



CRC

善牧基金會 李碧琪 研發專員

CRC

everyone working
together (所有人
一起努力)

all the countries of the
world (世界上所有的
國家)

promise or agreement
(承諾或協議)

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

what children need to help them live
and grow, join in and have their ideas
listened to (為使兒童生活、成長、
參與以及獲得傾聽所需要的)

未滿18歲之人

參考自

<http://www.uncrcletsgetitright.co.uk>



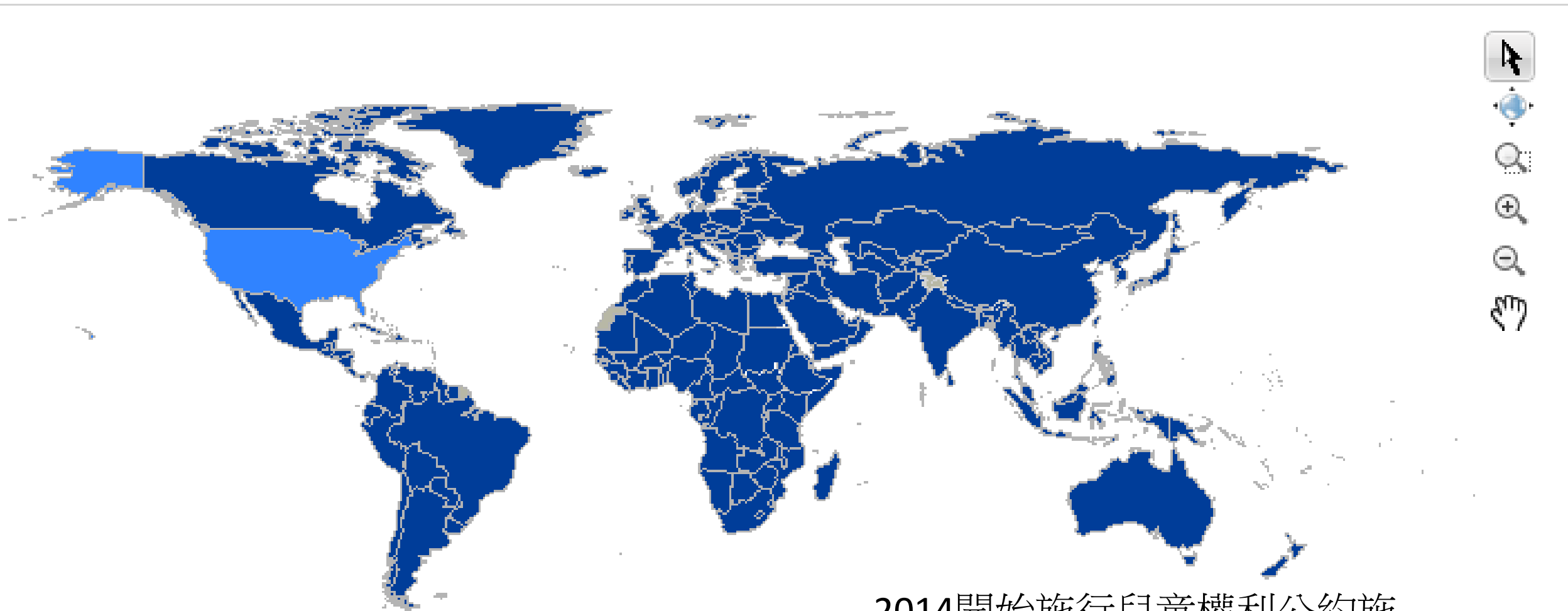
兒童應該享有權利嗎？

- 
- 成人的擔憂是.....
 - 兒童的想法是...

兒童權利理念之迷思

- 是人就有人權，但是兒童的人權應該要有所限制？
- 要看是怎樣的權利？
- 給兒童權利，那不就是削弱大人的權利？
- 其他.....

Convention on the Rights of the Child



2014開始施行兒童權利公約施行法(台灣)、最多國家簽署

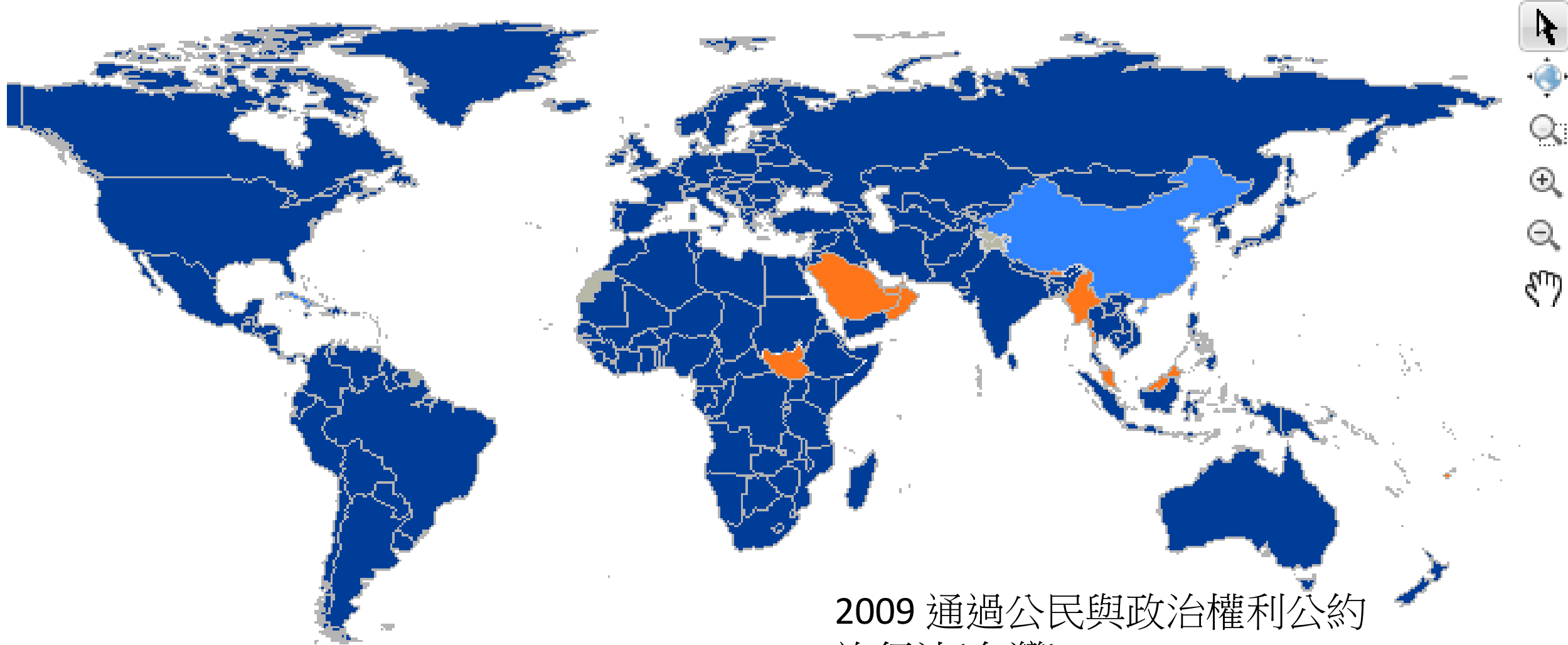
Country Status

State Party (197) Signatory (1) No Action (0)

