

EXTRACT



Convention on the Rights of the Child

**Adopted and opened for signature, ratification and accession by
General Assembly resolution 44/25
of 20 November 1989**

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,
Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

...

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,
Have agreed as follows:

PART I

Article 3

1. 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.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

Article 28

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal

capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems. (amendment)

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

General comments

General comments provide an authoritative interpretation of the rights contained in the articles and provisions of the Convention on the Rights of the Child. The main purpose of a general comment is to promote implementation of the CRC and assist States parties in fulfilling their reporting obligations. They are based on the Committee on the Rights of the Child's experience in monitoring State party reports.

General comments are valuable contributions to the development and application of international law. They are a useful analysis and explanation of treaty obligations and can provide guidance with respect to particular issues.

EXTRACT

CRC/GC/2003/5
27 November 2003

General comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)

I. INTRODUCTION

1. When a State ratifies the Convention on the Rights of the Child, it takes on obligations under international law to implement it. Implementation is the process whereby States parties take action to ensure the realization of all rights in the Convention for all children in their jurisdiction. Article 4 requires States parties to take "all appropriate legislative, administrative and other measures" for implementation of the rights contained therein.

While it is the State which takes on obligations under the Convention, its task of implementation - of making reality of the human rights of children - needs to engage all sectors of society and, of course, children themselves. Ensuring that all domestic legislation is fully compatible with the Convention and that the Convention's principles and provisions can be directly applied and appropriately enforced is fundamental. In addition, the Committee on the Rights of the Child has identified a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels.

2. In its periodic examination of States parties' reports under the Convention, the Committee pays particular attention to what it has termed "general measures of implementation". In its concluding observations issued following examination, the Committee provides specific recommendations relating to general measures. It expects the State party to describe action taken in response to these recommendations in its subsequent periodic report.

General comment no. 4 (2003)

Adolescent health and development in the context of the Convention on the Rights of the Child

3. The Committee on the Rights of the Child notes with concern that in implementing their obligations under the Convention, States parties have not given sufficient attention to the specific concerns of adolescents as rights holders and to promoting their health and development. This has motivated the Committee to adopt the present general comment in order to raise awareness and provide States parties with guidance and support in their efforts to guarantee the respect for, protection and fulfilment of the rights of adolescents, including through the formulation of specific strategies and policies.

4. The Committee understands the concepts of "health and development" more broadly than being strictly limited to the provisions defined in articles 6 (right to life, survival and development) and 24 (right to health) of the Convention. One of the aims of this general comment is precisely to identify the main human rights that need to be promoted and protected in order to ensure that adolescents do enjoy the highest attainable standard of health, develop in a well-balanced manner, and are adequately prepared to enter adulthood and assume a constructive role in their communities and in society at large.

I. FUNDAMENTAL PRINCIPLES AND OTHER OBLIGATIONS OF STATES PARTIES

Respect for the views of the child

8. The right to express views freely and have them duly taken into account (art. 12) is also fundamental in realizing adolescents' right to health and development. States parties need to ensure that adolescents are given a genuine chance to express their views freely on all matters affecting them, especially within the family, in school, and in their communities. In order for adolescents to be able safely and properly to exercise this right, public authorities, parents and other adults working with or for children need to create an environment based on trust, information-sharing, the capacity to listen and sound guidance that is conducive for adolescents' participating equally including in decision-making processes.

Civil rights and freedoms

10. The Convention defines the civil rights and freedoms of children and adolescents in its articles 13 to 17. These are fundamental in guaranteeing the right to health and development of adolescents. Article 17 states that the child has the right to "access information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health". The right of adolescents to access appropriate information is crucial if States parties are to promote cost-effective measures, including through laws, policies and programmes, with regard to numerous health-related situations, including those covered in articles 24 and 33 such as family planning, prevention of accidents, protection from harmful traditional practices, including early marriages and female genital mutilation, and the abuse of alcohol, tobacco and other harmful substances.

22. The Committee is also very concerned about the high rate of suicide among this age group. Mental disorders and psychosocial illness are relatively common among adolescents. In many countries symptoms such as depression, eating disorders and self-destructive behaviours, sometimes leading to self-inflicted injuries and suicide, are increasing. They may be related to, inter alia, violence, ill-treatment, abuse and neglect, including sexual abuse, unrealistically high expectations, and/or bullying or hazing in and outside school. States parties should provide these adolescents with all the necessary services.

