013: 35 Review of the Rights of the Child in Swedish law.

The child shall be provided with the best possible conditions for entering the adult world and enjoying a rich childhood. The child is dependent on its parents, the society such as all environments eg. Schools, leisure and friends etc.

The question of incorporating the CRC into Swedish law gained new currency with the change of government in 2014. However, the responsibility for fulfilling the terms of the convention is equally great, whether it is done by incorporating the convention into the law or adapting existing law to the convention.

The FCTC is also an international legal agreement. Its purpose is to reduce the harmful effects of tobacco on both individuals and society. Many other countries have come much further than Sweden with tobacco legislation that better conforms with the Tobacco Convention and the rights of the child. In order to protect children, Australia has for example introduced a requirement of plain packaging, Canada has prohibited smoking in cars with child passengers, and eg. Norway and Thailand have forbidden the display of tobacco advertising at all points of sale.

The report of the most recent official inquiry of the Swedish government¹⁵ states that Swedish law conforms to the Tobacco Convention, and that the Convention does not require any additional legislation in Sweden. Previously, Sweden has advocated stronger protection against exposure to tobacco smoke by means of effective regulations in both the Tobacco Convention and in national law. The much-discussed prohibition against smoking in restaurants and other dining facilities went into effect in 2005, and has been received more favourably than political decision-makers dared to hope. Since then, however, not much has happened. Among the few measures that have been taken during recent years are tobacco tax increases, increased enforcement of the age-limit for purchasing tobacco products and increased resources for tobacco cessation programmes.

In October 2014 the Swedish Public Health Agency presented a proposal on which some public outdoor environments should be made smoke-free. A particular emphasis was placed on environments where children are present.¹⁶ The government is now taking a position on the Public Health Agency's proposal, which requires further analysis before it can be implemented.¹⁷

Laws are not enough

As noted, the government has previously declared that Swedish law already conforms with the Children's Convention and the Tobacco Convention. A report published in 2005 explained how Swedish law conforms with the Tobacco Convention. There have also been several reports by public inquiries on how Swedish law conforms with the Children's Convention. That question is the subject of a current inquiry that is due to present its findings in 2015.

Unfortunately, there have not been as many inquiries into the question of how well both conventions are being fulfilled in practice in Swedish society. The Swedish state has assumed a responsibility by which the courts and public agencies are to interpret all situations that impact

on the child in the spirit of the CRC and the FCTC, with an emphasis on their application. Meanwhile, political and other decision-makers have a great responsibility to ensure that changes to the law conform to the conventions, and thereby to provide a basis for improvements in implementation.

15. The change of government has just taken place in Sweden so we do not really know how the new Government agrees in question but who reasoned about is what emerged with the reports and investigations under the alliance government.

16. <http://www.folkhalsomyndigheten.se/documents/om-folkhalsomyndigheten/uppdrag-styrdokument/avslutade/Slutrapport-Utredning-framtida-rokfria-miljoer-allmanna-platser.pdf>.

17. <http://www.folkhalsomyndigheten.se/nyheter-och-press/nyhetsarkiv/2014/oktober/folkhalsomyndigheten-foreslar-fler-rokfria-platser-utomhus/>.