Individual communications procedure

Inquiry procedure

International Covenant on Civil and Political Rights

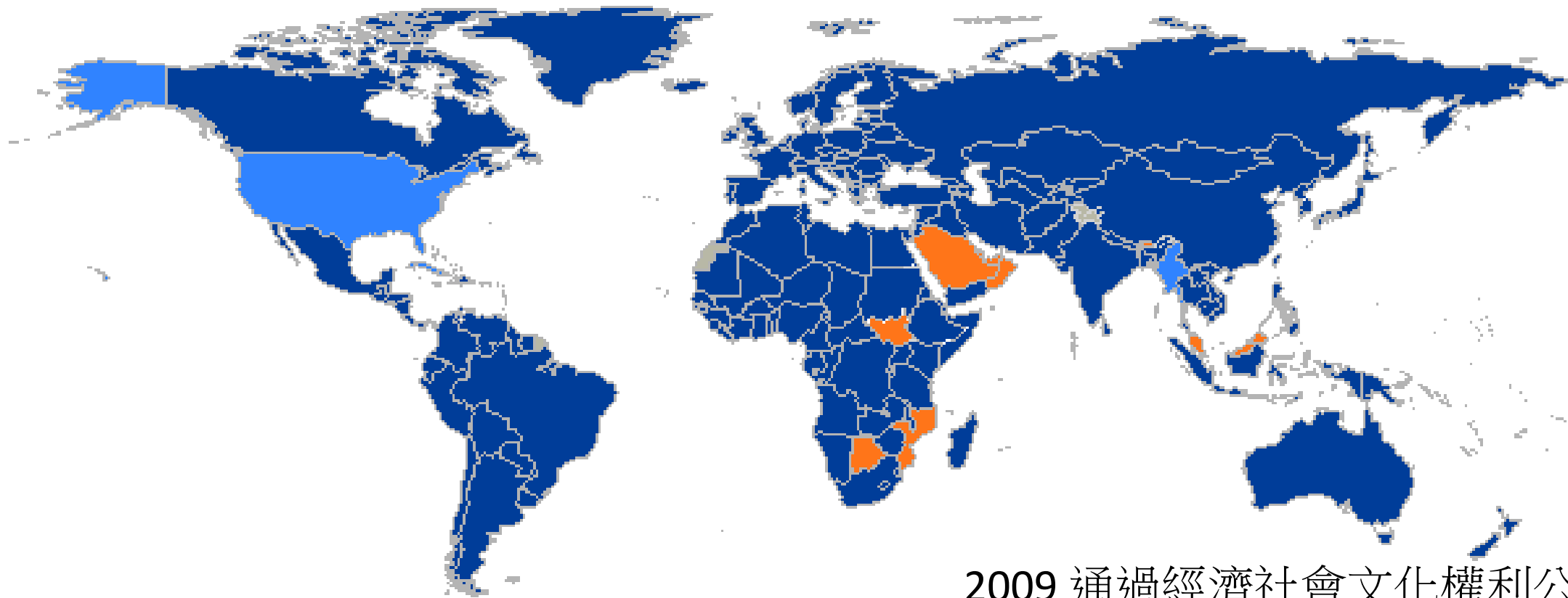


2009 通過公民與政治權利公約
施行法(台灣)

Country Status

State Party (169) Signatory (7) No Action (22) Individual communications procedure

International Covenant on Economic, Social and Cultural Rights



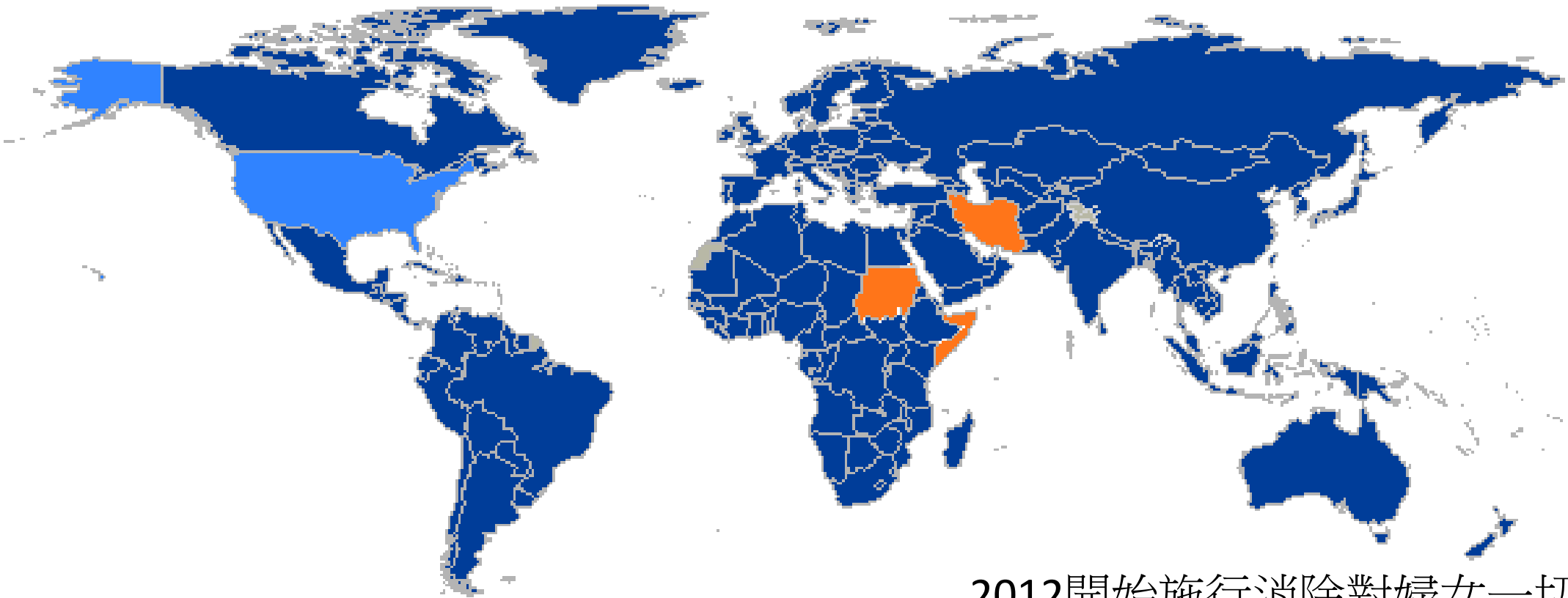
Country Status

State Party (165) Signatory (6) No Action (27)

Individual communications procedure

Inquiry procedure

Convention on the Elimination of All Forms of Discrimination against Women



2012開始施行消除對婦女一切
形式歧視公約施行法(台灣)

