

CONTRIBUTION OF ASSOCIAZIONE COMUNITA' PAPA GIOVANNI XXIII TO THE CRC GENERAL COMMENT ON CHILDREN' S RIGHT TO HEALTH

The Associazione Comunità Papa Giovanni XXIII (APG23) is an international Catholic organisation in Special Consultative status with ECOSOC that is directly committed to the welfare of children in 27 countries across 5 continents. Among other activities, APG23 carries out health and development projects especially in Sub-Saharan Africa and Latin America. APG23 has made global health and access to testing and treatment one of its priorities in the advocacy at the United Nations.

Based on its experience of sharing directly the life with people living in extreme poverty in Kenya, Tanzania and Zambia, APG23 wishes to contribute to the formulation of the general comment as follows:

1. INTRODUCTION AND OBJECTIVES OF THE GENERAL COMMENT

1. Relationship with other General Comments

The Committee on Economic, Social and Cultural Rights (CESCR) adopted in 2000 the General Comment no. 14 on the article 12 of the International Covenant on Economic, Social and Cultural Rights that is addressing the Right to Health.

The General Comment sets out that the right to health extends not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.

Furthermore, the Committee on the Rights of the Child made in 2003 the general comment no. 4 on Adolescent health and development in the context of the Rights of the Child.

Other general comments related to the right to health are:

- Committee on the Elimination of Discrimination against Women, general recommendation N° 24 (1999) on women and health
- Committee on Economic, Social and Cultural Rights, general comment N° 15 (2002) on the right to water
- Committee on the Rights of the Child, general comment N° 3 (2003) on HIV/AIDS and the rights of the child
- Committee on the Elimination of Racial Discrimination, general recommendation N° 30 (2004) on discrimination against non-citizens
- Committee on the Elimination of Discrimination against Women, general recommendation N° 15 (1990) on the avoidance of discrimination against women in national strategies for the prevention and control of AIDS.

2. What should be the basic premises for the realization of children's right to health?

The [Convention on the Right of the Child](#) (CRC) has several "foundation principles" that underpin all other children's rights, including the right to health. **The general comment of the CRC Committee on the right to health should be permeated by these foundation principles.**

Such principles are: **Non-discrimination** that means that all children have the same right to develop their potential - all children, in all situations, all of the time, everywhere. **The best interests of the child** that must be "a primary consideration" in all actions and decisions concerning her or him, and must be used to resolve confusion between different rights. **The right to survival and development** that underscores the vital importance of ensuring access to basic services and to equity of opportunity for children to achieve their full development. **Participation** (views of the child) that means that the voice of children must be heard and respected in all matters concerning their rights. Countries must promote children's active, free and meaningful participation in decision-making that affects them.

Furthermore, children's rights are intimately tied to those of women. Realizing the rights and equality of women is not only a core development goal in itself, but it is also the key to the survival and development of children and to building healthy families, communities and nations. Mainstreaming equality between men and women in implementation of the right to health at all levels (policy making, provision of health services, prevention, care and support etc.) is essential.

The right to health is closely linked to other fundamental human rights, most notably access to potable water and adequate hygiene, right to food and right to education and is related to the social determinants of health that are the societal conditions in which people are born, grow, live, work and age. These include early years' experiences, education, economic status, employment and decent work, housing and environment, and effective systems of preventing and treating ill health. Action on these determinants, both for vulnerable groups and the entire population, is essential to create inclusive, equitable, economically productive and healthy societies. **It is important that the general comment on the right to health of children takes in account the resolution WHA62.14 ("Reducing health inequities through action on the social determinants of health") and the Rio Declaration on Social Determinants of Health.**

Orphans and vulnerable children, children living and working on the street as well as children belonging to minorities groups such as indigenous people, rom and sinti, migrants, disabled children, children in armed conflicts etc. are at particular risk of having denied their right to health. Specific attention should be given to their special conditions and needs.

Being health not merely the absence of disease but a status of mental, physical and social well-being, the concept of the right to health encompasses health and development together and cannot be restricted to the provisions defined by art. 6 and 24 of the Convention. The right to health should be explained with the convention as a whole and by including also the two optional protocols.

Since the violation of the right to health and lack of access to treatment in many developing countries, have its main root causes on the lack of an enabling international and national environment and the existence of structural obstacles (financial, economic, political etc), the implementation of the Right to Development is crucial for the respect, protection and fulfilment of the right to health.

3. *How can the principles of the CRC, in particular articles 2, 3, 6 and 12, be applied to designing, implementing and monitoring interventions to address child and adolescent health challenges and what aspects are specific to a child's rights approach to health?*

See above: all the principles of the articles 2,3, 6 and 12 should be reflected in the National Health Strategic Planning of States.

4. *What is the normative content of article 24? What are the specific obligations of States under article 24? What are the responsibilities of non-state actors under article 24?*

Article 24 implies specific obligations of States that are as follows:

Article 24.2(a). The obligation to diminish infant and child mortality

Article 24.2(b). The obligation to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care

Article 24.2(c). The obligation 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

Article 24.2(d). The obligation to ensure pre- and post-natal health care for mothers

Article 24.2(e). The obligation 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

Article 24.2(f). The obligation to develop preventive health care, guidance for parents and family planning education and services

Art. 24.4 "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".

