



The Status of “Comprehensive Sexuality Education” Under International Law

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Overview

Contrary to the assertions of some UN agencies, there is no international human right to “comprehensive sexuality education” (CSE). CSE is not mentioned in any binding UN document. In fact, CSE remains one of the most controversial issues at the UN.

Notwithstanding the foregoing, UNESCO claims in its 2018 revised “International Technical Guidance on Sexuality Education” that there is a body of evidence showing that “comprehensive sexuality education” or CSE is mandated by international agreements and standards. This is highly inaccurate and grossly misleading. In most cases, it is clear that the provisions UNESCO cites in its document do not even mention CSE because CSE was rejected when that specific document was under negotiation by UN Member States. In the few UN documents where the terms “comprehensive sexuality education” and/or its equivalent “comprehensive education on human sexuality” were adopted, these consist of either:

1. Nonbinding resolutions that were negotiated by a subset of UN Member States;
2. Nonbinding pronouncements by activist UN committees that were acting beyond their authority since the agreement they monitor does not mention CSE; or
3. Nonbinding references to CSE by UN entities or reports that have never been agreed to by UN Member States.

The reality is that on the few occasions when all Member States have been involved in negotiations and CSE was raised for potential inclusion in a consensus document, significant divisions have arisen. For example, fights over CSE contributed in large part to UN outcome documents being withdrawn from negotiations at the UN Commission on Population and Development because States bitterly disagreed on its inclusion.

Strategies Used by CSE Advocates

Since UN agencies and their allies that promote CSE have been so unsuccessful in getting the entire body of the UN to openly and willingly adopt CSE as an international human right, CSE advocates have resorted to a number of other strategies to push for its adoption in non-binding documents. Their hope is that the more CSE is mentioned in UN documents, the more Member States will assume it is an international norm, standard, and even a human right, and thus begin to support (or at least not oppose) its inclusion. The wording CSE advocates have used in such non-binding documents is bolded and highlighted below to make it easier for you to fully understand their various strategies.

1. CSE Strategy to Include CSE as a Derivative Right

CSE advocates allege that CSE is part of, or at least inferred from, the separate and well-established rights of health, education and non-discrimination—even though those rights were formulated long before CSE ever was developed by sexual rights activists.

For example, the CESCR committee issued a comment which states that “the right to sexual and reproductive health, **combined with the right to education** (articles 13 and 14), **entails a right to education on sexuality and reproduction that is comprehensive**” *Committee on Economic, Social and Cultural Rights General Comment No. 22 on the Right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights) 2016*. Of course, the rights to health and education were established long before CSE was invented by sexual rights activists, and one easily could argue that CSE undermines health.

As another example, the CEDAW committee issued a general recommendation that “States parties should ensure **the rights of female and male adolescents to sexual and reproductive health education** by properly trained personnel in specially designed programmes that respect their **right to privacy and confidentiality**. Particular attention should be paid to the **health education of adolescents**, including information and counselling on all methods of family planning.” *CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health) Adopted at the Twentieth Session of the Committee on the Elimination of Discrimination against Women, in 1999 (Contained in Document A/54/38/Rev.1, chap. I)*. The wording used in CEDAW’s recommendation is not specific to CSE, but its advocates argue that CSE is encompassed within “sexual and reproductive health education.”

On the non-discrimination front, a Human Rights Council resolution notes that Member States should take measures “to empower women by, inter alia, strengthening their economic autonomy and ensuring their full and equal participation in society and in decisionmaking processes by adopting and implementing social and economic policies that guarantee women full and equal access to quality education, **including comprehensive sexuality education,....**” *Human Rights Council: Accelerating efforts to eliminate violence against women: engaging men and boys in preventing and responding to violence against all women and girls. A/HRC/35/L.15 2017*.

2. CSE Strategy to Negotiate CSE into UN Resolutions

CSE advocates have been able to include CSE in a number of non-binding UN resolutions because they were negotiated by a subset of Member States who were aligned on the main topic addressed in those resolutions.

For example, in an HRC resolution on violence against women, Member States are encouraged to develop and implement “educational programmes and teaching materials, **including comprehensive sexuality education**, based on full and accurate information, for all adolescents and youth, in a manner consistent with their evolving capacities, with appropriate direction and guidance from parents and legal guardians, with the active involvement of all relevant stakeholders....” *Human Rights Council: Accelerating efforts to eliminate violence against women: engaging men and boys in preventing and responding to violence against all women and girls. A/HRC/35/L.15 2017*.

As another example, a CSW resolution on women and HIV/AIDS “Urges governments to eliminate gender inequalities” and increase protection of women from HIV “through the provision of health care and services, including ... **full access to comprehensive information and education,**” and ensure that women can exercise their right to have control over ... their sexuality....” *Resolution 60/2 Women, the girl child and HIV and AIDS. The Commission on the Status of Women E/CN.6/2016/22 2016.*

3. CSE Strategy to Change Up the Wording

Because the nature of “comprehensive sexuality education” is now better understood, and as a result the term has become toxic, CSE advocates have changed a bit the wording and/or its order in documents under negotiation with the hope that Member States will assume it refers to something else. Do not be deceived.

