



Policy Brief

OHCHR Report of the United Nations High Commissioner for Human Rights on the right of the child to the enjoyment of the highest attainable standard of health (HRC/22/31)

In accordance with an invitation made by the Human Rights Council pursuant to resolution 19/37, the United Nations High Commissioner for Human Rights issued a report on December 4, 2012 (HRC/22/31, hereinafter referred to as the “Report”) on the right of the child to the enjoyment of the highest attainable standard of health. The stated purpose of this Report was to “inform the annual day of discussion on children’s rights” at the twenty-second session of the Human Rights Council. According to the Report, information provided by numerous stakeholders and experts was used in its preparation.

Summary Observations

While not all of the information and recommendations contained in the Report are objectionable, some provide serious cause for concern, and others are completely unacceptable. These objectionable sections adversely impact a number of areas of concern, including, specifically, establishing and pushing sexual and/or reproductive health “rights” for children, pushing “comprehensive sexuality education” for children (see more about the dangers of comprehensive sexuality education below), facilitating abortion and abortion-related services for children, downplaying and undermining the rights and roles of families, including parents, in educating and raising their children, and undermining the role religious beliefs and traditions play in the raising of children. Specific concerns relating to each of these areas are addressed below.

“Protection Rights” vs. “Autonomous Rights”

A helpful lens through which to analyze the Report is to keep in mind that there are two categories of children’s rights; “protection rights” and “autonomous rights.”

Children’s protection rights include such things as the right to food, shelter, essential medicines and health care, to have parents, to grow up in a family, freedom from violence or abuse etc. When people hear the term “children’s rights,” most people think of protection rights, and most people agree that children’s protection rights are legitimate rights that should be upheld and promoted.

One major problem in the Report and in many other UN documents, however, is the clear attempt to manipulate the right to health to promote “autonomous rights” for children. “Autonomous rights” include such things as the right to participate in lawmaking (to have a say in laws and policies), to be heard, to control their sexuality, to any kind of information, sexual or otherwise, to abortion, to association without parental oversight, to

confidentiality, to privacy, etc. While some of these may be legitimate adult rights, they create problems when applied to children. This is because the brains of children are not fully formed, and therefore, children and adolescents lack the impulse control and maturity of adults.

Treating children like miniature adult rights bearers by granting them autonomous rights that make them independent from their parents puts them at risk of being manipulated and exploited by sexual rights activists and can expose them to unhealthy influences.

Radical feminists and sexual rights activists aggressively promote autonomous rights for children because such rights allow them full access to children and youth, to influence them with their sexual agenda, and to recruit them to advocate for that agenda.

Parental and religious rights can be a protective factor against these influences, which is why those promoting autonomous rights for children will fight any meaningful positive references to parents or religion.

Promoting Homosexuality and Alternative Lifestyles

In numerous locations throughout the Report, the Commissioner uses language that implicitly or explicitly endorses approaches to education and the provision of sexuality-related services that promote homosexuality and/or alternative sexual lifestyles.

The Report falsely asserts that the Convention on the Rights of the Child includes the prohibition of discrimination on grounds that “encompass sexual orientation” (paragraph 18) and specifically mentions “discrimination on the basis of sexual orientation and gender identity” (paragraph 18) and “children who are lesbian, gay, bisexual, transsexual or intersex” (paragraph 19).

In addition, the “comprehensive sexuality education” typically promoted or funded by UN agencies, and which are discussed below, promote same-sex relationships, same-sex marriage, etc. In addition to flying in the face of many religious and family values, such approaches, given the inherent danger in terms of risk of physical injury and disease from engaging in risky same-sex practices, should certainly NOT be encouraged by programs and advocates purporting to be working for the betterment of the health of children.

Undermining Religious beliefs and Parental Rights

On multiple occasions in the Report, the Commissioner urges policies and approaches that would undermine the rights of parents enshrined in the Universal Declaration of Human Rights that provides for parents to “have a prior right to choose the kind of education that shall be given to their children.”

