The right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development

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This submission addresses best practices, challenges and obstacles to the effective implementation of the health-related Sustainable Development goals, focusing on how they apply to children. The extensive child-health-related goals within the 2030 Agenda complement and interact with children's rights under the Convention on the Rights of the Child (CRC) and other international standards. In realising these Goals, it is vital to ensure that they take account of children's rights within international human rights law and we recommend that in drafting this report, the Office of the High Commissioner for Human Rights reflects the mutually supportive role of international human rights law and the Sustainable Development Goals.

The child's right to health

Children are entitled to be actively involved in their own healthcare from the earliest possible age. The CRC recognises the value of children's views and the need to give them weight in accordance with the age and maturity of the child.[1] This right applies in the context of healthcare, including where children have the capacity to make independent decisions about their care.[2] This approach endorses the need to reject strict age requirements with regards to children's health care and adopt a more flexible approach that takes account of the individual characteristics of the child.

Children also have the right to privacy and respect for confidentiality under the CRC, which provides that "no child shall be subjected to arbitrary or unlawful interference with his or her privacy… or correspondence".[3] This right to privacy interacts with respect for the child's evolving capacities, and the Committee on the Rights of the Child has been clear about its implementation in the context of children's right to health: "In accordance with their evolving capacities, children should have access to confidential counselling and advice without parental or legal guardian consent, where this is assessed by the professionals working with the child to be in the child's best interests."[4]

This placement of children at the heart of decisions about their healthcare as they gain the capacity to make these decisions is the background against which more specific health rights are exercised.

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[1] Convention on the Rights of the Child, Article 12(1).
[2] See Committee on the Rights of the Child, *General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, 17 April 2013, CRC/C/GC/15.
[3] Convention on the Rights of the Child, Article 16.
[4] Committee on the Rights of the Child, *General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, 17 April 2013, CRC/C/GC/15, para. 31.

Sexual and reproductive healthcare and education

Goal 3.7 sets out to ensure universal access to sexual and reproductive health-care services, including for family planning, information and education. The Committee on the Rights of the Child has emphasised that family planning services must be situated within comprehensive sexual and reproductive health services that encompass sexuality education.[5] These services should ensure that all couples and individuals are able to make sexual and reproductive decisions freely and to give them the information and means to do so. This includes ensuring confidential, universal access to services for children.[6] For this to be meaningfully achieved, services must be tailored to the diversity of children, addressing the specific needs of groups of children, including LGBTI children and children with disabilities.

The Committee on the Rights of the Child has developed detailed guidance on what is required to ensure adequate sexual and reproductive health care, including ensuring that girls are not subject to criminal sanctions for seeking or obtaining an abortion under any circumstance[7] and that adolescent girls are allowed access to safe abortions.[8] Sexual and reproductive health education in schools is also one of the most important ways of ensuring that children understand risks, improve their reproductive health and are able to make informed decisions regarding their sexal and reproductive heatlh. This education must include education programmes that raise awareness about access to safe contraception methods.[9]

The proliferation of so-called “anti-homosexual propaganda” laws poses a significant challenge to the realisation of this goal. At least 19 States have laws preventing the promotion of homosexuality,[10] often explicitly with regards to children. Such laws violate the prohibition on discrimination in themselves,[11] but by barring the discussion of homosexuality with children they also prevent meaningful sexual and reproductive health care and education for LGBT children.

Bodily integrity

The explicitly health-related goals within the 2030 Agenda have a clear overlap with those addressing violence. Goal 16.2 targets ending all forms of violence against children,

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[5] Committee on the Rights of the Child, *General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, 17 April 2013, CRC/C/GC/15, para.69.
[6] Ibid.
[7] Committee on the Rights of the Child, *Concluding Observations on the fourth periodic report of Nicaragua*, 20 October 2010, CRC/C/NIC/CO/4, para. 59(b).
[8] Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic review of the Republic of Korea, 2 February 2012,* CRC/C/KOR/CO/3-4, para. 11.
[9] OHCHR, *The right of the child to the highest attainable standard of health,* 2013, para.50.
[10] ILGA, *State-Sponsored Homophobia. A world survey of sexual orientation laws: criminalisation, protection and recognition (12th edition)*, May 2017, p. 41. Available at: http://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf.
[11] See, for example, *Bayev and others v. Russia* [2017] App. No. 67667/09 and two others. Available at: http://hudoc.echr.coe.int/eng?i=001-174422.

bolstered by 5.2 on eliminating all forms of violence against girls and 5.3 on ending early and forced marriage and female genital mutilation. The elimination of violence against children is a goal in itself, but also a means of realising targets under Goal 3.