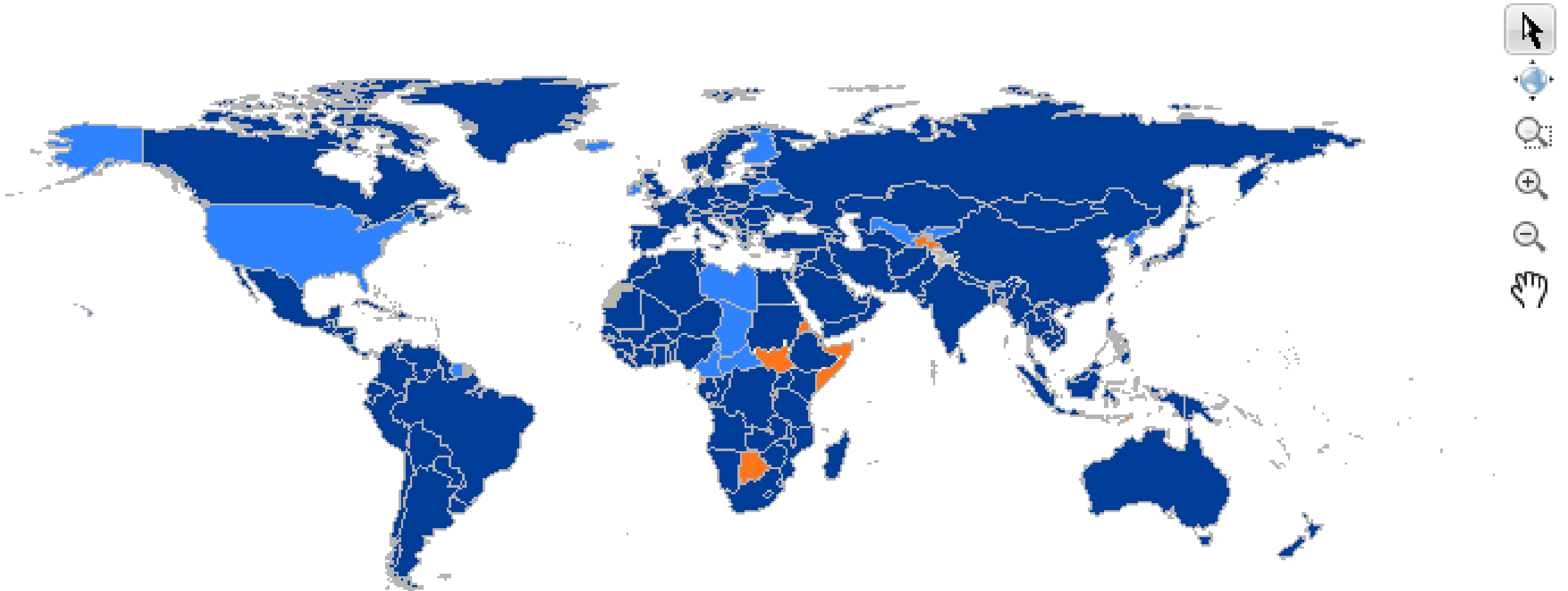
Country Status

State Party (190) Signatory (2) No Action (6)

Individual communications procedure

Inquiry procedure

Convention on the Rights of Persons with Disabilities



2014開始施行身心障礙者權利
公約施行法(台灣)