The Report stresses the importance of confidentiality with respect to the provision of sexual and reproductive health services and information. For example, paragraph 80 states, “*Laws, regulations and policies can also constitute barriers to the realization of*

the right of the child to health, such as, inter alia, requirements for parental and/or spousal consent for access to health information and/or services . . . and restrictions on the provision of comprehensive sexuality education.”

This is problematic with respect to the rights of parents to the extent that confidentiality laws permit children to receive information and/or services that parents find inappropriate or even harmful for their children, or which run counter to their religious or cultural values. In this regard, the Report clearly calls for the removal of “parental consent laws,” which would severely undermine the ability of parents to raise their children as they see fit and to be aware of health-related services being provided to their children. This is a blatant violation of parental rights as called for in numerous UN treaties.¹

The Report also undermines the important role that religion can play in the upbringing of healthy children and indirectly attacks cultural and religious values and sensitivities by advocating for the removal of barriers to the provision of comprehensive sexuality education and sexual-related information and services. Paragraph 53 states, *“In some places, social and cultural values may limit access to information and services. . . Where traditional views on sexuality prevail, access to sexual and reproductive health services can be limited for some segments of the populations, including adolescents.”* There can be no doubt that deeply-held religious beliefs are the target.

While children’s health is critically important, it is not the only, nor even perhaps the most important factor in providing for human dignity and human rights. Not only would the granting of sexual rights for children undermine parental authority and religious beliefs, families/parents and religious beliefs are also important factors that need to be respected and not undermined in order to truly protect children’s health.

“Right” to Comprehensive Sexuality Education

In the Report, the Commissioner also makes mention of “comprehensive sexuality education” at least five times (more if similar terms such as “access to sexual and health information” are included). The first mention of comprehensive sexuality education occurs in paragraph 49, in which the availability of comprehensive sexuality education is purported to be a required component of complying with the “right to sexual and reproductive health.” Any conclusion in the Report or other document that “comprehensive sexuality education” is required by, or flows from, the right of children to health, is completely unsupported and should be resisted.

In addition, as has been noted in previous Family Watch International Policy Briefs,² comprehensive sexuality education programs funded and/or promoted by UN agencies

¹ CRC, Article 3-2, Article 5; Social Summit, Declaration, Commitment 6(c), 6(l); ICPD, 7.45, 11.9, 11.24, 13.2; Beijing, 107(e).

² See “Comprehensive Sexuality Education (CSE): Sexual Rights vs. Sexual Health” by Family Watch International. Available: <http://www.familywatchinternational.org/fwi/documents/fwipolicybriefCSE.pdf>; also “The International Guidelines on Sexuality Education” by Family Watch International. Available: <http://www.familywatchinternational.org/fwi/documents/fwipolicybriefunesco2ndREVISION.pdf>

usually contain a number of highly inappropriate elements, including some which in fact may lead to less healthy children. UNESCO's "International Guidelines on Sexuality Education"³ contains the following very controversial learning objectives for children:

Learning Objectives for Level I (ages 5-8)

- "Girls and boys have private body parts that can feel pleasurable when touched by oneself." (p. 43)
- "It is natural to explore and touch parts of one's own body." (p. 48)
- "Bodies can feel good when touched." (p. 48)
- "Touching and rubbing one's genitals is called masturbation." (p. 48)
- "Masturbation is not harmful, but should be done in private." (p. 48)

Learning Objectives for Level II (ages 9-12)

- "Both men and women can give and receive sexual pleasure." (p. 43)
- "Relationship between excitement and vaginal lubrication, penile erection and ejaculation." (p. 44)
- "Many boys and girls begin to masturbate during puberty." (p. 44)
- "Steps for proper use of condoms." (p. 51)
- "Definition and function of orgasm." (p. 49)
- "Legal abortion performed under sterile conditions by medically trained personnel is safe." (p. 51)

Learning Objectives for Level III (ages 12-15)