The implication of extraterritorial and global obligations is quite clear.

As Madame Pillay, the High Commissioner for Human Rights, said during the celebration of the 25th anniversary of the declaration on the Right to Development: *"Although the primary responsibility for fostering equitable development rests with States, the realities of globalization demand the engagement of all of us, including at the international level. Ultimately, our role is to ensure that a global partnership truly serves the aspirations of the people themselves as holders of rights and as the legitimate subjects of development. A human rights lens can elucidate many root causes of poverty and disempowerment, which often include entrenched discrimination and inequality."*

...In this perspective, the right to development can help States to formulate, adopt, and implement policies and programs for just, equitable and sustainable development for all. The right to development embodies the human rights principles of equality, non-discrimination, participation, transparency and accountability as well as international cooperation.

It puts people at the centre of development; it envisages free, active and meaningful participation; and the fair distribution of the benefits of development. It encompasses the principles of self-determination and sovereignty over natural resources.

Along the road to Rio+20 we must both recall and renew the commitment of the 1992 United Nations Declaration on Environment and Development (Rio Declaration) that human beings should be at the centre of development, and that the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

All areas specifically addressed under MDG 8 -- aid, market access, debt sustainability, access to affordable essential medicines and to new technologies -- stand to benefit from the application of the constituent elements of the right to development”.

In the multiple crisis situations of today's world, the importance of solidarity rights is phenomenal. The globalisation process, the food crisis, the economic and financial crisis and most of all the climate change' threat are great challenges for humanity but are also opportunities that can make the leaders of the nations see the establishment of international solidarity and the pursuing of a common good as an inescapable necessity.

There is need of a **Preventive Solidarity** which aims at tackling the root causes of poverty and lack of access to right to health. Such solidarity implies that States respect fully the international obligations pledged at the UN, implement the conventions and treaties, are committed to disarmament, clean energy policies, health system strengthening, MDGs and implementation of the Right to development.

The right to health, like all human rights, imposes on States Parties three types of obligations: **Respect:** This means simply not to interfere with the enjoyment of the right to health. **Protect:** This means ensuring that third parties (non-state actors) do not infringe upon the enjoyment of the right to health. **Fulfil:** This means taking positive steps to realize the right to health. The right to health also has a "core content" referring to the minimum essential level of the right. Although this level cannot be determined in the abstract as it is a national task, key elements are set out to guide the priority setting process. Essential primary health care; minimum essential and nutritious food; sanitation; safe and potable water; and essential drugs are included in the core content. Another core obligation is the adoption and implementation of a national public health strategy and plan of action. This must address the health concerns of the whole population ; be devised, and periodically reviewed, on the basis of a participatory and transparent process; contain indicators and benchmarks by which progress can be closely monitored; and give particular attention to all vulnerable or marginalized groups.

States Parties must take steps forward in conformity with the principle of progressive realization. This imposes an obligation to move forward as expeditiously and effectively as possible, individually and through international assistance and co-operation, to the maximum of available resources. In this context, it is important to distinguish the inability from the unwillingness of a State Party to comply with its right to health obligations.

5. *What are the priority concerns in general and in particular regions of the world for the implementation of article 24?*

- to reduce child mortality.

- to address maternal mortality and improve maternal health
- to identify and address the underlying determinants of child and maternal health
- to address holistic early childhood development
- to integrate adolescent health in child health policies.
- to address the impact of climate change on child health
- to recognise and address chronic diseases in children
- to respect the right to health of children in emergencies

Especially, in resource constraint countries where poverty is rampant, there is urgency:

- to integrate food and nutritional support into treatment programmes
- to have essential paediatric drugs lists and guarantee essential paediatric drugs
- to focus specifically on the health of children in the National Strategic Planning

In regard to the HIV/AIDS epidemic, the obstacles in access to appropriate diagnosis and treatment among children living with HIV or with HIV/TB co-infection and to means of prevention of vertical transmission of HIV for pregnant women living with the virus, call for immediate and effective action by States Parties to the Convention on the Rights of the Child (CRC), and by all relevant stakeholders, including international and generic pharmaceutical companies, UN entities, other international organizations, NGOs and adults living with HIV.

6. Which concrete measures should be put in place to implement article 24?

Governance & Coordination: Towards Child Health in All Policies

National Coordinating Framework on Child Health

Decentralization, Local responsibilities and capacities

Indicators for a comprehensive situational analysis

Legal foundations

Budgets and Efficient Resource Allocation and Utilization

Training and capacity building of human resources

Reinforcement of National Accountability Mechanism

The role of parliaments in national accountability

Remedies for violations and accountability for political leaders and service managers

Promoting a strong civil society

Promoting knowledge and raising awareness of children's right to health

Member States should report regularly and substantially on the implementation of article 24 at the existing UN monitoring mechanisms like CRC Committee and Universal Periodic Review (UPR).