<http://indicators.ohchr.org/>

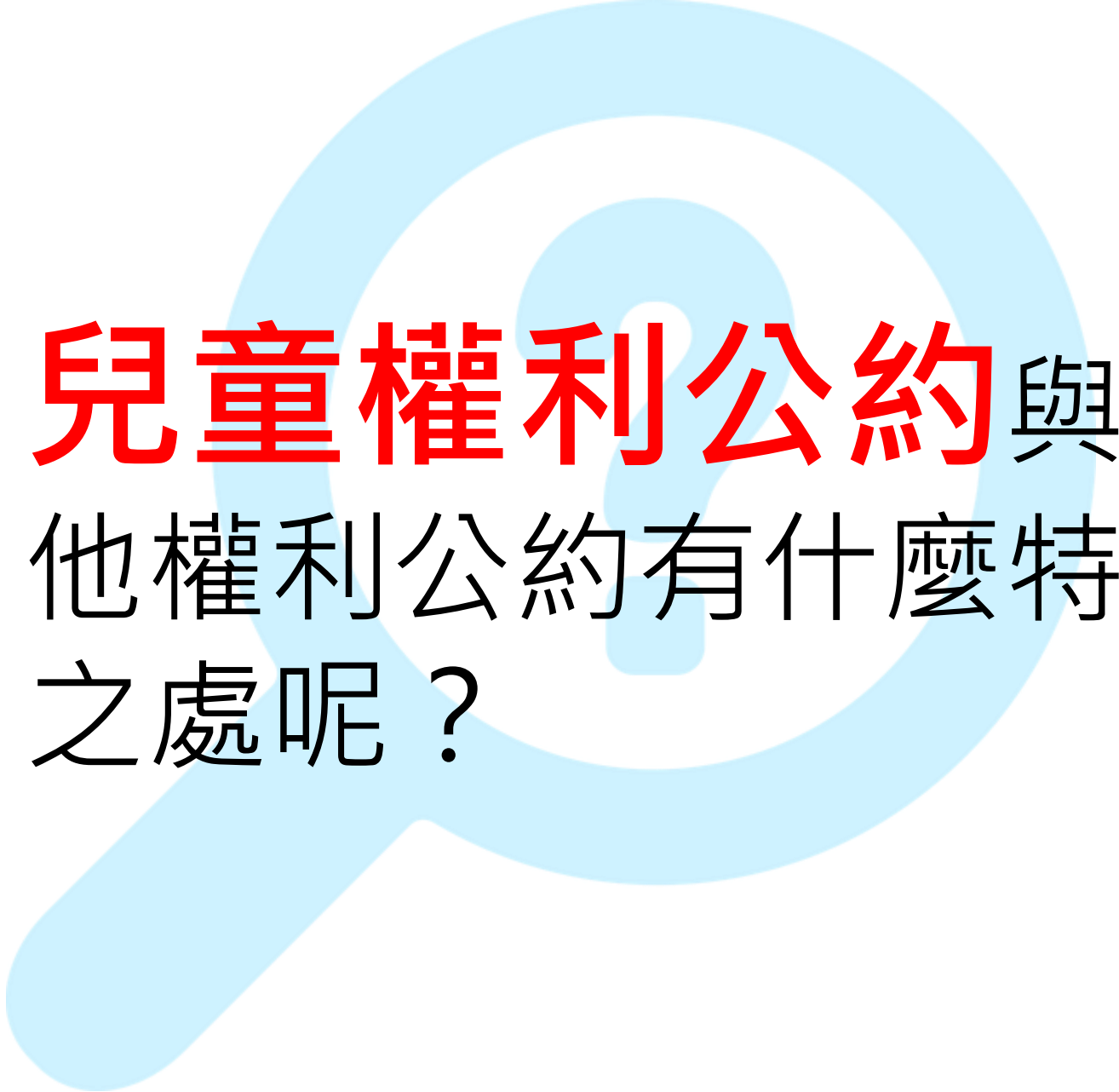
Country Status

State Party (163) Signatory (25) No Action

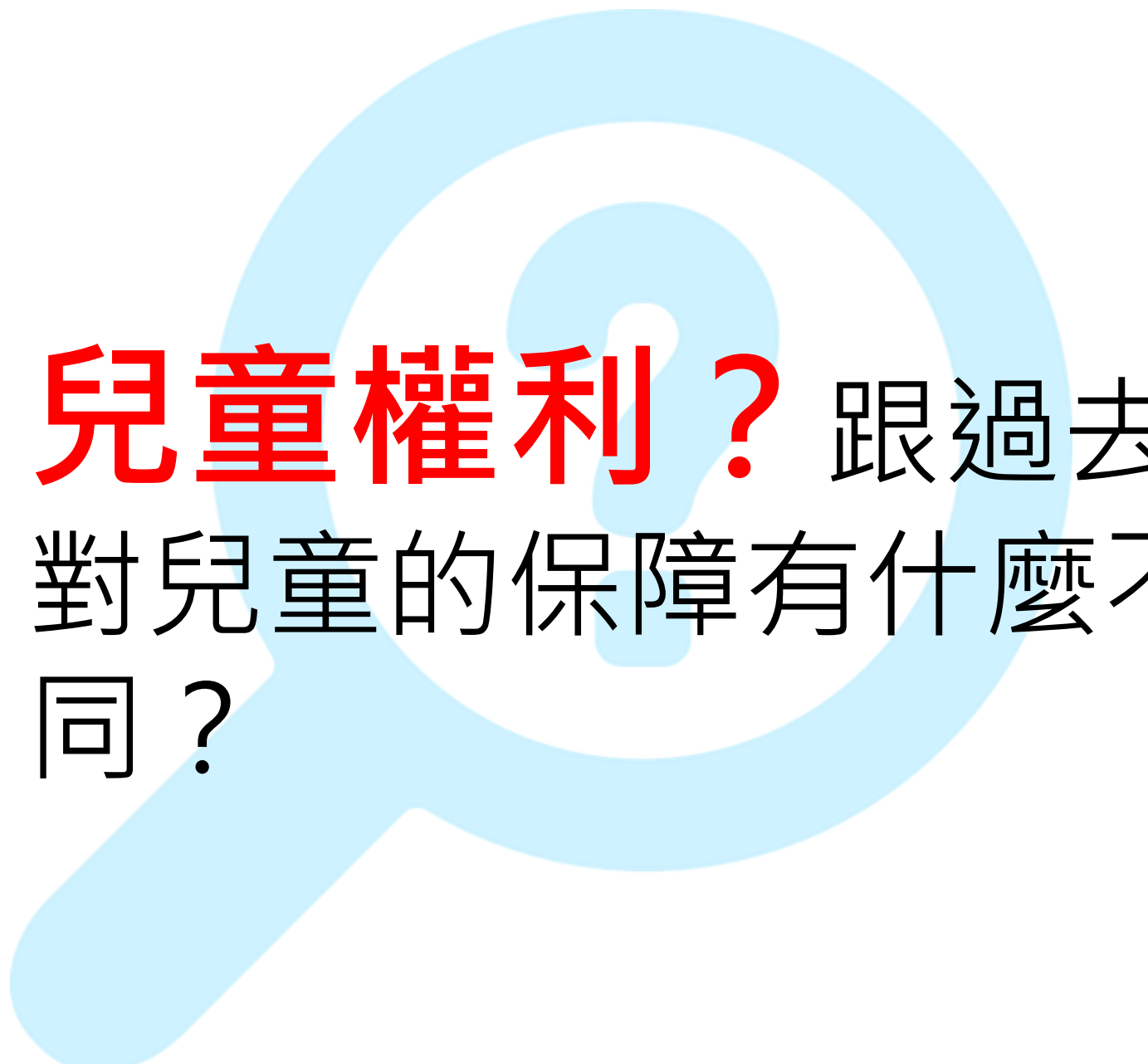
(11)

Individual communications
procedure

Inquiry procedure



兒童權利公約與其他
權利公約有什麼特殊
之處呢？



兒童權利？ 跟過去
對兒童的保障有什麼不
同？

兩代之間

- 1) 桌子上面都有張紙，每桌請推派夥伴，並畫下一名孩子及一名大人；
- 2) 也請大家在同一張紙上寫下「兒童與成人之間的不同」；
- 3) 各組分享時，請將海報舉起讓大家看到，並提出一項差異點即可。



1. 兒童之定義
2. 禁止歧視
3. 兒童最佳利益
4. 權利之落實
5. 父母之引導與兒童逐漸發展之能力
6. 生存及發展權
7. 出生登記、姓名、國籍與受父母照顧之權利
8. 兒童身分權之維護
9. 兒童不與父母分離之權利
10. 因家庭團聚而請求進入或離開締約國
11. 非法移送兒童或令其無法回國
12. 兒童被傾聽及意見獲得考量之權利
13. 兒童自由表示意見之權利
14. 兒童思想、自我意識與宗教自由之權利
15. 結社及和平集會自由之權利
16. 兒童之隱私權
17. 適當資訊之獲取
18. 父母之責任與國家之協助
19. 兒童不受任何形式之暴力
20. 喪失家庭環境之兒童
21. 收養
22. 難民兒童
23. 身心障礙兒童
24. 兒童健康與醫療照護
25. 受安置兒童之定期評估
26. 社會安全保障
27. 適於兒童之生活水準
28. 教育
29. 教育之目的
30. 少數民族與原住民兒童
31. 兒童休息、休閒、參加文化生活與藝術活動之權利
32. 兒童免受經濟剝削之權利
33. 兒童與非法麻醉藥品和精神藥物之濫用
34. 兒童性剝削
35. 兒童誘拐、買賣或販運之預防
36. 兒童免於遭受任何其他形式剝削之權利
37. 酷刑、殘忍、不人道或有辱人格之待遇或處罰
38. 武裝衝突
39. 兒童被害人之康復與重返社會
40. 兒童司法

四項一般原則

- 平等/禁止歧視原則(§2)
- 兒童最佳利益原則(§3(1))
- 兒童之生存及發展權(§6)
- 兒童表示意見及意見獲得考量的權利(§12)：

兒童人權的起源

- 在第一次世界大戰後，在開發中國家與世界各動亂地區，有數以萬計的兒童過著貧病的生活，有的甚至被擄為少年兵、童工、童妓。
- 多數身心受創的兒童在身體、心理與道德上都沒有獲得適當的成長與發展。





