

Children's rights during adolescence: General Comment No. 20 of the UN Committee on the Rights of the Child

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Children's Rights during Adolescence

General Comment No. 20 of the UN Committee on the Rights of the Child

Information

In its General Comment No. 20, the UN Committee on the Rights of the Child provides information on the implementation of children's rights during adolescence. The key recommendations addressed to States parties provide helpful advice for development cooperation practitioners. This publication summarises General Comment No. 20 and outlines approaches on how development cooperation may contribute to the realisation of children's rights during adolescence.

In 2016 the UN Committee on the Rights of the Child (hereafter: Committee) published its General Comment No. 20 on the importance of the rights of adolescents.¹ The Committee focuses on the period between 10 and 18 years of age. This group is characterised by growing opportunities, particular capacities, aspirations, energy and creativity, but also significant vulnerability. Adolescence ends with the beginning of adulthood, which is marked by the enjoyment of certain rights and privileges that are connected to the legal adulthood.

The Committee encourages States parties to focus on positive developments during adolescence, taking the value and opportunity of this particular life period into account. It is important that State parties create an optimum environment to guarantee the rights of adolescents and to support their development. This allows them to

realise their full potential as agents of change for their families, communities and countries.

The importance of adolescence

Adolescents are on a curve of rapid development. This stage of human development is characterised by accelerated brain development and physical growth, enhanced cognitive ability, the onset of puberty and sexual awareness, and newly emerging abilities, strengths and skills. Adolescence is also a critical period of transition and opportunity for improving life chances. Adequate support in this period can overcome some of the consequences of possible early childhood harm.

The Committee also sees the important role adolescents play worldwide. They engage in environmental campaigns, family support, peer education, community development initiatives, participatory budgeting and creative arts. They are at the forefront of digital and social media development, which play an increasingly central role and hold potential for adolescents' political engagement and monitoring accountability. The Committee emphasises that there is a range of risks adolescents have to confront. Amongst these are violence and abuse, sexual and economic exploitation, trafficking, migration, radicalisation, recruitment into gangs and militias, substance use and addiction. Therefore, there is a need to design policies to strengthen the capacities of adolescents in order to overcome or mitigate these risks.

The UN Convention on the Rights of the Child

These articles of the UN Convention on the Rights of the Child (CRC) can be used when addressing adolescents:

These four articles form the general principles of the CRC:

- Article 2: Non-discrimination
- Article 3: Best interests of the child
- Article 6: Right to life, survival and development
- Article 12: Right to be heard

Further Articles of particular importance:

- Article 5: Parental direction and guidance according to the evolving capacities of the child
- Article 14: Freedom of thought, conscience and religion
- Article 19: Protection from all forms of violence
- Article 23: Children with disabilities
- Article 24: Right to the highest attainable standard of health
- Articles 28 and 29: Right to Education

Key principles of the CRC and the rights of adolescents

Article 2 of the CRC is based on the right to non-discrimination and inclusion of all adolescents. As the Committee points out, adolescence itself can be a source of discrimination when adolescents are treated as dangerous or hostile. It urges States parties to take affirmative action in order to diminish or eliminate conditions that result in direct or indirect discrimination.

Article 3 of the CRC focuses on the best interests of the child. This should be understood as a substantive right as well as an interpretative legal principle. Whenever measures are taken that have an impact on the lives of children, their best interests should be taken into account. This concerns, for example, legislation, policies, economic and social planning and budgetary decisions.

In accordance with **Article 12**, the child's views should be heard and taken into account on all matters of concern to them. Their views must be given due weight in accordance with their age and maturity, for example, in decisions relating to their education, health, sexuality, family life and judicial and administrative proceedings. States parties should introduce safe and accessible complaint and redress mechanisms and ensure the access to free or subsidised legal services.

Article 6 of the CRC contains the child's right to life, survival and development. States parties are under the obligation to ensure the survival,

growth and development of the child. Although adolescence is characterised by low mortality compared to other age groups, there are some preventable causes that lead to death, such as complications in childbirth, road traffic accidents, HIV/AIDS, and suicide. These need to be identified by States parties and appropriate measures must be taken in order to protect adolescents sufficiently. The Committee emphasises the right to development (article 6 CRC). Here it sees certain factors as key for the resilience and the healthy development of adolescents. Amongst these are strong relationships with key adults; problem-solving and coping skills; safe and healthy local environments and respect for individuality, as well as opportunities for building and sustaining friendships.

Article 5 of the CRC focuses on parental direction and guidance. The Committee spells out what it means to take the evolving capacities of children into account. The more a child develops understanding and knowledge, and thus his or her opinion, the more the parents are encouraged to transfer competencies to the child.

Therefore, adolescents should be encouraged to exercise increasing levels of responsibility concerning their small and big life choices. Inexperience and lack of power can render adolescents vulnerable to violations of their rights. They should be engaged in the process of identifying the potential risks and vulnerabilities as well as the development of programmes to alleviate them. The aim should be an appropriate

balance between respect for the emerging capacities of adolescents and levels of protection. Adolescents are enabled to exercise agency in their own protection when the right to be heard is guaranteed and they can challenge rights violations and seek redress.