Practices which violate children's physical integrity, when carried out for no therapeutic reason and without the child's free and informed consent, are a violation of a child's physical integrity and dignity and constitute a form of violence. These range from female genital mutilation,[12] hormone treatments and "corrective surgery" performed on intersex children,[13] "conversion therapy" carried out on LGBT children[14] the sterilisation of children with disabilities[15] and non-therapeutic male circumcision. Forcing children to undergo procedures that serve no therapeutic benefit is a violation of their right to protection from all forms of physical or mental violence under the Convention on the Rights of the Child and is covered by Goal 16.2. The consequences of these interventions may also entail extensive medical treatment to remedy the violence children have experienced.

We recommend that the report reflect the relationship between the prohibition of violence and the health-care related Goals within the 2030 Agenda, particularly recognising that certain measures undertaken within a health-care setting violate the prohibition on violence against children.

Drug use and harm reduction

Sustainable Development Goal 3.5 aims at strengthening the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol. The inclusion of treatment for drug use within the health-related goals reflects the coalescence of UN policy on drug use as "a multi-factorial health disorder that follows the course of a relapsing and remitting chronic disease"[16] - a problem requiring a health response rather than recourse to the criminal justice system.

As the Office of the High Commissioner for Human Rights noted in its 2013 report on the right of the child to the enjoyment of the highest attainable standard of health, a rights-based comprehensive approach to substance use by children requires including harm reduction strategies to minimise the negative health impacts of substance abuse.[17] The Committee on

[12] Committee on the Rights of the Child, *General Comment No. 13 (2011) the right of the child to freedom from all forms of violence*, CRC/C/GC/13, 18 April 2011, para. 29.
[13] See Committee on the Rights of the Child, *Concluding Observations on the combined second to fourth periodic reviews of Switzerland*, CRC/C/CHE/CO/2-4, 26 February 2015, para. 42. Committee against Torture, Concluding Observations on the fifth periodic review of Germany, CAT/C/DEU/CO/5, 12 December 2011, para. 20.
[14] *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/22/53, 1 February 2013, para. 88.
[15] See Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Mauritius, CRPD/C/MUS/CO/1, 30 September 2015, para. 29.
[16] UNODC, WHO. *Discussion paper, principles of drug dependence treatment*, 2008.
[17] OHCHR, *The right of the child to the highest attainable standard of health,* 2013, para. 66.

the Rights of the Child has also supported the development of harm reduction programmes for children.[18]

To achieve the aims of Goal 3.5 with regards to children, it will be necessary to overcome the lack of adequate drug treatment and harm reduction strategies for children.
We recommend that the report recognise the necessity of developing child specific drug dependence and treatment measures, including harm reduction services.

Hazardous chemicals and environmental damage

Childhood exposure to toxic substances has created a "silent pandemic" of disease and disability affecting children.[19] The World Health Organization estimates that more than 1.7 million children under the age of five died prematurely in 2012 from modifiable environmental factors, including air pollution and water contamination.[20] Ending preventable deaths of newborns and children under the age of five years of age under Goal 3.2 requires the addressing these environmental factors as a means of preventing infant mortality and promoting the health of children and Goal 3.9 requires addressing the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination.