Eglantyne Jebb



圖片擷取自 Save the Children UK 網站

當時英國的艾格蘭亭·傑普（Eglantyne Jebb）女士原本只是一名學校教師，在因緣際會下，她接觸到一些慈善組織，看到孩子們不幸的遭遇後，毅然決然辭去教職。

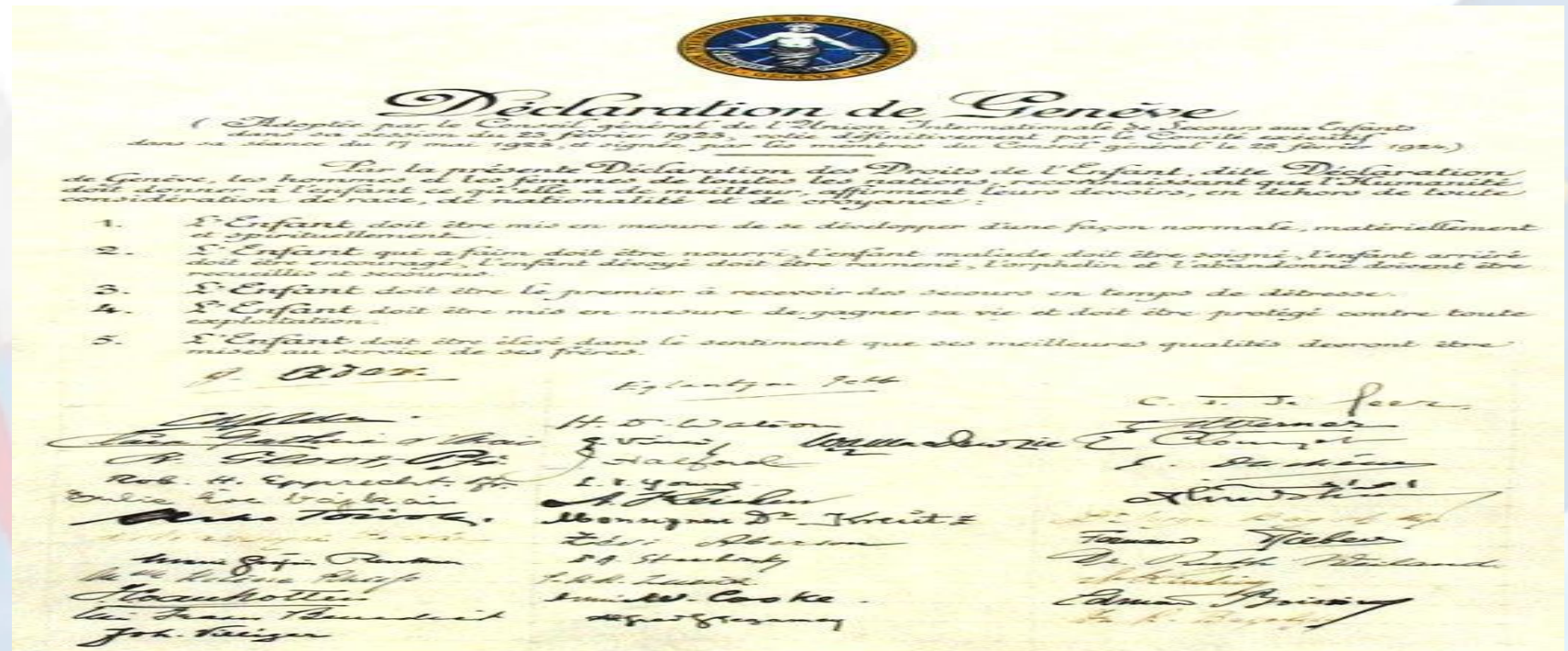
並在1919年成立「兒童救濟基金會——拯救兒童世界聯盟」，將兒童救濟基金會的觀念逐漸推展到世界各地。

1923年她在日內瓦湖寫下5項兒童人權宣言，並成為後來1924年國際聯盟通過的「日內瓦宣言」，是首次提及兒童權利的重要文件。

歷經三十五年後，由聯合國接續捍衛兒童在法律上的權利，於一九五九年通過「兒童權利宣言」。

1924 – Declaration of Geneva (日內瓦宣言)

首次提及「兒童權利」



1. 必須提供兒童正常發展所需之物質上與精神上的各種需要。
2. 必須提供食物給飢餓的兒童，並提供生病的兒童必要的治療。身心發展遲緩的兒童，要獲得適當的援助。對不良行為的兒童要給予改過自新的機會。孤兒和流浪兒亦應獲得居住的場所，並得到適當的援助。
3. 遇到危難時兒童應優先獲得救濟。
4. 兒童有獨立維持生計的地位，因此要避免受到任何形式的壓榨。
5. 兒童必須獲得適當的培育，使其才能能夠全體人類有所貢獻。

- 有鑑於「兒童權利宣言」**缺乏拘束力，必須制定具有強大約束力的公約，藉由國際社會的力量來保障兒童權利**，因此，1979年波蘭政府開始起草公約，協同世界衛生組織、國際勞工組織、聯合國教科文組織等國際組織，經過十年來逐條檢討，嚴密審議之後，終於**在1989年通過《兒童權利公約》**。



對孩子友善的環境...

I'm protected

You are protected

They are protected

We are all protected

The European Convention on Human Rights

What will you learn?

What is the Council of Europe and what is the European Convention?

What?

- Sexual orientation
- Sexual abuse
- Sexual exploitation

How can you be safe on the Internet?

How can the European Convention protect you and other children against sexual abuse and exploitation?

What happens to the people who commit these crimes?

What is the Council of Europe and what is the European Convention?

The Council of Europe is an organization of 47 member states, which is the largest of its kind in Europe. It was founded in 1949 and its main aim is to promote and protect human rights across Europe.

The European Convention on Human Rights is a treaty that sets out the rights and freedoms of people living in Europe. It is the basis for the work of the European Court of Human Rights.

The Council of Europe is not a government. It does not have the power to make laws or to enforce them. However, it can help to bring about change in countries where human rights are being violated.

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Who will you meet during an investigation?

During an investigation, you will meet several people who will help you to understand what has happened. These people are called 'witnesses' and 'experts'.

Witnesses: These are people who have seen or heard something that is important to the investigation. They can help the police to understand what happened.

Experts: These are people who have special knowledge or skills that can help the police to understand what happened. For example, a forensic expert can help to identify evidence.

The Police: The police are the people who are in charge of the investigation. They will ask you questions and try to find out what happened.

The Judge: The judge is the person who will decide what happened. They will listen to the evidence and make a decision.