III. INFORMATION, SKILLS DEVELOPMENT, COUNSELLING, AND HEALTH SERVICES

26. Adolescents have the right to access adequate information essential for their health and development and for their ability to participate meaningfully in society. It is the obligation of States parties to ensure that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how to protect their health and development and practise healthy behaviours.

32. Before parents give their consent, adolescents need to have a chance to express their views freely and their views should be given due weight, in accordance with article 12 of the Convention. However, if the adolescent is of sufficient maturity, informed consent shall be obtained from the adolescent her/himself, while informing the parents if that is in the "best interest of the child" (art. 3).

33. With regard to privacy and confidentiality, and the related issue of informed consent to treatment, States parties should (a) enact laws or regulations to ensure that confidential advice concerning treatment is provided to adolescents so that they can give their informed consent. Such laws or regulations should stipulate an age for this process, or refer to the evolving capacity of the child; and (b) provide training for health personnel on the rights of adolescents to privacy and confidentiality, to be informed about planned treatment and to give their informed consent to treatment.

IV. VULNERABILITY AND RISK

35. In accordance with article 23 of the Convention, adolescents with mental and/or physical disabilities have an equal right to the highest attainable standard of physical and mental health. States parties have an obligation to provide adolescents with disabilities with the means necessary to realize their rights.⁸ States parties should (a) ensure that health facilities, goods and services are available and accessible to all adolescents with disabilities and that these facilities and services promote their self-reliance and their active participation in the community;

V. NATURE OF STATES' OBLIGATIONS

39. In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

(b) To ensure that adolescents have access to the information that is essential for their health and development and that they have opportunities to participate in decisions affecting their health (notably through informed consent and the right of confidentiality), to acquire life skills, to obtain adequate and age-appropriate information, and to make appropriate health behaviour choices;

(d) To ensure that adolescent girls and boys have the opportunity to participate actively in planning and programming for their own health and development;

(i) To implement measures for the prevention of mental disorders and the promotion of mental health of adolescents.

8. United Nations Standard Rules on Equal Opportunities for Persons with Disabilities.

CRC/C/GC/15

Distr.: General
17 April 2013

General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)

I. Introduction

1. The present general comment is based on the importance of approaching children's health from a child-rights perspective that all children have the right to opportunities to survive, grow and develop, within the context of physical, emotional and social well-being, to each child's full potential.... The Committee on the Rights of the Child (hereinafter "the Committee") recognizes that most mortality, morbidity and disabilities among children could be prevented if there were political commitment and sufficient allocation of resources directed towards the application of available knowledge and technologies for prevention, treatment and care. The present general comment was prepared with the aim of providing guidance and support to States parties and other duty bearers to support them in respecting, protecting and fulfilling children's right to the enjoyment of the highest attainable standard of health (hereinafter "children's right to health").

2. The Committee interprets children's right to health as defined in article 24 as an inclusive right, extending not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services, but also to a right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health through the implementation of programmes that address the underlying determinants of health. A holistic approach to health places the realization of children's right to health within the broader framework of international human rights obligations.

3. The Committee addresses this general comment to a range of stakeholders working in the fields of children's rights and public health, including policymakers, programme implementers and activists, as well as parents and children themselves. It is explicitly generic in order to ensure its relevance to a wide range of children's health problems, health systems and the varied contexts that exist in different countries and regions. It focuses primarily on article 24, paragraphs 1 and 2, and also addresses article 24,

paragraph 4.¹ Implementation of article 24 must take into account all human rights principles, especially the guiding principles of the Convention, and must be shaped by evidence-based public health standards and best practices.

5. Children's health is affected by a variety of factors, many of which have changed during the past 20 years and are likely to continue to evolve in the future. This includes the attention given to new health problems and changing health priorities, such as: HIV/AIDS, pandemic influenza, non-communicable diseases, importance of mental health care, care of the new born, and neonatal and adolescent mortality; increased understanding of the factors that contribute to death, disease and disability in children, including structural determinants, such as the global economic and financial situation, poverty, unemployment, migration and population displacements, war and civil unrest, discrimination and marginalization. There is also a growing understanding of the impact of climate change and rapid urbanization on children's health; the development of new technologies, such as vaccines and pharmaceuticals; a stronger evidence base for effective biomedical, behavioural and structural interventions, as well as some cultural practices that relate to child-rearing and have proved to have a positive impact on children.

