



The Third Optional Protocol of the Convention on the Rights of the Child from parents' aspect

Can we hand over our parental and civil responsibilities to other states and voluntary NGOs to decide on our children's fate?

We are all responsible for the physical and mental well-being and development of the next generations. In the "global village" we all educate the children of all nations due to the fast information exchange and global access to the Internet. That is why international efforts in the protection of children are so important, such as the goals set in the Convention on the Rights of the Child.

However, besides the positive effects of globalism we also have to protect our national values, culture and identity. Above all, the protective function of the smallest unit of the society, the family, has to be respected. Parents, as the primary educators of their children have priority before education institutes and non-governmental organizations. At the same time, in the big family of nations, a country's culture and values deserve respect and protection, especially in areas that belong to national competence. We cannot give our children to other nations' administration and NGOs, as parents and then the national community are responsible for their well-being.

The United Nations Convention on the Rights of the Child makes powerful efforts to protect children. The Optional Protocols to the Convention deal with grave problems of our age, like sexual exploitation of children, or their involvement in armed conflict. The Third Optional Protocol aims at managing communication and complaint procedures. But it is far from being perfect.

The Third Optional Protocol

The Third Optional Protocol¹ that entered into force in 2014 allows for children to submit complaints directly to the Committee on the Rights of the Child. In case they could not find legal remedy to their problems in their home countries, they can turn to the international body to seek solution. Complaints can be submitted not only by individual children, but also by groups of children or their representatives against all countries that joined the Third

1 <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRRC.aspx>

Protocol. What is more, countries can submit complaints against other countries. Children must be heard, and their opinion must be given "due weight". The concept of "due weight" is not defined though, there is no description what it means exactly.

"It shall also have regard for the rights and views of the child, the views of the child being given due weight in accordance with the age and maturity of the child." (Article 2. OP3)

"Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party," (Article 5. OP3)

"A State party to the present Protocol may, at any time, declare that it recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations" (Article 12. OP3)

Who is it that we hand over the problems to? Do they find solutions and concepts within the frames of UN consensus language or they seek ideas and remedies outside the UN system?

The United Nations Committee on the Rights of the Child

From Togo to Russia, from Samoa to Austria we find delegates in the 18-member Committee on the Rights of the Child. In the said-to-be independent Committee's documents we can find many debated concepts that question the ideological independence of their activities. In the gender wave of our age certain countries – like Hungary or Poland – understand gender exclusively as man or woman, while other countries accept a wide spectrum of gender identities, also reflecting them in their national laws. The Committee on the Rights of the Child is also among those who understand gender in the wider sense that – at the same time – neither reflects UN consensus language nor many countries' national law or culture.

Comments from the Committee on the Rights of the Child

If we look at a relatively recent Comment by the Committee from 2017 that deals with the obligations of countries involved in international migration², it is visible that besides girls and boys the text distinguishes lesbian, gay, bisexual, transgender and intersex children. With such a distinction **the concept of gender refers to a wider understanding** that includes more genders, not just man and woman, boys and girls.

"Additional measures should be taken to address the particular vulnerability of girls and boys, including those who might have a disability, as well as children who are lesbian, gay,

2 Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return

bisexual, transgender or intersex persons, to trafficking for the purposes of sexual exploitation and abuse.”³ (§ 41)

Besides, overstepping its competence, **the Committee would provide information and services on sexual and reproductive health**, in this particular document referring to the children of migrant families:

”In addition, migrant children should be provided full access to age appropriate sexual and reproductive health information and services.”⁴ (§ 55)

About “age-appropriate information” and comprehensive sexuality education you can find details in the Annex.

It became clear at the closing session of the Commission on the Status of Women in March 2019 that sexual health services include abortion. It was articulated by a few delegations, with the United States among them:

”Over the years and among some UN agencies, the phrases “sexual and reproductive health,” “healthcare services” and “health services” have acquired connotations that promote abortion and attempt to create a claimed right to abortion. As others have said, the United States also does not accept these terms as they often encompass abortion as a method of family planning.”⁵

The good intentions of the Committee to improve the well-being of children in migrant families is undebatable in the document, however it cannot exceed its competencies when it comes to the definition of gender or the abortion regulation.

