

# CHILDREN'S RIGHTS - BEST INTERESTS

## II. GENERAL COMMENTS AND RECOMMENDATIONS

- ICESCR General Comment 14 (Twenty-second session, 2000): Article 12: The Right to the Highest Attainable Standard of Health, E/2001/22 (2000) 128 at para. 24.

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24. In all policies and programmes aimed at guaranteeing the right to health of children and adolescents their best interests shall be a primary consideration.

- CRC General Comment 1 (Twenty-sixth session, 2001): Article 29 (1): The Aims of Education, CRC/C/103 (2001) 150 at paras. 5 and 9.

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### The functions of article 29 (1)

5. Article 29 (1) is much more than an inventory or listing of different objectives which education should seek to achieve. Within the overall context of the Convention it serves to highlight, *inter alia*, the following dimensions.

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9. Third, while article 28 focuses upon the obligations of State parties in relation to the establishment of educational systems and in ensuring access thereto, article 29 (1) underlines the individual and subjective right to a specific quality of education. Consistent with the Convention's emphasis on the importance of acting in the best interests of the child, this article emphasizes the message of child-centred education: that the key goal of education is the development of the individual child's personality, talents and abilities, in recognition of the fact that every child has unique characteristics, interests, abilities, and learning needs. <sup>3/</sup> Thus, the curriculum must be of direct relevance to the child's social, cultural, environmental and economic context and to his or her present and future needs and take full account of the child's evolving capacities; teaching methods should be tailored to the different needs of different children. Education must also be aimed at ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life. Basic skills include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their options in life.

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### Notes

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3/ United Nations Educational, Scientific and Cultural Organization, *The Salamanca Statement and Framework for Action on Special Needs Education*, 1994, p. viii.

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- CRC General Comment 2 (Thirty-first session, 2002): The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child, A/59/41 (2004) 82 at para. 19(i).

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19. The following is an indicative, but not exhaustive, list of the types of activities which NHRIs [national human rights institutions] should carry out in relation to the implementation of children's rights in light of the general principles of the Convention. They should:

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(i) In accordance with article 3 of the Convention requiring that the best interests of children should be a primary consideration in all actions concerning them, ensure that the impact of laws and policies on children is carefully considered from development to implementation and beyond;

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- CRC General Comment 3 (Thirty-second session, 2003): HIV/AIDS and the Rights of the Child, A/59/41 (2004) 89 at para. 10.

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10. Policies and programmes for the prevention, care and treatment of HIV/AIDS have generally been designed for adults with scarce attention to the principle of the best interests of the child as a primary consideration. Article 3, paragraph 1, of the Convention states "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration". The obligations attached to this right are fundamental to guiding the action of States in relation to HIV/AIDS. The child should be placed at the centre of the response to the pandemic, and strategies should be adapted to children's rights and needs.

- CEDAW General Recommendation 21 (Thirteenth session): Equality in Marriage and Family Relations, A/49/38 (1994) 1 at paras. 19, 20 and 41-50. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - FAMILY**.

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- CRC General Comment 4 (Thirty-third session, 2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, A/59/41 (2004) 102 at paras. 29, 31 and 32. For text of General Comment, see **CHILDREN'S RIGHTS - HEALTH**.
- CRC General Comment 5 (Thirty-fourth session, 2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), A/59/41 (2004) 114 at paras. 12, 44, 45 and 64. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.
- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at paras. 1, 13, 19-22, 30, 31, 33-35, 38, 40, 53, 61, 63, 69, 80-82, 84, 86, 89 and 90-92. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.