For example, a general comment by the CRC committee addressing the term CSE slightly differently by suggesting that “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 ...**” *Committee on the Rights of the Child CRC/C/GC/20, General comment No. 20) on the implementation of the rights of the child during adolescence 2016.*

During discussions among the subset of Member States that negotiated the CSW resolution on women and HIV/AIDS, the inclusion of CSE was specifically rejected. Yet UNESCO claims that the following wording in the final resolution includes CSE by inference: “**comprehensive information and education ... on, matters related to sexuality [of women], including their sexual and reproductive health....**” *See supra* Resolution 60/2.

Governments should forcefully push back on such phrases when they can be interpreted to include CSE.

4. CSE Strategy to Obtain Commitments on the National and Regional Level

CSE advocates have been able to persuade groups of less informed ministers of health and education to commit to CSE on a regional basis and make their agreement look more international in nature, thus implying that CSE has wide policy if not legal support.

For instance, unsuspecting African ministers of health and education committed to “lead by bold actions to ensure quality **comprehensive sexuality education** and youth-friendly sexual and reproductive health services in the ESA region. Specifically, we commit to . . . **deliver comprehensive sexuality education** and youth-friendly SRH services that will strengthen our national responses to the HIV epidemic and reduce new HIV/STI infections” and “[i]nitiate and **scale up age-appropriate CSE** during primary school education to reach most adolescents before puberty, before most become sexually active....” *Regional references Ministerial Commitment on comprehensive sexuality education and sexual and reproductive health services for adolescents and young people in Eastern and Southern African (ESA), (2013).*

UN agencies and Planned Parenthood repeatedly cite to the foregoing regional ministerial declaration to claim an international right to CSE. As a regional commitment, however, it can be rescinded because it is not a binding UN treaty or convention. Moreover, at the time they signed the declaration, the ministers were manipulated by CSE advocates into believing CSE will prevent HIV, teen pregnancy and STDs. They had no idea how bad CSE was, as evidenced by the fact that the government of Uganda whose minister signed this declaration has since passed a law against CSE.

As a second example, the most controversial regional outcome document of the 20-year review of ICPD has direct references to CSE. This document was not negotiated by all Member States, and many of the government negotiators who signed on were not aware of the true nature of CSE when they committed to “Ensure the effective implementation from **early childhood of comprehensive sexuality education programmes**, recognizing the emotional dimension of human relationships, with respect for the evolving capacity of boys and girls and the informed decisions of adolescents and young people regarding their sexuality, from a participatory, intercultural, gender-sensitive, and human rights perspective....” *First session of the Regional Conference on Population and Development in Latin America and the Caribbean Full integration of population dynamics into rights-based sustainable development with equality: key to the Cairo Programme of Action beyond 2014 (Montevideo Consensus on Population and Development)*, UNECLAC (2013).

5. CSE Strategy to Hijack the 2030 SDG Targets

Multiple proposals to include provisions, goals or targets on CSE were explicitly rejected during the UN 2030 Agenda negotiations. So any interpretation of terms in the 2030 Agenda to encompass CSE is simply dishonest. Since UN agencies couldn't get an explicit reference to CSE in the 2030 Agenda, they tried to get around that by creating a coalition called “Education for Sustainable Development” (ESD) that created an indicator to measure States' compliance with implementing CSE as part of fulfilling SDG Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. The Indicator for SDG target 4.7: 28 requires measurement of the “[p]ercentage of schools that provide life skills-based HIV and sexuality education”. *Education 2030 Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4. Towards inclusive and equitable quality education and lifelong learning for all 2015*.

Countering CSE Advocacy at the UN

As noted earlier, there is no binding UN document that establishes CSE as an international right. But even on-binding CSE language is a problem because:

- New stakeholders can be deceived into believing a right to CSE exists;
- The more non-binding UN statements are made on CSE, the more it becomes a norm or standard (even if not a legal right); and
- A norm creates its own momentum and adds pressure on governments to conform.

It is important to note that governments have complete discretion to retract previous CSE commitments since they have not been made in any binding international agreement. Moreover, opposing CSE piecemeal or every time it comes up is necessary, but not sufficient to protect our children. CSE advocates are absolutely relentless in pushing their agenda in every way they can.

Accordingly, we suggest that governments pursue the following counter measures:

1. Submit a strong statement to UNGA, jointly with as many other governments that oppose CSE as possible, which clearly and forcefully makes the following points:

- Clarifies the (non) status of CSE under international law:
- Provides the policy reasons for opposing CSE;
- Reaffirms parental rights on matters of morality; and
- Rejects all prior support for non-binding documents that promote CSE, now that its scope and nature has become better known.

The written statement should be submitted to UNGA *every year* and opposing governments should threaten to resubmit it *every time* CSE is being negotiated.

2. Make an oral statement at the start of every major UN conference that CSE should not even be discussed, much less mentioned in any document under negotiation.
3. If CSE is included in any outcome document of a UN negotiation in which your government participated, make a formal and specific reservation as it relates to all CSE related commitments, requirements, or other provisions.