Chapter 24

Article 27: The Right to a Standard of Living Adequate for Physical, Mental, Spiritual, Moral, and Social Development

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1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a state different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

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Z. Vaghri et al. (eds.), *Monitoring State Compliance with the UN Convention on the Rights of the Child*, Children's Well-Being: Indicators and Research 25,
https://doi.org/10.1007/978-3-030-84647-3_24

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What Did Children Say?

‘Government should help provide housing and clothing facilities to the children that will help us realise our potentials.’ (*Africa*)

‘Adults would understand that what defines’ good standard of living’ can be different depending on the youth. Success is different for everybody.’ (*Western Europe/Other*)

Outreach workers would have lower caseloads so they can spend more time caring for youth and ensuring their standard of living is adequate. (*Western Europe/Other*)

‘Government and schools are helping to boost self-esteem in children.’ (*Latin America/Caribbean*)

Overview

The right to an adequate standard of living is established in international law in the Universal Declaration of Human Rights, Article 25, and the International Covenant on Economic Social and Cultural Rights, Article 11. However, unlike Article 11, which requires that States Parties undertake ‘appropriate steps to ensure the realization’ and ‘to the maximum of their available resources,’ the text of the Convention on the Rights of the Child, in Article 27, formulates the obligation as requiring States Parties to adopt appropriate measures ‘in accordance with national conditions and within their means.’ This weakened formulation provides for the child’s right to a minimal, not optimal, standard of living, that supports their holistic development, and reflects the drafters’ concerns to limit states’ legal obligations (Office of the United Nations High Commissioner for Human Rights and Räddebarnen (Society: Sweden), 2007, p. 629).

Article 27 asserts the right of the child to their holistic and optimal development: not only physical and mental, but also spiritual, moral, and social development. Again, it differs from the formulation in Article 11 of the Covenant on Economic, Social and Economic Rights, in constructing the right to an adequate standard of living instrumentally, as a means through which to promote the optimum development of the child, rather than an end in itself (Nolan, 2019, pp. 1023–1024). In so doing, it clearly affirms that the child is entitled to a standard of living that provides more than poverty alleviation but is consistent with respect for the human dignity of the child (Pais, 1997). The Article recognises the child as the holder of their own right to development with support from parents and other caretakers through provision of adequate and necessary living conditions including but not limited to nutrition, clothing, and housing to children (Eide, 2006, pp. 1–9).

In line with the spirit of the Convention, as asserted in the preamble and Articles 5 and 18, Article 27, paragraph 2, assigns primary responsibility of care for living conditions to the family and other caretakers within their abilities and financial capacities. Together with paragraph 3, this defines the family and other caretakers

as both duty-bearers towards the child, and rights holders. It imposes obligations on States Parties within their means to provide material assistance when needed, and to support families and caretakers in the performance of their parental care responsibilities. Article 27, paragraph 4, recognises the child's right to recovery of maintenance from the parents even when that parent is living in another state. It obliges States Parties to negotiate and accede to international agreements for recovery of maintenance of the child in the same country or in another country so that they enjoy family care.

Hence, it is imperative to stress that, according to Article 27, both the family and other caretakers have responsibilities, but the States Parties are duty-bearers with obligations to respect, protect, and fulfil the rights of the child. If the child's best interest calls for it, States Parties have obligations to provide alternative care to the child with a standard of living adequate for holistic development, to protect the child from harm to their holistic development within the family and other care environments including in care and education settings, and to develop an enabling social and economic environment for the caretakers to provide for the child's right to a standard of living (Andrews, 1999, p. 5).

General Principles

Article 2 Along with prohibited grounds for discrimination as articulated in Article 2, the Convention affirms special circumstances which expose children to discrimination and inequality-based harm, for example, poverty-based exclusion, family separation, penal system involvement, minority or indigenous group status, traumatisation, exposure to armed conflict, and refugee status. Assuring a standard of living adequate for the holistic development of the child threatened by such risk of discrimination requires special protection measures by the States Parties. The Committee emphasises the 'interrelation between Articles 2, 6 and 27 (1) of the Convention on the Rights of the Child' such that, regardless of the child's status or that of their parents, States Parties have an obligation to fulfil the child's right to a standard of living adequate for their holistic development (UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and UN Committee on the Rights of the Child, 2017, para. 43).