Children have higher levels of exposure to pollution and toxic substances, including pesticides, and are more sensitive to the effects. Children in low-income, minority, indigenous and marginalised communities are particularly at risk and effects are exacerbated by malnutrition.[21] The life-long impacts can be irreversible[22] and so, as the Special Rapporteur on human rights and toxics has recognised, "prevention is the best and often only means of ensuring access to an effective remedy."[23]

Where harm has already been caused, however, Goal 16.3 requires that children have access to justice to pursue effective and prompt reparation for the harm suffered. The adoption of measures such as collective action and public interest litigation can be particularly effective and challenging the widespread abuses that often characterise environmental damage, allowing victims to bring a complaint together, while reducing the burden on any individual victim. Extraterritorial jurisdiction can also be an effective means of ensuring accountability and securing remedies for abuses for environmental damage, addressing the fact that violations cross borders and where a multinational corporation is

[18] See, for example, Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic report of Ukraine*, CRC/C/UKR/CO/3-4, 21 April 2011, para. 61.
[19] *Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, A/HRC/33/41, 2 August 2016, p. 3.
[20] WHO, *Preventing Disease through Healthy Environments*, 2016.
[21] *Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, A/HRC/33/41, 2 August 2016, para. 6.
[22] Ibid. at para. 2.
[23] Ibid. at para 41.

responsible for the harm, they and their assets may be based in a different country to the victims.[24]

The burden of proof in cases involving pollution and hazardous wastes can present a major barrier to ensuring access to justice for victims, who often struggle to demonstrate a the causal link between the harm they have suffered and the actions of polluters.[25] This challenge can be mitigated by implementing regulatory frameworks to monitor who sells, manufactures, uses, trades in, releases and disposes of hazardous substances. Regulatory frameworks that establish "safe levels" of chemicals released into the environment, including safe levels for childhood exposure, can limit this exposure and ease the process of holding those who violate these standards responsible for the harm caused.

We recommend that the report take account of the relationship between environmental damage and toxic contamination and the realisation of the health-related Goals as well as Goal 16.3 on ensuring access to justice for all.

Food and the right to health

Improving nutrition is addressed under Goal 2, but it is closely tied the health-related Goals within the 2030 Agenda. In particular the rapid increase in obesity among children, an increase from 11 million in 1975 to 124 million children in 2016.[26] poses serious health risks to the children affected.

We recommend that the report address the health consequences of obesity affecting children, including by recognising the value of education on healthy eating and the regulation of advertising promoting unhealthy food to children.[27]

Particularly vulnerable groups of children

Goal 3.5 is clear in its scope - ensuring universal health coverage. Read in conjunction with Goal 16.B, which targets the promotion and enforcement of non-discriminatory laws and policies for sustainable development, it is clear that the needs of particularly vulnerable groups must be addressed to ensure universal health coverage. In particular, health measures should be tailored to meet the needs of children with disabilities in line with the Convention on the Rights of Persons with Disabilities to ensure that these children are able

[24] For further discussion, see CRIN, *Submission for the Special Rapporteur's guide on good practices in relation to the human rights obligations related to the environmentally sound management and disposal of hazardous substances and wastes*, May 2017. Available at: www.crin.org/node/43284.
[25] *Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, A/HRC/33/41, 2 August 2016, para. 12.
[26] NCD Risk Factor Collaboration, "Worldwide trends in body-mass index, underweight, overweight, and obesity from 1975 to 2016: a pooled analysis of 2416 population-based measurement studies in 128.9 million children, adolescents and adults." Available at: http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)32129-3/fulltext?elsca1=tlpr.
[27] OHCHR, *The right of the child to the highest attainable standard of health,* 2013, para. 44.

to access the same range, quality and standard of free or affordable health care as other children.[28]

Universal health coverage also requires services to be tailored to meet the needs of children in detention. Provision should include screening upon admission for physical and mental-health related issues as well as regular check-ups and access to medical care at all times. Dedicated psychiatric and psychological services, including therapeutic mental health care must also be available.[29]

[28] Convention on the Rights of Persons with Disabilities, Article 25.
[29] Committee on the Rights of the Child, General Comment No. 10 (2007) on children's rights in juvenile justice, para. 89. Beijing Rules, Rule 13.5. Riyadh Guidelines, Guideline 45. Havana Rules, 27-28.