6. States have an obligation to ensure that all duty bearers have sufficient awareness, knowledge and capacity to fulfil their obligations and responsibilities, and that children's capacity is sufficiently developed to enable them to claim their right to health.

A. The indivisibility and interdependence of children's rights

7. The Convention recognizes the interdependence and equal importance of all rights (civil, political, economic, social and cultural) that enable all children to develop their mental and physical abilities, personalities and talents to the fullest extent possible. Not only is children's right to health important in and of itself, but also the realization of the right to health is indispensable for the enjoyment of all the other rights in the Convention. Moreover, achieving children's right to health is dependent on the realization of many other rights outlined in the Convention.

C. The best interests of the child

12. Article 3, paragraph 1, of the Convention places an obligation on public and private social welfare institutions, courts of law, administrative authorities and legislative bodies to ensure that the best interests of the child are assessed and taken as a primary consideration in all actions affecting children. This principle must be observed in all health-related decisions concerning individual children or children as a group. Individual children's best interests should be based on their physical, emotional, social and educational needs, age, sex, relationship with parents and caregivers, and their family and social background, and after having heard their views according to article 12 of the Convention.

13. The Committee urges States to place children's best interests at the centre of all decisions affecting their health and development, including the allocation of resources, and the development and implementation of policies and interventions that affect the underlying determinants of their health. For example, the best interests of the child should:

- (a) Guide treatment options, superseding economic considerations where feasible;
- (b) Aid the resolution of conflict of interest between parents and health workers;

¹ Article 24, paragraph 3, is not covered because a general comment on harmful practices is currently being developed.

14. The Committee underscores the importance of the best interests of the child as a basis for all decision-making with regard to providing, withholding or terminating treatment for all children. States should develop procedures and criteria to provide guidance to health workers for assessing the best interests of the child in the area of health, in addition to other formal, binding processes that are in place for determining the child's best interests.

15. In its general comment No. 4, the Committee underlined the best interests of the child to have access to appropriate information on health issues.² Special attention must be given to certain categories of children, including children and adolescents with psychosocial disabilities. Where hospitalization or placement in an institution is being considered, this decision should be made in accordance with the principle of the best interests of the child, with the primary understanding that it is in the best interests of all children with disabilities to be cared for, as far as possible, in the community in a family setting and preferably within their own family with the necessary supports made available to the family and the child.

E. Right of the child to be heard

19. Article 12 highlights the importance of children's participation, providing for children to express their views and to have such views seriously taken into account, according to age and maturity.³ This includes their views on all aspects of health provisions, including, for example, what services are needed, how and where they are best provided, barriers to accessing or using services, the quality of the services and the attitudes of health professionals, how to strengthen children's capacities to take increasing levels of responsibility for their own health and development, and how to involve them more effectively in the provision of services, as peer educators. States are encouraged to conduct regular participatory consultations, which are adapted to the age and maturity of the child, and research with children, and to do this separately with their parents, in order to learn about their health challenges, developmental needs and expectations as a contribution to the design of effective interventions and health programmes.

F. Evolving capacities and the life course of the child

21. The Committee recognizes that children's evolving capacities have a bearing on their independent decision-making on their health issues. It also notes that there are often serious discrepancies regarding such autonomous decision-making, with children who are particularly vulnerable to discrimination often less able to exercise this autonomy. It is therefore essential that supportive policies are in place and that children, parents and health workers have adequate rights-based guidance on consent, assent and confidentiality.

22. To respond and understand children's evolving capacities and the different health priorities along the life cycle, data and information that are collected and analysed should be disaggregated by age, sex, disability, socioeconomic status and sociocultural aspects and geographic location, in accordance with international standards. This makes it possible to plan, develop, implement and monitor appropriate policies and interventions that take into consideration the changing capacities and needs of children over time, and that help to provide relevant health services for all children.

² General comment No. 4 (2003) on adolescent health and development in the context of the Convention, *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 41 (A/59/41)*, annex X, para. 10.

³ See general comment No. 12 (2009) on the right of the child to be heard, *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 41 (A/65/41)*, annex IV.

III. Normative content of article 24

A. Article 24, paragraph 1

“States parties recognize the right of the child to the enjoyment of the highest attainable standard of health”

23. The notion of “the highest attainable standard of health” takes into account both the child’s biological, social, cultural and economic preconditions and the State’s available resources, supplemented by resources made available by other sources, including non-governmental organizations, the international community and the private sector.