- "Respect for the different sexual orientations and gender identity." (p. 48)
- "Both men and women can give and receive sexual pleasure with a partner of the same or opposite sex." (p. 50)
- "Everyone is responsible for their own and their partner's sexual pleasure and can learn to communicate their likes and dislikes." (p. 50)
- "Access to safe abortion and post-abortion care." (p. 52)
- "The size and shape of [genitals and other body parts] vary and do not affect reproduction or the ability to be a good sexual partner." (p. 46)
- "Definition and description of the physical changes and stages of male and female human sexual response including orgasm." (p. 50)

Generally, comprehensive sexuality education programs contain most of these elements:⁴

- Promote masturbation as healthy and normal

³ Available: <http://www.unhcr.org/refworld/docid/4a69b8902.html>

⁴ For more information on the dangers of comprehensive sexuality education, see Comprehensive Sexuality Education (CSE): Sexual Rights vs. Sexual Health by Family Watch International. Available: <http://www.familywatchinternational.org/fwi/documents/fwipolicybriefCSE.pdf>

- Encourage acceptance and exploration of diverse sexual orientations and gender identities
- Promote condoms as “safe” without disclosing failure rates
- Promote abortion as safe and without consequences
- Encourage youth to advocate for sexual rights
- Teach youth without parental knowledge or consent
- Promote sexual pleasure as a right and an important component of sexual health
- Claim access to comprehensive sexuality education is a human right
- Teach children and youth they are sexual from birth
- Encourage anal and oral sex
- Encourage peer-to-peer sexuality education

By linking comprehensive sexuality education to the “right to sexual and reproductive health,” the High Commissioner is building on the controversial report dealing with maternal morbidity and mortality (A/HRC/21/22), and the report of the UN Special Rapporteur on the Right to Education (that also tried to establish an international right to comprehensive sexuality education for children). In his report to the General Assembly the Special Rapporteur stated that he considers the goals of comprehensive sexual education for children to be “pleasure in and enjoyment of sexuality” and “abolishing guilt feelings about eroticism that restrict sexuality to the mere reproductive function.” An attempt to establish a right to comprehensive sexuality education was first made in the name of education and resulted in objections by several Member States, and now, yet again, in the name of health. In spite of the assertions made in these reports, there is no right to comprehensive sexuality education and especially to the kind of sexuality programs UN agencies are promoting which most parents find objectionable.

Promotion of Abortion/Attacking Abortion Restrictions

It is important to note that during UN negotiations for the Convention on the Rights of People with Disabilities the term “reproductive health services” was accepted only after the word “services” was deleted. This is because a number of UN Member States expressed concerns that if the phrase contained the word “services” it could be misinterpreted to include abortion. With the deletion of “services” the term “reproductive health” cannot be construed to include a right to abortion, yet the Commissioner’s report retains the controversial term “services” in connection with “reproductive health.”

With regard to abortion, the Commissioner’s Report is also highly problematic as it:

- persists in using the term “services” connected to “reproductive health” and “reproductive” although this has been repeatedly rejected during negotiations by UN Member States that oppose abortion because abortion rights activists include abortion as a part of reproductive health services (see, for example, paragraphs 49, 53, 94 and 97);

- directly attacks laws that restrict abortion as in paragraph 51 “The [CRC] Committee has also noted its concerns about the impact of highly restrictive abortion laws on the right to health of adolescent girls, and has urged States to ensure that girls are not subject to criminal sanctions for seeking or obtaining an abortion under any circumstance. It has further requested States to review their legislation on abortion with a view to ensuring that it is in full compliance with the best interests of the child, including by ensuring that single adolescent mothers are allowed access to safe abortions and are adequately protected from the risks of illegal abortions.”
- indirectly undermines restrictions on abortion by requiring and/or promoting comprehensive sexuality education that holds abortion out as a valid family planning tool and encourages children to advocate against abortion restrictions;

“Sexual and Reproductive Health Rights”

As with past reports from the Commissioner, some of the observations and recommendations in the Report appear to be nothing more than a thinly veiled attempt to establish highly controversial sexual rights as part of the right to health. Many of the specific comments and recommendations with which we take issue are based on an improper assumption by the Commissioner that the right to sexual and reproductive health for children includes a number of alleged sexual rights. The Commissioner erroneously concludes that meeting this requirement “requires comprehensive sexuality education and full access to confidential youth-friendly and evidence-based sexual and reproductive health services.