It was not a unique case. The Committee on the Rights of the Child drafted a comment on adolescents that also contains several references to gender and abortion services, neither in line with UN consensus language⁶.

In the section that defines the child the Committee **overwrites national competencies for abortion regulation** by emphasizing providing access to reproductive health services without parental consent:

”Consideration should also be given to the introduction of a legal presumption that adolescents are competent to seek and have access to preventive or time-sensitive sexual and reproductive health commodities and services. The Committee emphasizes that all adolescents have the right to have access to confidential medical counselling and advice

3 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/343/65/PDF/G1734365.pdf?OpenElement>

4 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/343/65/PDF/G1734365.pdf?OpenElement>

5 United States delegation at CSW63 Closing Session (1:25:50) at <http://webtv.un.org/watch/14th-plenary-meeting-commission-on-the-status-of-women-csw63-2019-action-on-draft-proposals-action-on-draft-agreed-conclusions-action-on-any-other-outstanding-issues/6017175833001/>

6 General comment No. 20 (2016) on the implementation of the rights of the child during adolescence

without the consent of a parent or guardian, irrespective of age, if they so wish.”⁷ (§ 39)

Later, in paragraphs 59 and 60 it reinforces its view on **abortion without parental consent**, and promotes abortion and gender education, as well as **unlimited access to gender identity related healthcare services**:

“All adolescents should have access to free, confidential, adolescent-responsive and nondiscriminatory sexual and reproductive health services, information and education, available both online and in person, including on family planning, contraception, including emergency contraception, prevention, care and treatment of sexually transmitted infections, counselling, pre-conception care, maternal health services and menstrual hygiene.” (§ 59.)

“There should be no barriers to commodities, information and counselling on sexual and reproductive health and rights, such as requirements for third-party consent or authorization. In addition, particular efforts need to be made to overcome barriers of stigma and fear experienced by, for example, adolescent girls, girls with disabilities and lesbian, gay, bisexual, transgender and intersex adolescents, in gaining access to such services.” (§ 60.)

The promotion of abortion through **sexual rights** that is non-existent in the UN Conventions, as well as the WHO, UNESCO and UNICEF supported comprehensive sexuality education that emphasizes sexual diversity, are all expressed in paragraph 61. A short summary of the unacceptable points of Comprehensive Sexuality Education can be found in the Annex.

“Age-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards and developed with adolescents, should be part of the mandatory school curriculum and reach out-of-school adolescents. Attention should be given to gender equality, sexual diversity, sexual and reproductive health rights, responsible parenthood and sexual behaviour and violence prevention, as well as to preventing early pregnancy and sexually transmitted infections.” (§ 61.)

The Comment discusses the **situation of LGBT community** separately. Every adolescent, just like every adult have the same rights and obligations, there is no need to differentiate between people due to certain characteristics.

“Adolescents who are lesbian, gay, bisexual, transgender and intersex commonly face persecution, including abuse and violence, stigmatization, discrimination, bullying, exclusion from education and training, as well as a lack of family and social support, or access to sexual and reproductive health services and information. In extreme cases, they

⁷ https://digitallibrary.un.org/record/855544/files/CRC_C_GC_20-EN.pdf

face sexual assault, rape and even death. These experiences have been linked to low self-esteem, higher rates of depression, suicide and homelessness.” (§ 33.)

There is no available source in the document to support the content of the above paragraph.

Concerns

A country that intends to join this Protocol should consider the above mentioned points. In questions concerning children, politicians on national level must be careful to give floor to the UN Committee on the Rights of the Child especially in areas that belong to national competencies. This may be a reason why the United States and other countries have not joined the Third Optional Protocol.

We cannot give permission to neglect parental rights, further liberalize abortion or educate our children on concepts of gender. The United Nation's Committee on the Rights of the Child and other relevant organizations should help children, build a future for them in a system that cannot be manipulated in any ways. A country can join only those international initiatives that can be implemented in its own legal system and culture and are free of possibilities of manipulation. Regarding national competencies and sovereignty the Third Optional Protocol is not acceptable in its current form.