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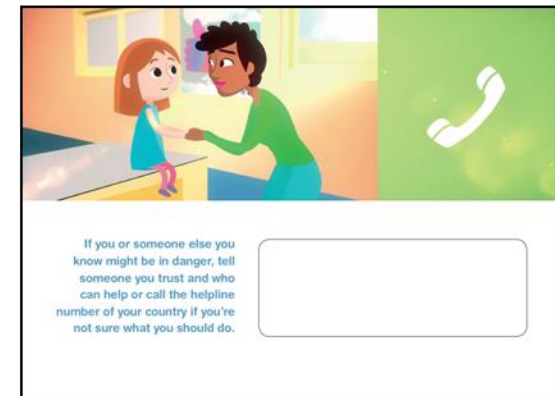
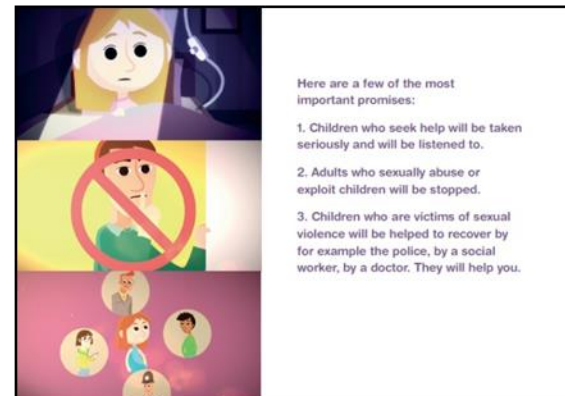
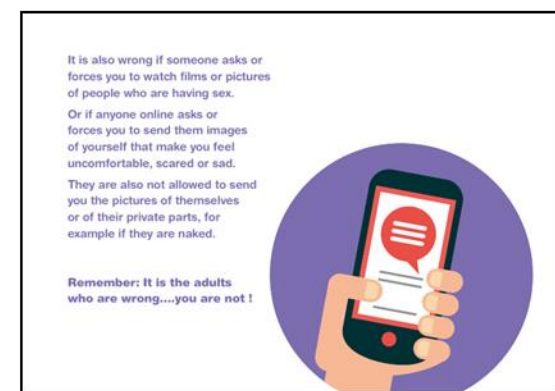
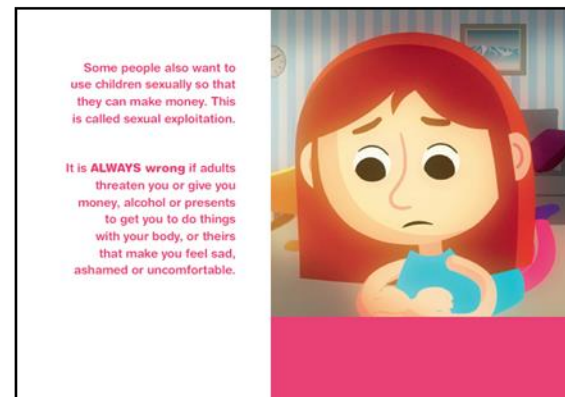
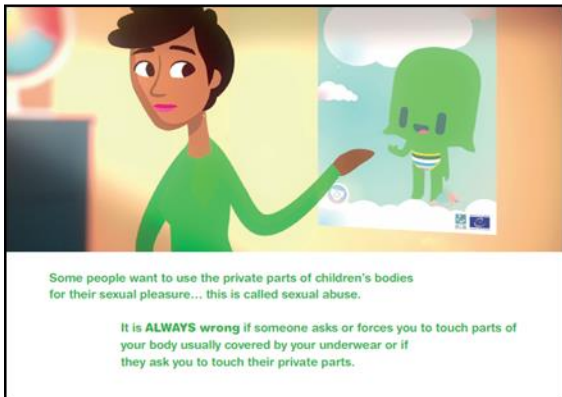
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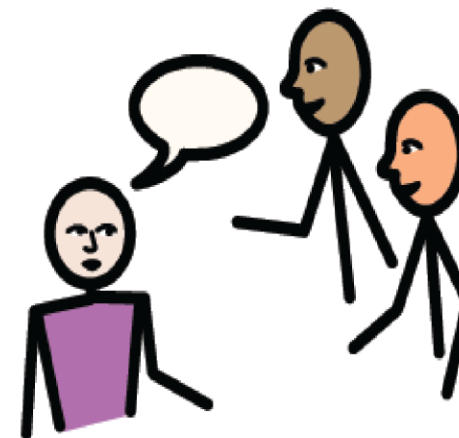
衛生福利部社會及家庭署
Social and Family Affairs Administration, Ministry of Health and Welfare

我有話要說

我們也有自己的意見，可以
透過悄悄話、寫信和畫圖
來表達我們的想法。



12 UN Convention on the Rights of the Child

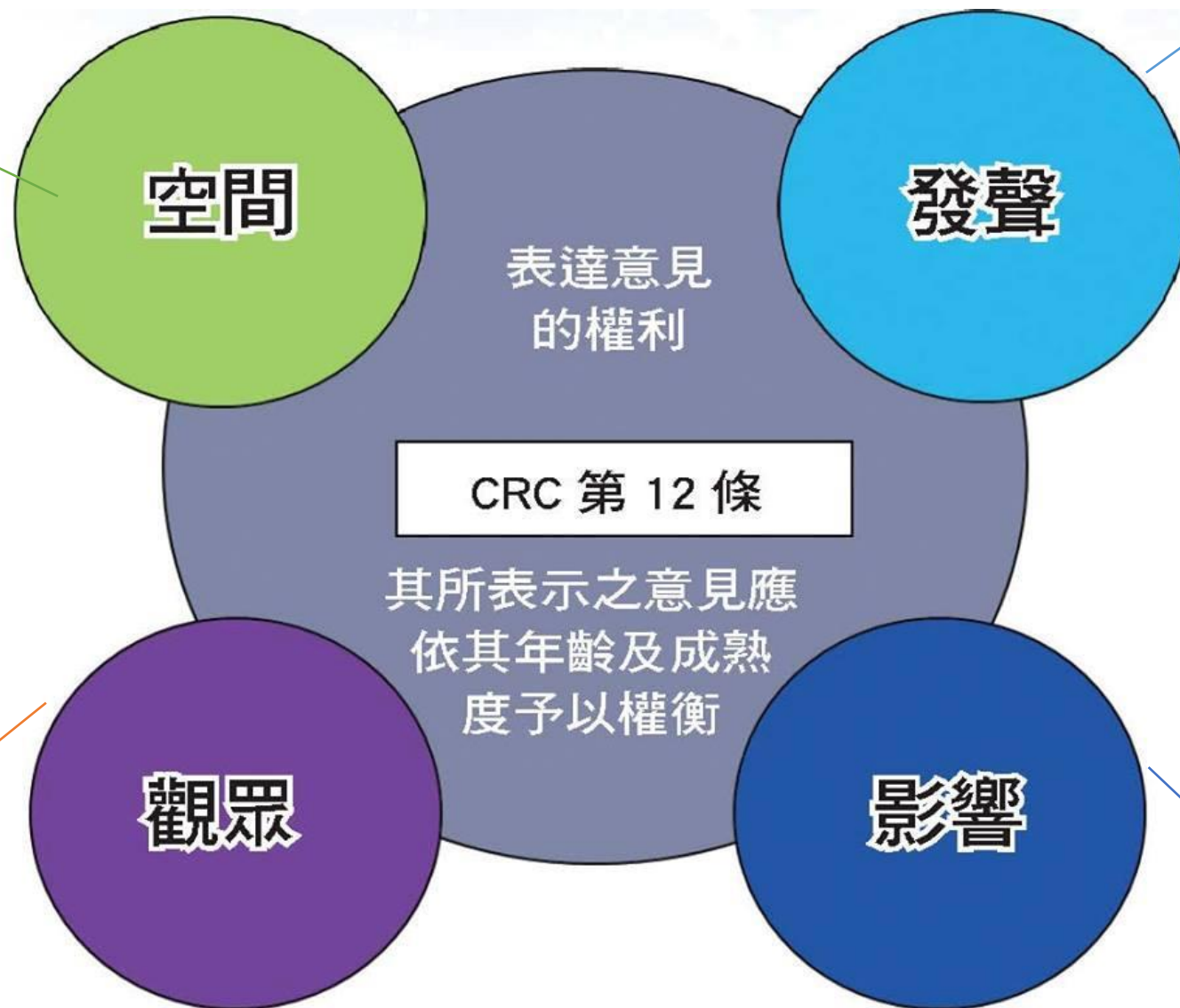


I have the right to
be listened to, and
taken seriously

Lundy's Model of Participation

必須給兒童安全、
具包容性的環境及
方式來形成和讓他們
可以表達的機會

兒童的想法必須被
傾聽



必須協助兒童表達
意見

根據兒童的觀點，
必須要有所行動

Lundy's Voice Model Checklist for Participation

Space

HOW: Provide a safe and inclusive space for children to express their views

- Have children's views been actively sought?
- Was there a safe space in which children can express themselves freely?
- Have steps been taken to ensure that all children can take part?

Voice

HOW: Provide appropriate information and facilitate the expression of children's views

- Have children been given the information they need to form a view?
- Do children know that they do not have to take part?
- Have children been given a range of options as to how they might choose to express themselves?