Article 3 Many legal and policy decisions affect how children experience their standard of living. The impact of poverty is different for children than it is for adults. The deprivation of basic material needs has permanent effects on children, with even short periods of deprivation able to affect long-term development. Therefore, the Committee repeatedly reminds States Parties of their obligation to uphold the child's best interests in the allocation of national resources for programmes and measures in fulfilling their right to optimal and holistic development, and when necessary with international assistance or development aid (2013a, p. 15(d)).

Article 6 States Parties must create an environment that respects human dignity and ensures the holistic development of every child (UN Committee on the Rights of the Child, 2013a, para. 42). Article 6 gives States Parties the responsibility to ‘ensure to the maximum extent possible the survival and development of the child.’ In the assessment and determination of the child’s best interests, States Parties must ensure full respect for the child’s inherent right to life, survival, and development (UN Committee on the Rights of the Child, 2013a, para. 42). Article 27 is about a child’s physical, mental, spiritual, moral, and social development. Each element of child development is equally important. Protection of the right to an adequate standard of living must be directed to the realisation of the holistic development of the child.

Article 12 The child’s right to be heard has two main implications in respect of Article 27. First, children have a right to be heard in any administrative proceedings affecting the child, including decisions that affect their standard of living and living conditions, as well as in the development of broader policy developments that impact on this right. Second, States Parties are required to provide appropriate support, in the form of legal and administrative information and redress mechanisms to assist children to claim their rights, and to provide support to parents and caregivers in fulfilling their responsibilities towards the children (UN Committee on the Rights of the Child, 2009, para. 32).

Articles Related or Linked to Article 27

Articles 5, 7 and 18, like Article 27, address the balance of responsibility between parents and the state for providing care for children.

Article 20 addresses the right to alternative care for children deprived of their family environment. The Committee has emphasised that States Parties should address the adequacy of the standard of living of a child rather than remove a child into care in response to family poverty.

Article 22, 23, and 30 focus respectively on the rights of refugee and asylum-seeking children, children with disabilities, and those belonging to minorities or indigenous groups. These children are at high risk of exclusion and poverty and States Parties need to adopt all appropriate measures to protect their standard of living consistent with their optimum development

Article 24 is closely linked with the right to an adequate standard of living without which it is not possible for children to achieve the best possible health.

Article 26 provides for the child’s right to benefit from social security as an assurance to their right to a standard of living adequate for holistic development.

Articles 28, 29, and 31 cannot be realised if children do not have an adequate standard of living to enable them to learn effectively or the time, space, and opportunities to play as a consequence of poverty.

Article 32, 34, 35, and 36 address forms of exploitation of the child, which is widely associated with poverty and an inadequate standard of living

Relevant Instruments

UN Universal Declaration of Human Rights (1948), Article 25

International Covenant on Economic, Social and Cultural Rights (1966), Article 11

Attributes

Attribute One: Securing an Adequate Standard of Living for Each Child's Holistic Development

As Article 27 asserts that children are entitled to a standard of living adequate for their physical, mental, spiritual, moral and social development, and not merely their material welfare, it is clear that it demands more than an exclusive focus on economic measures. The concept of adequacy is not explicitly defined but the Committee has referred to a standard of living that allows for optimal, healthy or holistic development (Nolan, 2019, p. 1036). Thus, although, it does not, unlike the International Covenant on Economic Social and Cultural Rights, Article 11, elaborate the elements necessary for an adequate standard of living, the Committee has urged States Parties to introduce measures that would ensure access to nutrition, shelter, clothing, water and sanitation (2007, para. 3, 2010, para. 61, 2012a, para. 55, 2012b, para. 61, 2013b, para. 61). Such measures are necessary to provide children with the basic security to allow for adequate nourishment and growth, educational attainment, health, as well as emotional, social and psychological development as a whole, basic security in infancy and childhood, and an environment in which families and alternative care settings can provide basic material needs for children under their care (Vaghri et al., 2010, pp. 73–74).