Responsibilities of States parties

The Committee's key recommendations in this General Comment:

- Develop a comprehensive national strategy addressing the structural social and economic roots underlying the rights violations adolescents face.
- Monitoring implementation to ensure that the rights and needs of adolescents are met.
- Collect disaggregated data to render the lives of adolescents visible.
- Establish a transparent budgeting process to ensure that the best interests of children are a primary consideration when balancing competing spending priorities.
- Training of professionals working for and with children and adolescents.

- Dissemination of accessible information about the Convention and how to exercise these rights, with particular efforts to reach out to adolescents in marginalised situations.
- Review the nature and extent of adolescent health problems as a basis for future health policies, programmes and public health strategies.
- Ratify the Optional Protocol on the Involvement of Children in Armed Conflict and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Both optional protocols are designed to protect children and adolescents in particularly vulnerable situations.

Participation of adolescents

For all adolescents, active participation within their community is of great importance. This is a means of political participation and civil engagement, through which adolescents can advocate for the realisation of their rights. Through their participation, adolescents may also hold the state accountable. For any meaningful participation of adolescents, a number of quality requirements need to be fulfilled. Processes in which adolescents participate need to be adolescent-friendly, and relevant to their needs and experiences.²

Marginalised adolescents

Adolescents are not a homogenous group with the same characteristics, defined by a set age. However, what is common to the majority is that they are leaving childhood and developing their own individual and community identity. The General Comment (GC) identifies a range of adolescents who require particular attention:

Girls: During adolescence gender inequalities become more significant which have a negative impact on girls. States are advised to invest in proactive measures to promote the empowerment of girls.

Boys: Traditional concepts of masculinity and gender norms linked to violence and dominance can compromise boys' rights. States parties are urged to introduce measures to address such rights violations.

Adolescents with disabilities: They are often excluded from opportunities available to other adolescents, such as education or sports. States parties should implement measures to overcome barriers and promote their full inclusion.

Lesbian, gay, bisexual, transgender and intersex adolescents (LGBTI): They commonly face discrimination and persecution. State parties are urged to repeal all discriminatory laws and practices and effectively protect the rights of LGBTI adolescents.

Minority and indigenous adolescents: The insufficient respect for their cultures can lead to discrimination and social exclusion. States parties are urged to introduce measures so that they can enjoy their cultural identities and become active contributors to family and community life.

The significance of reaching maturity for adolescents' human rights

An outstanding feature of the CRC is that it acknowledges the growing autonomy of the child in the sense that the exercise of certain rights moves from parent to child with developing capacities (Article 5 CRC). States parties are encouraged to introduce minimum legal age limits. These age limits should not be rigid; this is in order to accommodate children who are below the age limit but are able to demonstrate a sufficient understanding. One issue of great importance is, for example, the consent to health services. Practitioners must develop a style of communication that is understood by their adolescent patients. This enables them to make informed decisions.

States parties are also reminded that there are certain areas where a rigid age limit of 18 years should be applied. These include: marriage, the consumption of alcohol and tobacco and the recruitment into armed forces. Hazardous or exploitative work is a fundamental human rights problem and should be prohibited for all children under 18. These are all issues where the protection granted by the CRC is seen as paramount and States parties should not weaken it by lowering the age limit.

Pressing issues regarding adolescents' human rights

HIV/AIDS: As the Committee points out, adolescents are the only age group in which death due to AIDS is increasing. Especially adolescent girls are disproportionately affected. They account for two-thirds of new infections with the HI-Virus.

Basic health care: For adolescents, the primary causes of health problems are psychosocial

problems including suicide, self-harm, eating disorders and depression. When adolescents seek access to health care, they often experience financial barriers, discrimination, lack of confidentiality and respect, stigma and a judgmental attitude from health care personnel.

Sexual and reproductive health and rights:

The Committee urges States parties to develop comprehensive, gender-sensitive sexual and reproductive health policies for adolescents. Many adolescent girls either lack sufficient access to these services, or have no access to them at all. These girls are the group most at risk of suffering serious or lifelong harm resulting from premature pregnancy and childbirth or dying from these complications. The Committee urges States to decriminalise abortion to ensure that girls have access to safe abortion.

Discrimination: Discrimination of adolescents may take many different forms. Often they are treated as dangerous or hostile and are incarcerated, exploited, or exposed to violence. Paradoxically, they may also be treated as in need of excessive protection, or incompetent and incapable of making decisions concerning their own life.

Poverty and Unemployment: Poverty during adolescence has profound implications leading to extreme stress, insecurity as well as social and political exclusion. Often, adolescents requiring special attention are threatened by poverty. Where poverty is linked to unemployment, States parties are urged to design education measures to teach twenty-first century skills. Out-of-school adolescents should be supported in order to ensure their transition into decent work.