Audience

HOW: Ensure that children's views are communicated to someone with the responsibility to listen

- Is there a process for communicating children's views?
- Do children know who their views are being communicated to?
- Does that person/body have the power to make decisions?

Influence

HOW: Ensure that children's views are taken seriously and acted upon, where appropriate

- Were the children's views considered by those with the power to effect change?
- Are there procedures in place that ensure that the children's views have been taken seriously?
- Have the children and young people been provided with feedback explaining the reasons for decisions taken?

Space

HOW: Provide a safe and inclusive space for children to express their views

- Have children's views been actively sought?
- Was there a safe space in which children can express themselves freely?
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提供安全、具包容性的環境及方式
來形成和讓兒童可以表達的機會

- 有沒有積極邀請兒童參與過程，表達想法/觀點？
- 在空間規劃上，能否讓兒童可以安全、自由地表達自己？
- 有否已採取相關措施來確保所有的孩子都可以有機會參與過程？

Voice

HOW: Provide appropriate information and facilitate the expression of children's views

- Have children been given the information they need to form a view?
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- Have children been given a range of options as to how they might choose to express themselves?

提供足夠的訊息，讓兒童可以形成自己的想法觀點，進而表達出來

- 是否有給兒童足夠的訊息與知識去形成自己的想法及觀點？
- 兒童知道自己有權決定參加與否？
- 是否有提供多元的方式讓兒童可以選擇表達自己想法/觀點的方法？

Audience

HOW: Ensure that children's views are communicated to someone with the responsibility to listen

- Is there a process for communicating children's views?
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確保負責的人聽到兒童表達的想法與觀點

- 有沒有傳達兒童觀點的過程規劃？
- 兒童知道他們所表達的觀點是要傳達給誰的嗎？
- 那個人是否有權作出決定？

Influence

HOW: Ensure that children's views are taken seriously and acted upon, where appropriate

- Were the children's views considered by those with the power to effect change?
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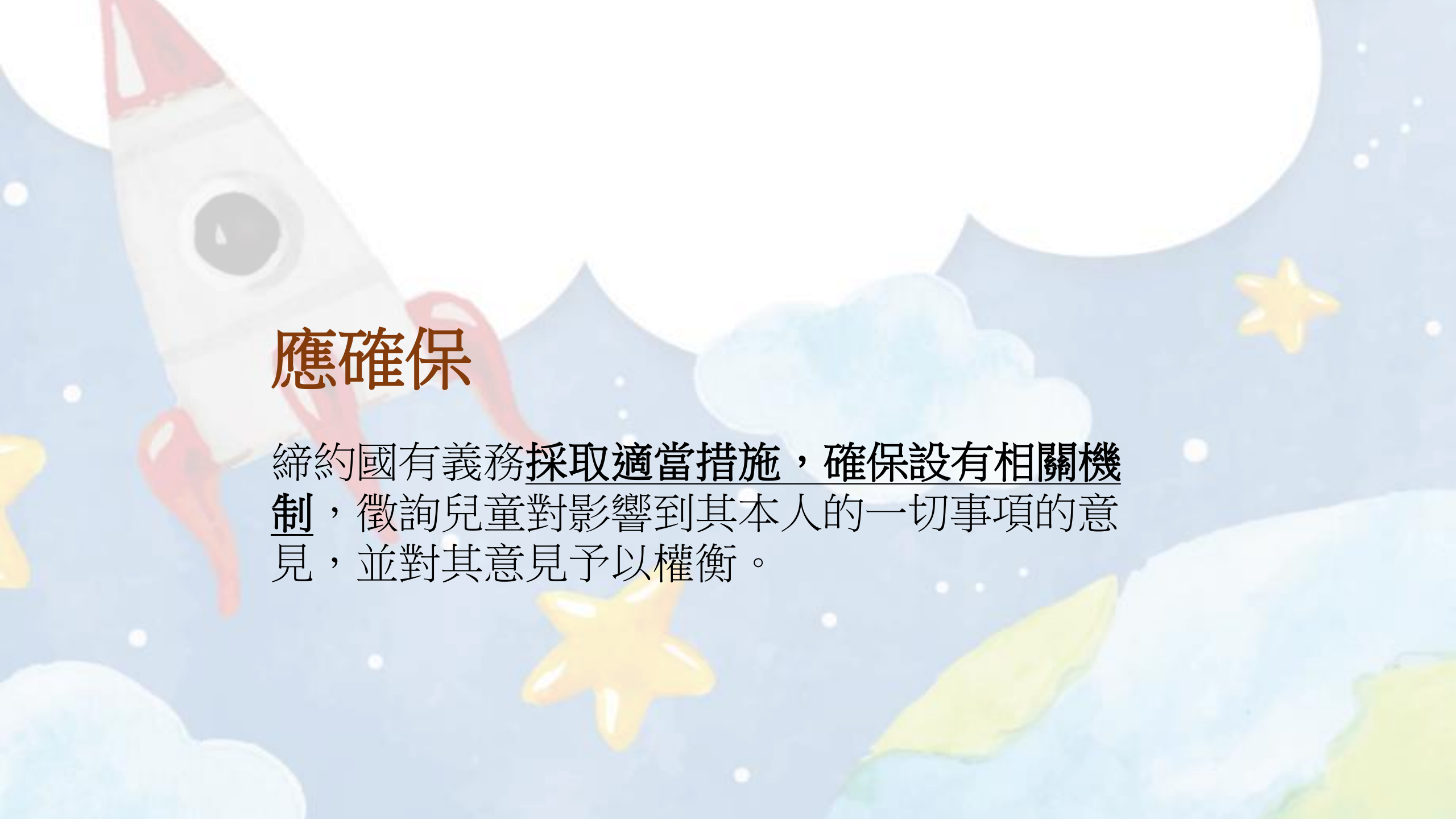
確保兒童的想法被認真對待並採取相對應的行動

