

EQUALITY AND DISCRIMINATION - EDUCATION

II. GENERAL COMMENTS AND RECOMMENDATIONS

· ICCPR General Comment 22 (Forty-eighth session, 1993): Article 18: The Right to Freedom of Thought, Conscience and Religion, A/48/40 vol. I (1993) 208 at para. 6.

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6. The Committee is of the view that article 18.4 permits public school instruction in subjects such as the general history of religions and ethics if it is given in a neutral and objective way. The liberty of parents or legal guardians to ensure that their children receive a religious and moral education in conformity with their own convictions, set forth in article 18.4, is related to the guarantees of the freedom to teach a religion or belief stated in article 18.1. The Committee notes that public education that includes instruction in a particular religion or belief is inconsistent with article 18.4 unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

· CRC General Comment 1 (Twenty-sixth session, 2001): Article 29 (1): The Aims of Education, CRC/C/103 (2001) 150 at paras. 10 and 19.

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10. Discrimination on the basis of any of the grounds listed in article 2 of the Convention, whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities. While denying a child's access to educational opportunities is primarily a matter which relates to article 28 of the Convention, there are many ways in which failure to comply with the principles contained in article 29 (1) can have a similar effect. To take an extreme example, gender discrimination can be reinforced by practices such as a curriculum which is inconsistent with the principles of gender equality, by arrangements which limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls' participation. Discrimination against children with disabilities is also pervasive in many formal educational systems and in a great many informal educational settings, including in the home. 4/ Children with HIV/AIDS are also heavily discriminated against in both settings. 5/ All such discriminatory practices are in direct contradiction with the requirements in article 29 (1) (a) that education be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.

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19. In addition, the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples,

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ethnic, national and religious groups and persons of indigenous origin called for in article 29 (1) (b) and (d). A school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1). The term “human rights education” is too often used in a way which greatly oversimplifies its connotations. What is needed, in addition to formal human rights education, is the promotion of values and policies conducive to human rights not only within schools and universities but also within the broader community.

Notes

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4/ See General Comment No. 5 (1994) of the Committee on Economic, Social and Cultural Rights on persons with disabilities.

5/ See the recommendations adopted by the Committee on the Rights of the Child after its day of general discussion in 1998 on children living in a world with HIV/AIDS (A/55/41, para. 1536).

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. 19 and 29.

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19. The Committee...stresses that in accordance with article 23 (3) of the Convention, the special rights of adolescents with disabilities should be taken into account and assistance provided to ensure that the disabled child/adolescent has effective access to and receives good quality education. States should recognize the principle of equal primary, secondary and tertiary educational opportunities for disabled children/adolescents, where possible in regular schools.

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29. ...Every adolescent with a mental disorder has the right to be treated and cared for, as far as possible, in the community in which he or she lives. Where hospitalization or placement in a psychiatric institution is necessary, this decision should be made in accordance with the principle of the best interests of the child. In the event of hospitalization or institutionalization, the patient should be given the maximum possible opportunity to enjoy all his or her rights as recognized under the Convention, including the rights to education and to have access to recreational activities.5/...

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5/ For further guidance on this subject, refer to the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, (General Assembly resolution 46/119 of 17 December 1991, annex).

- CERD General Recommendation XX (Forty-eighth session, 1996): Article 5: Non-Discriminatory Implementation of Rights and Freedoms, A/51/18 (1996) 124. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.

- CERD General Recommendation XXVII (Fifty-seventh session, 2000): Discrimination Against Roma, A/55/18 (2000) 154 at paras. 17-26. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.

- CERD General Recommendation XXIX (Sixty-first session, 2002): On Article 1, Paragraph 1, of the Convention (Descent), A/57/18 (2002) 111 at paras. a, f, l, o and rr-vv. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.

- ICESCR General Comment 6 (Thirteenth session, 1995): The Economic, Social and Cultural Rights of Older Persons, E/1996/22 (1995) 97 at paras. 36-38. For text of General Comment, see **EQUALITY AND DISCRIMINATION - OLD AGE**.

- ICESCR General Comment 13 (Twenty-first session, 1999): Article 13: The Right to Education, E/2000/22 (1999) 111. For text of General Comment, see **EDUCATION - RIGHT TO AN EDUCATION**.

- CRC General Comment 3 (Thirty-second session, 2003): HIV/AIDS and the Rights of the Child, A/59/41 (2004) 89 at paras. 6, 7, 9, 18, 31 and 32. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.