24. Children’s right to health contains a set of freedoms and entitlements. The freedoms, which are of increasing importance in accordance with growing capacity and maturity, include the right to control one’s health and body, including sexual and reproductive freedom to make responsible choices. The entitlements include access to a range of facilities, goods, services and conditions that provide equality of opportunity for every child to enjoy the highest attainable standard of health.

B. Article 24, paragraph 2

32. In accordance with article 24, paragraph 2, States should put in place a process for identifying and addressing other issues relevant to children’s right to health. This requires, inter alia, an in-depth analysis of the current situation in terms of priority health problems and responses, and the identification and implementation of evidence-informed interventions and policies that respond to key determinants and health problems, in consultation with children when appropriate.

Article 24, paragraph 2 (b). “To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care”

38. The Committee is concerned by the increase in mental ill-health among adolescents, including developmental and behavioural disorders; depression; eating disorders; anxiety; psychological trauma resulting from abuse, neglect, violence or exploitation; alcohol, tobacco and drug use; obsessive behaviour, such as excessive use of and addiction to the Internet and other technologies; and self-harm and suicide. There is growing recognition of the need for increased attention for behavioural and social issues that undermine children’s mental health, psychosocial wellbeing and emotional development. The Committee cautions against over-medicalization and institutionalization, and urges States to undertake an approach based on public health and psychosocial support to address mental ill-health among children and adolescents and to invest in primary care approaches that facilitate the early detection and treatment of children’s psychosocial, emotional and mental problems.

39. States have the obligation to provide adequate treatment and rehabilitation for children with mental health and psychosocial disorders while abstaining from unnecessary medication. The 2012 resolution of the World Health Assembly on the global burden of mental health disorders and the need for a comprehensive coordinated response from health and social sectors at the country level⁴ notes that there is increasing evidence of the

⁴ Resolution WHA65.4, adopted at the Sixty-fifth World Health Assembly on 25 May 2012.

effectiveness and cost-effectiveness of interventions to promote mental health and prevent mental disorders, particularly in children. The Committee strongly encourages States to scale up these interventions by mainstreaming them through a range of sectoral policies and programmes, including health, education and protection (criminal justice), with the involvement of families and communities. Children at risk because of their family and social environments require special attention in order to enhance their coping and life skills and promote protective and supportive environments.

(a) The application of readily available technology

41. As new, proven technologies in children's health, including drugs, equipment and interventions, become available, States should introduce them into policies and services.

42. The private sector, which includes business enterprises and not-for-profit organizations that impact on health, is taking an increasingly important role in the development and refinement of technology, drugs, equipment, interventions and processes that can contribute to significant advances in children's health. States should ensure that benefits reach all children who need them. States can also encourage public-private partnerships and sustainability initiatives that can increase access and affordability of health technology.

Article 24, paragraph 2 (f). "To develop preventive health care, guidance for parents and family planning education and services"

(a) Preventive health care

62. Prevention and health promotion should address the main health challenges facing children within the community and the country as a whole. These challenges include diseases and other health challenges, such as accidents, violence, substance abuse and psychosocial and mental health problems. Preventive health care should address communicable and non-communicable diseases and incorporate a combination of biomedical, behavioural and structural interventions. Preventing non-communicable diseases should start early in life through the promotion and support of healthy and non-violent lifestyles for pregnant women, their spouses/partners and young children.

IV. Obligations and responsibilities

A. State parties' obligations to respect, protect and fulfil

71. States have three types of obligations relating to human rights, including children's right to health: to respect freedoms and entitlements, to protect both freedoms and entitlements from third parties or from social or environmental threats, and to fulfil the entitlements through facilitation or direct provision. In accordance with article 4 of the Convention, States parties shall fulfil the entitlements contained in children's right to health to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

72. All States, regardless of their level of development, are required to take immediate action to implement these obligations as a matter of priority and without discrimination of any kind. Where the available resources are demonstrably inadequate, States are still required to undertake targeted measures to move as expeditiously and effectively as possible towards the full realization of children's right to health. Irrespective of resources, States have the obligation not to take any retrogressive steps that could hamper the enjoyment of children's right to health.