- 具影響力的人是否考慮過兒童的觀點？
- 是否有明確的程序可以確保兒童的觀點被認真對待？
- 是否向兒童和年輕人提供了解釋做出決定原因的反饋？

CRC12

1.締約國應確保有形成其自己意見能力之兒童有權就影響其本身之所有事物自由表示意見，其所表示之意見應依其年齡及成熟度予以權衡。

2.據此，應特別給予兒童在對自己有影響之司法及行政程序中，能夠依照國家法律之程序規定，由其本人直接或透過代表或適當之組織，表達意見之機會。

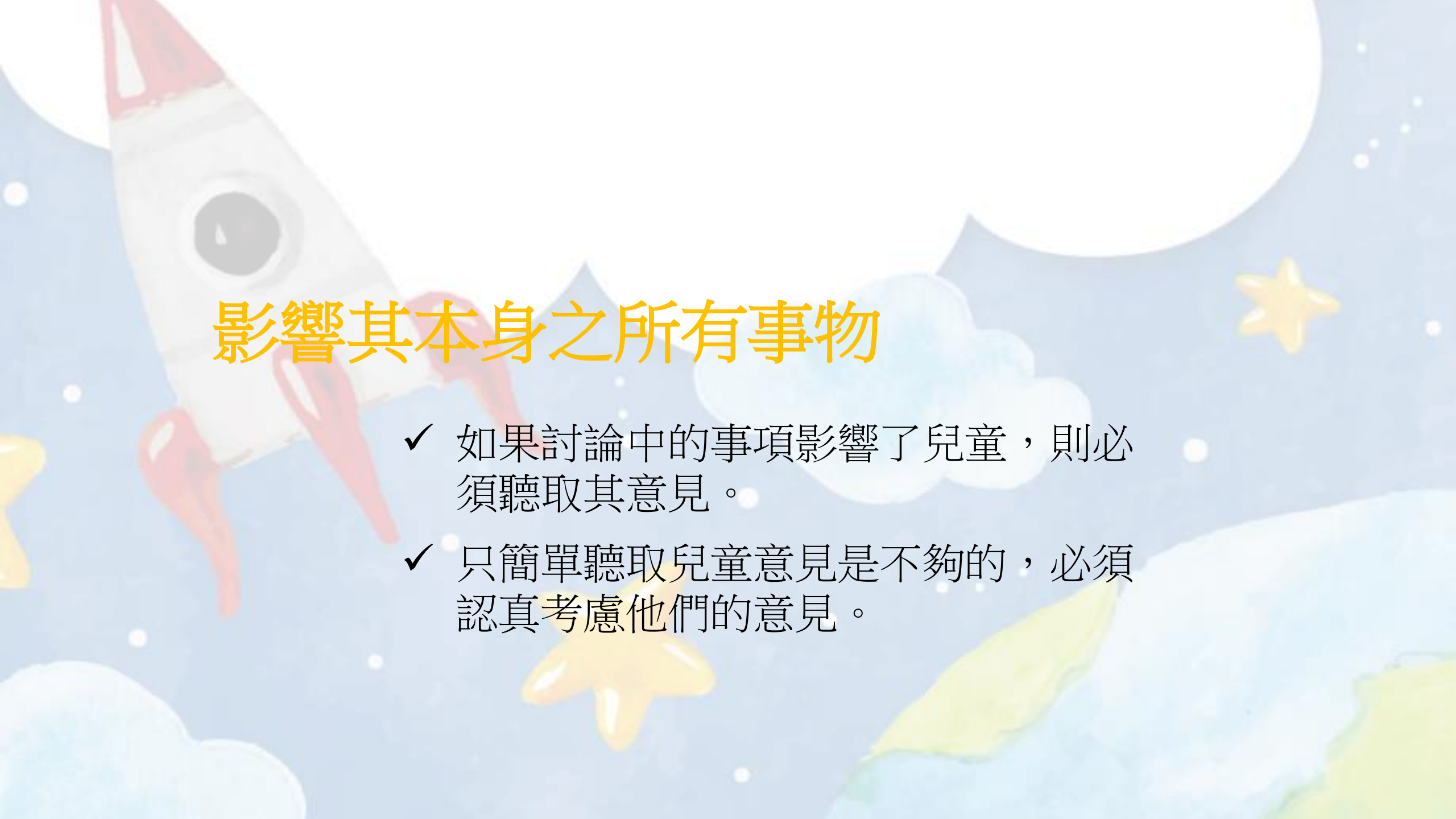


應確保

締約國有義務採取適當措施，確保設有相關機制，徵詢兒童對影響到其本人的一切事項的意見，並對其意見予以權衡。

有形成其自己意見能力

- ✓ 締約國不能推定兒童沒有表達自己意見的能力，並非由兒童去證明他的能力，相反地，應該假設兒童有能力形成自己的意見。
- ✓ 不鼓勵用年齡來限制。
- ✓ 研究證明，從兒童幼年期起就能夠形成意見，即使他可能無法用言語來表達，因此必須尊重並重視非語言的交流。
- ✓ 確保在表達意見方面有困難的孩子其表意權利可以獲得落實，身心障礙兒童、原住民、新住民兒童、較小幼兒等...



影響其本身之所有事物

- ✓ 如果討論中的事項影響了兒童，則必須聽取其意見。
- ✓ 只簡單聽取兒童意見是不夠的，必須認真考慮他們的意見。

自由表示意見

- ✓ 在沒有壓力的情況下，可以自己選擇是否要行使表達意見的權利。
- ✓ 確保兒童在表達觀點時感覺到安全及受尊重的環境。
- ✓ 不應過多對兒童進行不必要的問話。
- ✓ 兒童必須了解自己將在怎樣的情況下去表達其意見。

應依其年齡及成熟度予以權衡

- ✓ 訊息、經驗、環境、社會文化、習俗及生活水平等都會促進兒童在形成意見的能力發展，並非總與生理年齡有關。
- ✓ 要考量到事件對兒童的影響，結果對兒童影響越大時.....

對自己有影響之司法及行政程序中

- ✓ 不首限制的適用於所有影響到兒童的相關司法訴訟。
- ✓ 鼓勵締約國引入法律措施，要求決策者在司法或行政訴訟中說明在何種程度上考慮了兒童的意見以及對兒童的影響。
- ✓ 對兒童而言，訴訟必須是可理解的，需要注意提供和陳述有益兒童的訊息、適當的工作人員、法庭設計、法官律師著裝、等候室等。

本人直接或透過代表或適當之組織

- ✓ 盡可能讓兒童在任何訴訟中都應有機會直接陳述意見。
- ✓ 要特別注意的是，在許多情況下，兒童與成人代表(例如父母)之間可能有利益上的衝突。
- ✓ 對代理人的行為準則與規定。
- ✓ 代理人如何具備代表性....

執行兒童表意權的步驟

- 準備→聽取意見→評估兒童的能力→如何看待兒童的訊息→申訴、補救和賠償



就案例內容試問

1.以CRC來檢視,你看到哪些議題?



• ?

在不同的環境下，如何執行兒童的表意權....

- 請各組自己選擇一個場域(83-94)，並試著討論
 1. 在這場域裡，兒童可能在表達意見權利上會遇到那些挑戰？
 2. 如果今天你要落實兒童的表意權利，你會做什麼？

落實兒童參與及表意權的基本要素

- 有效和真正的參與應該是一種過程，而不是個別的一次性活動
- 兒童(們)表達意見和參與的過程必須是
 - a) 透明、公開的，應以全面、可理解的、注重多元化及適合年齡的方式向兒童提供訊息，說明他們應有的權利及如何進行參與、參與範圍、目的及潛在影響；
 - b) 自願的
 - c) 尊重的，尊重兒童的意見，並為他們提供提出觀點和發起活動的機會
 - d) 相關的，與其生活切實相關的

落實兒童參與及表意權的基本要素

- 兒童(們)表達意見和參與的過程必須是
 - e) 有益兒童的，環境和工作方法應當適合兒童的能力，確保有足夠的時間、資源，讓兒童可以有充分準備，且須依兒童不同年齡及階段的接受能力，要有不同程度的支持和參與形式
 - f) 包容性的，參與必須是包容性的，避免既有形式的歧視，各種方案也應確保對來自各方的兒童有文化的敏感度
 - g) 有培訓支持的
 - h) 安全且對危險敏感的，在某些情況下，表達意見可能引發危險...
 - i) 問責的，在所有研究及協商過程中，必須讓兒童了解對於他們的意見是如何解釋及利用，給予兒童參與後續進程或活動的機會。