Approaches for bilateral development cooperation based on this General Comment No. 20

With the adoption of the 2030 Agenda for Sustainable Development³, the international community has committed itself to “leave no one behind” and to explicitly mention children and young people as important actors of change. Children and young people are central to the achievement of the Sustainable Development Goals (SDGs): They constitute the majority of the population in many countries of the Global South. For them, the success or failure of the 2030 Agenda in the next 15 years is especially relevant for the future. At the same time they are the ones who play an important role in shaping the future. Core children's rights are also reflected in the SDGs.

General Comment No. 20 can be used as guidance on how to contribute to the progressive realisation of the rights of adolescents. The right to be heard (article 12) is of paramount importance when designing development measures in general, and for adolescents in particular. Adolescents should be systematically involved in the design, implementation and monitoring of development programmes. Often a lack of understanding among adults is a major barrier to the right to participation. Therefore, States parties are encouraged to raise awareness and provide training for policy and decision-makers in Germany and partner countries on how to ensure that adolescents' views are systematically incorporated.

Good Governance

- Development cooperation should advise partner countries on establishing methods for participation of adolescents. Particularly at the local government level, the establishment of bodies for political participation such as youth councils should be supported. Supporting youth parliaments and public consultation with adolescents on policies and laws that affect their lives can help strengthen adolescents' voices on the national level.
- Development measures that support reforms of public administration should support systems of free birth registration of all children. For adolescents, a lack of birth registration can result in the denial of basic services, such

as health care and education, the inability to obtain identification documents, and the risk of being exploited (see SDG 16.9: birth registration/legal identity).

Refugees, Displacement and Humanitarian Assistance

- Development cooperation should support partner countries in providing access to education, housing, health, social security, protection, recreation, and participation for displaced and migrant adolescents.
- Development measures which aim to strengthen social cohesion between refugees and the host communities should reinforce the special role of adolescents. Implementing special programmes for young people in education, culture or leisure can aid in this process.
- Humanitarian assistance programmes should address the specific needs and rights of adolescents. They should be afforded with systematic opportunities to play an active role in the development and design of protection systems as well as reconciliation and peace-building processes.

Education and employment

- The education sector offers many opportunities to enhance the human rights of adolescents. Development cooperation should support the strengthening of these rights in different areas, such as the introduction of compulsory free secondary education accessible to all; measures to end the discrimination of marginalised youth and girls in access to education; or developing respect for human rights through human rights education programmes.
- Development measures in the field of transition from education to training and/or decent work provide leverage for the enhancement of adolescents' rights. Development measures can help to ensure that adolescents have access to educational and vocational information and guidance. They must also be flexible in the use of formal and informal education and training,

which should be designed to teach the skills required by the modern labour market.

- All adolescents have a right to be protected from economic exploitation and the worst forms of child labour. Action against child labour can include comprehensive measures including school-to-work transitions or targeted education programs. At the same time, there is a need to provide young people with appropriate professional perspectives.

Health care

- Development measures in the health sector should support partner countries in collecting

data about health problems. These should build the basis for future health policies, programmes and public health strategies. The equal access of all adolescents to information on sexual and reproductive health should be ensured.

- Health programmes should include mental health and psychosocial support. Partner countries should be encouraged to review legislation with a view to guaranteeing adolescents' access to free, confidential and youth-friendly services, as well as contraception – including emergency contraception. Pregnant girls' best interests and access to safe and legal abortion should also be guaranteed.

State party obligations

Amongst others, the Committee emphasises in this General Comment the following State party obligations:

- At the centre of the commitment to the rights of all adolescents should be the recognition and respect for their dignity and agency, empowerment and active participation and the promotion of optimum health, well-being and development.
- Introduce comprehensive and pro-active measures to address all factors leading to difficulties for adolescents to remain in education, and improve attendance in education and reduce early school leaving (article 28 CRC).
- Create social protection floors to provide adolescents and their families with basic income security, protection against economic shocks, access to health care and other social security measures.
- Introduce comprehensive measures to bring an end to all forms of violence. Involve adolescents in the design of programmes offering both prevention and protection.
- Unaccompanied migrants and asylum seekers are especially vulnerable. They should not be criminalised nor detained.

- 1 UN, Committee on the Rights of the Child (2016): General Comment No. 20 on the implementation of the rights of the child during adolescence. 6 December, 2016. UN Doc. CRC/C/GC/20. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f20&Lang=en (last accessed 28 March 2017).
- 2 See further quality standards for participation in UN, Committee on the Rights of the Child (2009): General Comment No. 12. The right of the child to be heard, 20 July 2009, UN Doc. CRC/C/GC/12. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en (last accessed 28 March 2017).
- 3 See UN, General Assembly (2015): Transforming our world: the 2030 Agenda for Sustainable Development. Resolution adopted by the General Assembly on 25 September 2015, UN-Doc. A/RES/70/1. http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E (last accessed 2 June 2017).

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