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Annex

Comprehensive Sexuality Education by UNESCO*	and by WHO**
<p style="text-align: center;">AGE 5-8</p> <p>A 5 year-old should know the basics of gender ideology... <i>"define gender and biological sex and describe how they are different"</i> (p.50)</p> <p>... and learn – in the classroom or kindergarden context - what sexual excitement is... <i>"physical enjoyment and excitement are natural human feelings, and this can involve physical closeness to other people"</i> (p.70)</p> <p>... and know about the different sexual behaviours with demonstration... <i>"people show love and care for other people in different ways, including kissing, hugging, touching, and sometimes through sexual behaviours"</i> and <i>"demonstrate what to do if someone is touching them in a bad way"</i> (p.71)</p>	<p style="text-align: center;">AGE 0-4</p> <p><i>"enjoyment and pleasure when touching one's own body, early childhood masturbation"</i> (p.38)</p> <p><i>"the right to explore gender identities"</i> (p.39)</p>
<p style="text-align: center;">AGE 9-12</p> <p>When they turn 9 children are to learn about sexual orientation and gender identity ... <i>"It is disrespectful and hurtful to harass or bully anyone on the basis of their social, economic or health status, ethnicity, race, origin, sexual orientation, gender identity, or other differences"</i> (p. 42),</p> <p>... masturbation and sexual stimulation... <i>"masturbation does not cause physical or emotional harm but should be done in private", "describe male and female responses to sexual stimulation"</i> (p.71),</p> <p>... pornography... <i>"describe what sexually explicit media (pornography) and sexting are"</i> (p.57) and <i>"identify and demonstrate ways to talk to a trusted adult about sexually explicit media or sexting"</i> (p.57)</p>	<p style="text-align: center;">AGE 4-6</p> <p><i>"same-sex relationships"</i> (p.41)</p> <p><i>"different concepts of a family"</i> (p.41)</p>
<p style="text-align: center;">AGE 12-15</p> <p>At 12, children would learn about access to abortion without parental consent... <i>"there are places where people can access support for sexual and reproductive health (e.g. [...] abortion and post-abortion care" [...] "maintaining confidentiality and protecting privacy"</i> (p. 63)</p> <p>... and surrogacy... <i>"compare the different ways that adults can become parents (e.g. intended and unintended pregnancy, adoption, fostering, with medical assistance and surrogate parenting)"</i> (p. 44)</p> <p>... and should practice condom use in the calssroom: <i>"demonstrate how to use a condom correctly"</i> (p. 75)</p>	<p style="text-align: center;">AGE 6-9</p> <p><i>"sex in the media (including the Internet)"</i> (p.42)</p> <p><i>"enjoyment and pleasure when touching one's own body (masturbation/self-stimulation)"</i> (p.42)</p> <p><i>"sexual rights of children"</i> (p. 43)</p>
	<p style="text-align: center;">AGE 9-12</p> <p><i>"first sexual experience" and "gender orientation"</i> (p.44)</p> <p><i>"sexual rights, as defined by IPPF and by WAS"</i> (p.45) these definitions contradict the UN consensus language</p>
	<p style="text-align: center;">AGE 12-15</p> <p><i>"pregnancy (also in same-sex relationships)"</i> (p.46)</p> <p><i>"gender-identity and sexual orientation, including coming out/homosexuality"</i> (p.46)</p>
<p style="font-size: small;">* International technical guidance on sexuality education. An evidence informed approach. UNESCO, UNAIDS, UNFPA, UNICEF, UN Women, World Health Organization (WHO) 2018. http://unesdoc.unesco.org/images/0026/002607/260770e.pdf</p>	<p style="font-size: small;">** Standards for Sexuality Education in Europe. Federal Centre for Health Education, BZgA. Cologne 2010. https://www.bzga-whocc.de/fileadmin/user_upload/WHO_BZgA_Standards_English.pdf</p>