73. The core obligations, under children's right to health, include:

(a) Reviewing the national and subnational legal and policy environment and, where necessary, amending laws and policies;

(b) Ensuring universal coverage of quality primary health services, including prevention, health promotion, care and treatment services, and essential drugs;

(c) Providing an adequate response to the underlying determinants of children's health; and

(d) Developing, implementing, monitoring and evaluating policies and budgeted plans of actions that constitute a human rights-based approach to fulfilling children's right to health.

74. States should demonstrate their commitment to progressive fulfilment of all obligations under article 24, prioritizing this even in the context of political or economic crisis or emergency situations. This requires that children's health and related policies, programmes and services be planned, designed, financed and implemented in a sustainable manner.

B. Responsibilities of non-State actors

75. The State is responsible for realizing children's right to health regardless of whether or not it delegates the provision of services to non-State actors. In addition to the State, a wide range of non-State actors who provide information and services related to children's health and its underlying determinants have specific responsibilities and impact in this regard.

76. States' obligations include a duty to promote awareness of non-State actors' responsibilities and to ensure that all non-State actors recognize, respect and fulfil their responsibilities to the child, applying due diligence procedures where necessary.

77. The Committee calls on all non-State actors engaged in health promotion and services, especially the private sector, including the pharmaceutical and health-technology industry as well as the mass media and health service providers, to act in compliance with the provisions of the Convention and to ensure compliance by any partners who deliver services on their behalf. Such partners include international organizations, banks, regional financial institutions, global partnerships, the private sector (private foundations and funds), donors and any other entities providing services or financial support to children's health, particularly in humanitarian emergencies or politically unstable situations.

2. Non-State service providers and other non-State actors

(a) Non-State service providers

79. All health service providers, including non-State actors, must incorporate and apply to the design, implementation and evaluation of their programmes and services all relevant provisions of the Convention, as well as the criteria of availability, accessibility, acceptability and quality, as described in chapter VI, section E, of the present general comment.

83. The Committee acknowledges the profound impact of the pharmaceutical sector on the health of children and calls on pharmaceutical companies to adopt measures towards enhancing access to medicines for children, paying particular attention to the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines.⁵ At the

⁵ See also Human Rights Council resolution 15/22 on the right of everyone to the enjoyment of the highest

same time, States should ensure that pharmaceutical companies monitor the use, and refrain from promoting excessive prescription and use of, drugs and medicines on children.

(d) Researchers

85. The Committee underscores the responsibility of entities, including academics, private companies and others, undertaking research involving children to respect the principles and provisions of the Convention and the International Ethical Guidelines for Biomedical Research Involving Human Subjects.⁶ The Committee reminds researchers that the best interests of the child shall always prevail over the interest of general society or scientific advancement.

VI. Framework for implementation and accountability

90. Accountability is at the core of the enjoyment of children's right to health. The Committee reminds the State party of their obligations to ensure that relevant government authorities and service providers are held accountable for maintaining the highest possible standards of children's health and health care until they reach 18 years of age.

92. With the active engagement of the Government, parliament, communities, civil society and children, national accountability mechanisms must be effective and transparent and aim to hold all actors responsible for their actions. They should, inter alia, devote attention to the structural factors affecting children's health including laws, policies and budgets. Participatory tracking of financial resources and their impact on children's health is essential for State accountability mechanisms.

A. Promoting knowledge of children's right to health (art. 42)

93. The Committee encourages States to adopt and implement a comprehensive strategy to educate children, their caregivers, policymakers, politicians and professionals working with children about children's right to health, and the contributions they can make to its realization.

B. Legislative measures

94. The Convention requires States parties to adopt all appropriate legislative, administrative and other measures for the implementation of children's right to health without discrimination. National laws should place a statutory obligation on the State to provide the services, programmes, human resources and infrastructure needed to realize children's right to health and provide a statutory entitlement to essential, child sensitive, quality health and related services for pregnant women and children irrespective of their ability to pay. Laws should be reviewed to assess any potential discriminatory effect or impediment to realizing children's right to health and repealed where required. Where necessary, international agencies and donors should provide development aid and technical assistance for such legal reforms.

95. Legislation should fulfil a number of additional functions in the realization of children's right to health by defining the scope of the right and recognizing children as rights-holders; clarifying the roles and responsibilities of all duty bearers; clarifying what services

attainable standard of physical and mental health.