However, as has been detailed in previous Family Watch International policy briefs⁵, no UN consensus documents recognize “sexual rights” for children. Sexual rights for children, and adults for that matter, have been rejected by UN Member States every time they have been proposed in UN negotiations. The phrase “sexual and reproductive health rights,” appears nowhere in any UN consensus document.

“Sexual and reproductive health rights” and “sexual rights” are undefined terms that can be exploited to promote almost any right dealing with sexuality and/or reproduction. For example, the use of the term “sexual and reproductive health rights” has arguably been used in the very Report at issue to promote comprehensive sexuality education, homosexuality, abortion and the undermining of parental roles and religion.

By employing the phrase “sexual and reproductive health rights,” in the context of children’s health, the High Commissioner is attempting, as was done with the use of the same phrase in the High Commissioner’s report related to maternal mortality and morbidity, to bypass the UN negotiation process to unilaterally establish controversial sexual rights as internationally recognized human rights. It is disturbing, to say the least,

⁵ See “Sexual Rights Defined” by Family Watch International, Available: http://www.familywatchinternational.org/fwi/documents/Sexual_Rights_Defined.pdf

that such attempts continue in spite of the rejection of the use of these terms in UN consensus documents.

Rather than focusing on attempting to circumvent the will of Member States on issues on which they have legitimate differences, the High Commissioner should be focusing on addressing issues that Member States agree can have a significant impact in improving the health of children.

Because “sexual and reproductive health rights” and “sexual rights” are not rights recognized by a consensus of Member States, purported conclusions, recommendations, and policy imperatives, which the Commissioner argues flow from those purported rights, are without foundation and should not be pursued under the guise of meeting obligations with respect to children’s health rights.

Summary

While not everything in the Report of the High Commissioner is objectionable, it is filled with many recommendations and statements that either directly conflict with consensus agreements, or do not in many cases advance the health of children. These objectionable sections adversely impact a number of areas of concern, including, specifically:

- establishing and pushing sexual rights for children as part of their right to health;
- pushing objectionable comprehensive sexuality education for children;
- facilitating abortion and abortion-related services for children;
- downplaying and undermining the rights and roles of families, including parents, in educating and raising their children;
- undermining the role religious beliefs and traditions play in positive outcomes for children.

This Report, its improper conclusions as it relates to these areas, and any policies and/or additional resolutions based on those improper foundation and conclusions, should be resisted and/or altered to conform both with existing UN consensus documents and with policies that will help, not hurt, the health of children in the context of the families and religious environment in which they are raised.

Call to Action

In light of the above-noted problems with this report and its conclusions, we call upon all UN Member States to express concerns regarding the Report and object to provisions of any resolution citing to and/or relying on the above-noted problem areas if they agree with one or more of the following points:

1. The High Commissioner’s Report contains vague terms relating to controversial sexual rights that have been repeatedly rejected in transparent UN negotiations between UN Member States.

2. The High Commissioner for Human Rights grossly overstepped her mandate by using her report to try to establish these sexual rights for children.

3. The High Commissioner's Report contains policy recommendations that:

- undermine the family as the fundamental entity responsible for the raising and caring for children
- undermine religious beliefs of Member States
- promote unhealthy behavior among children
- promote abortion
- promote comprehensive sexuality education.

We call upon UN Member States to make strong statements in the UN General Assembly objecting to:

- the High Commissioner's controversial Report;
- references to the Report in future HRC resolutions in which the problematic areas of the Report are cited for support;
- the overstepping of the mandate of the High Commissioner for Human Rights;
- the attempt of the High Commissioner for Human Rights to bypass governments and establish controversial sexual rights for which there is no international consensus.