The obligations on States Parties in respect of Article 27 demand that States Parties recognise the child's realization of adequate living standards, rather than 'simply access to opportunities through a family's or a community's living standards' (Andrews and Kaufman, 1999, p. 4), and adjust policies accordingly to develop a comprehensive policy beyond supporting parental roles.

States Parties are therefore obliged to take into account the child's right to a standard of living adequate for the child's holistic development through all fiscal, monetary, and exchange rate policies as well as development, health, education, food security, and business regulations that support a dignified life for the child and their family or other caretakers (Eide, 2006, pp. 34–35; UN Committee on the Rights

of the Child, 2006a, para. 26, 2006b, paras. 65, 66, 2012c, para. 68, 2016a, para. 71, 2018a, para. 9).

Attribute Two: Obligation to Take Measures to Assist Parents and Other Caretakers

The Convention obliges States Parties, in accordance with national conditions and within their means, to take appropriate measures to assist parents and others responsible for the child to ensure their optimal physical, mental, spiritual, moral, and social development. They must ‘in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.’

Therefore, measures to assist parents and other caretakers can take many forms including

- Simplified procedures for families with children in vulnerable situations and children living below the poverty line to have quick and adequate access to social protection in diverse forms, such as tax advantages, financial aid, services, and counselling¹
- Improving the provision of housing and basic services and strengthening support for families facing eviction as a result of financial difficulties²
- Holding targeted consultations with families, children, children’s rights organisations, and civil society organisations on the issue of child poverty, with a view to strengthening the strategies and measures for fulfilling children’s rights in poverty reduction strategies³
- Creating employment conditions which assist working parents and caregivers in fulfilling their responsibilities to children in their care, such as the introduction of family-friendly workplace policies, including parental leave, support for breastfeeding, and access to quality childcare services; as well as payment of wages sufficient for an adequate standard of living, protection from discrimination and violence in the workplace, and ensuring security and safety in the workplace.⁴

¹See, for example, concluding observations for Canada (2012c, para. 33(e)), Serbia (2017a, para. 51 (c), 52 (d)–(e)), and Ireland (2016b, para. 70 (c)).

²See, for example, concluding observations for Serbia (2017a, para. 52 (c)) and Georgia (2017b, para. 35 (a)). See also, General Comment no. 7 regarding Implementation of the International Covenant on Economic, Social and Cultural Rights (UN Committee on Economic, Social and Cultural Rights, 1997, paras. 9, 10), and UN Special Rapporteur on the right to adequate housing (Farha, 2019, paras. 55–58).

³See, for example, concluding observations for Ecuador (2017c), Denmark (2017d), and Spain (2018b).

⁴See, for example, concluding observations for Croatia (2014, para. 38b)

Attribute Three: Recovery of Maintenance for the Child

The Committee has consistently asked States Parties to set up accessible and timely maintenance systems with clear legislation, definitions, and duties, as well as information campaigns, to manage national and international recovery of maintenance for the child from the parents or other persons having financial responsibility for the child. This might include cases of the separation or divorce of the parents, unmarried parents, adolescent parents, and children in second families.⁵ However, States Parties should not use this to shift their care and protection obligations to the parents or other caretakers as a means of reducing their public expenditure bill (Hodgkin et al., 2007, p. 401).

Measures should also be in place to avoid instances of one of the parents using financial leverage to secure unwanted access to the child, to assert a greater right to determine the child's future, or to retain custody of children to secure financial support or accommodation for themselves (Hodgkin et al., 2007, p. 401).

When international recovery is required, States Parties are urged to enter into bilateral and international agreements that secure recovery of maintenance for the child, guided by the best interests principle of Article 3 (Hague Conference on Private International Law, 1976; Hodgkin et al., 2007, p. 402; UN General Assembly, 1957).

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