⁶ Council for International Organizations of Medical Sciences/WHO, Geneva, 1993.

children, pregnant women and mothers are entitled to claim; and regulating services and medications to ensure that they are of good quality and cause no harm. States must ensure that adequate legislative and other safeguards exist to protect and promote the work of human rights defenders working on children's right to health.

C. Governance and coordination

99. A "child health in all policies" strategy should be used, highlighting the links between children's health and its underlying determinants. Every effort should be made to remove bottlenecks that obstruct transparency, coordination, partnership and accountability in the provision of services affecting children's health.

101. States should engage all sectors of society, including children, in implementation of children's right to health. The Committee recommends that such engagement include: the creation of conditions conducive to the continual growth, development and sustainability of civil society organizations, including grass-roots and community-level groups; active facilitation of their involvement in the development, implementation and evaluation of children's health policy and services; and provision of appropriate financial support or assistance in obtaining financial support.

1. The role of parliaments in national accountability

102. In children's health-related issues, parliaments have the responsibility to legislate, ensuring transparency and inclusiveness, and encourage continued public debate and a culture of accountability. They should create a public platform for reporting and debating performance and promoting public participation in independent review mechanisms. They should also hold the executive accountable for implementing the recommendations emerging from independent reviews and ensure that the results of the reviews inform subsequent national plans, laws, policies, budgets and further accountability measures.

2. The role of national human rights institutions in national accountability

103. National human rights institutions have an important role to play in reviewing and promoting accountability, providing children with relief for violations of their right to health and advocating systemic change for the realization of that right.

E. The action cycle

108. States parties' fulfilment of their obligations under article 24 requires engagement in a cyclical process of planning, implementation, monitoring and evaluation to then inform further planning, modified implementation and renewed monitoring and evaluation efforts. States should ensure the meaningful participation of children and incorporate feedback mechanisms to facilitate necessary adjustments throughout the cycle.

109. At the heart of the development, implementation and monitoring of policies, programmes and services that aim to realize children's right to health is the availability of relevant and reliable data. This should include: appropriately disaggregated data across the life course of the child, with due attention to vulnerable groups; data on priority health problems, including new and neglected causes of mortality and morbidity; and data on the key determinants of children's health. Strategic information requires data collected through routine health information systems, special surveys and research, and should include both quantitative and qualitative data. These data should be collected, analysed, disseminated and used to inform national and subnational policies and programmes.

1. Planning

110. The Committee notes that, in order to inform the implementation, monitoring and evaluation of activities to fulfil obligations under article 24, States should carry out situation analyses of existing problems, issues and infrastructure for delivery of services. The analysis should assess the institutional capacity and the availability of human, financial, and technical resources. Based on the outcome of the analysis, a strategy should be developed involving all stakeholders, both State and non-State actors and children.

111. The situation analysis will provide a clear idea of national and subnational priorities and strategies for their achievement. Benchmarks and targets, budgeted action plans and operational strategies should be established along with a framework for monitoring and evaluating policies, programmes and services and promoting accountability for children's health. This will highlight how to build and strengthen existing structures and systems to be consonant with the Convention.

2. Criteria for performance and implementation

112. States should ensure that all children's health services and programmes comply with the criteria of availability, accessibility, acceptability and quality.

(d) Quality

116. Health-related facilities, goods and services should be scientifically and medically appropriate and of good quality. Ensuring quality requires, inter alia, that (a) treatments, interventions and medicines are based on the best available evidence; (b) medical personnel are skilled and provided with adequate training on maternal and children's health, and the principles and provisions of the Convention; (c) hospital equipment is scientifically approved and appropriate for children; (d) **drugs are scientifically approved, have not expired, are child-specific (when necessary) and are monitored for adverse reactions;** and (e) regular quality of care assessments of health institutions are conducted.

F. Remedies for violations of the right to health

119. The Committee strongly encourages States to put in place functional and accessible complaints mechanisms for children that are community-based and render it possible for children to seek and obtain reparations when their right to health is violated or at risk. States should also provide for broad rights of legal standing, including class actions.

120. States should ensure and facilitate access to courts for individual children and their caregivers and take steps to remove any barriers to access remedies for violations of children's right to health. National human rights institutions, children's ombudspersons, health-related professional associations and consumers' associations can play an important role in this regard.

VII. Dissemination

121. The Committee recommends that States widely disseminate the present general comment with parliament and across Government, including within ministries, departments and municipal and local-level bodies working on children's health issues.