

Family-centered Human Right-based Approach to Early Childhood Care and Education

The need for Family-Centered Human Right-Based Approach to children's rights

1. New Humanity (NH) **appreciates the constitution of the “Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child”** by Resolution 56/5, and its call for input. NH also shares the commitment and concern on the Early Childhood Care and Education (ECCE) and underlines the previous document on children's rights “by age” as the “General comment on the implementation of the rights of the child during adolescence” [2] or the “Youth Declaration on Transforming Education” [3]. NH also **calls for connecting this optional protocol with other important and related UN documents** as the “Declaration on future Generations” where stated that “many social, cultural and religious or spiritual belief-based practices, as well as numerous national constitutions and legal systems exist, that seek to safeguard future generations and promote intergenerational solidarity and responsibility” [4].
2. For that, NH also **agrees with the highest legal consideration to be given to this issue as “optional protocol”**, because “by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth” and for that “mankind owes to the child the best it has to give” [5].
3. New Humanity proposes a **Family-Centered Human Right-Based Approach** to address all actions related to childhood as the best way to achieve the goals on this issue. This idea of “relationality” is not a misplaced idea, but it appears in the UNESCO Tashkent Declaration [6] under the notion of “public family-friendly policies” and “community-based services” or when it said, “develop rights-based and inclusive ECCE policies and programs”. These are examples of what it means to have a ‘Family-Centered Human Right-Based Approach’.
4. This approach is “relational” to recognize and highlight the social and relational dimension of the person and also allows for taking into account the interdependent links between human beings and the communities (cultural and religious) which are necessary for its flourishing. **Family has been recognized as “relational good”** [7] [8]
5. Indeed, family matters for international human right law. Family is both a human right in itself and an indispensable means of realizing the children's rights. Under human right law, especially, in the Convention on the Rights of the Children, family is the framework to

understand and to develop the children's rights from caring to achieving their own autonomy. For that, family is considered “the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children” [9] and for that, also “efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members. The State should ensure that families have access to forms of support in the care-giving role” [10].

6. So, a **Family-Centered Human Right-Based Approach** is the best way to drive the best interests of the children and the other principles of the Convention on the Rights of the Children to ECCE in both family and in absence of them contexts.
7. “Every child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment (...) where the child’s own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations. It is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being and development of any child placed in alternative care and the regular review of the appropriateness of the care arrangement provided” [11].

The 4A framework of the right to education in the context of ECCE: Access & Acceptability

8. A Family-Centered Human Right-Based Approach **recognizes different ways in which the right to education and care can be realized**. One of them will be make public pre-primary education available free to all, beginning with at least one year. But it is necessary to think in the psychological and pedagogical effect to separate one-year-old children from their families for several hours a day. According to subsidiarity principle and to make pluralism real and to respect the right of the families will be necessary offer both free educative institution available from one-year-old children (or before) or programs to facilitate the education and care at home.
9. Many parents and mothers prefer to enjoy and stay at home with his sons and daughters in the early childhood but, for their works, they have to leave their children in an educative institution (like kindergartens, creches, nurseries or other places like that). It will be better if that level is free but, at the same time, it will be unfair with low incomes which are not able to choose what they want. Meanwhile, higher-incomes families or higher levels of education can afford to stay at home during early childhood and come back to the labor market when the children are older. Moreover, this situation is aggravated in the case of women and in countries of the global south.
10. **States must not prioritize only one way in early childhood education and care**. States must not prioritize early childhood education and care outside of home without denying the spirit of international human right law on the right of children. For that reason, States must not only provide free early childhood education and care in a specific institution but also offer

alternative programs for low-income families (specially for women) who prefer to keep their children at home. In addition to free access to ECCE, alternatives such as paid parental leave, extended over time, can facilitate parental choices and the equal opportunities between men and women. All early childhood education and care institutions must be saving places above all, also for teachers and families.

11. **Focusing on learning.** Alternative nurture programs at home or alternative forms of schooling, such as home-schooling, focus on creating a safe, loving, and supportive environment for a child's well-being and its development but also needs to be recognized by States educative law to guarantee the right balance between educational rights of families and the best interests of the child. In this context it is also necessary to pay special attention to the education and formation of the professionals in this area both technical and ethical sides [12] and not only to educators or teachers but also other professionals related with ECCE. More and more studies show that learning begins with the birth [13], even earlier, during the prenatal period [14]. These aspects must be considered, above all, in the training of other professionals (as doctors, nurses, teachers...) who must accompany both the mother herself and the babies and children during his first stage.
12. **Caring with emerging technologies, AI systems included.** Most of the countries are banning technologies, 'screens', at schools and the government suggest reduced its used in the early childhood. While some emerging technologies, such as generative AI, are still able to dazzle with their unknown possibilities, others do not seem to be at their best. Digital applications and devices are going through a crisis of confidence in relation to the promises and the supposed pedagogical benefits that they were proposing. Indeed, a wave of global criticism is sweeping the technological world from the United States to China, passing through Europe as well.
13. Recently, legal initiatives aimed at safeguarding the health and well-being of minors in relation to the consumption and use of various technological resources, applications and devices have multiplied. In particular, the lawsuits filed in the United States against the most important technology companies (known as Big Tech), are famous for the impact they have on the well-being and mental health of minors, as well as for the security breach caused by the fact that foreign companies can possess and control sensitive personal data, especially in minors. **As a form to repair that, a part of the profits of the technology companies will be used to finance the ECCE.**
14. In short, for ECCE **we propose:**
 - To adopt a Family-Centered Human Right-Based Approach by the Open-ended Working Group and the States for working on children rights.
 - To offer to the families different ways to make real the ECCE depending and according to the his different situation: if their sons and daughters goes to a State institution, non-state school, or if they stay at home. Schools must being safe places for ECCE.
 - Focusing on the learning because begins with the birth, even earlier, during the prenatal period, and focus on the education and training of the professionals in ECCE.
 - Caring and protect early childhood of the new and emerging technologies. A part of the profits by technology companies will be used to finance the ECCE.

NOTES:

- [1] Open-ended intergovernmental working group on an optional protocol to the Convention on the Rights of the Child on the rights to early childhood education, free pre-primary education and free secondary education. Available at: <https://www.ohchr.org/en/hr-bodies/hrc/wg-opcrc-education>
- [2] General Comment nº 20 (2016) on the implementation of the rights of the child during adolescence. Available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-20-2016-implementation-rights>
- [3] Youth Declaration on Transforming Education. Available at: https://www.un.org/sites/un2.un.org/files/2022/09/tes_youthdeclaration_en.pdf
- [4] Zero Draft of the Declaration on Future Generations, Preamble. Available at: https://www.un.org/sites/un2.un.org/files/co-facilitators_zero_draft_of_the_declaration_on_future_generations_26_march_2024_final_.pdf
- [5] Declaration of the Right of the Child (1959) and Convention on the Rights of the Child (1989), Preamble.
- [6] UNESCO Tashkent Declaration and Commitments to Action for Transforming Early Childhood Care and Education (2022). Available at: <https://www.unesco.org/sites/default/files/medias/fichiers/2022/11/tashkent-declaration-ecce-2022.pdf>
- [7] Pierpaolo Donati, The family as a relational good: the challenge of love. The pontifical academy of social sciences, 2022. Available at: <https://www.pass.va/content/dam/casinapioiv/pass/pdf-volumi/acta/acta-23-pass.pdf>
- [8] On 'relational goods' see: Martha Nussbaum, The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy. Cambridge University Press, 1986.
- [9] Convention on the Rights of the Child, Preamble.
- [10] y [11] Guidelines for the Alternative Care of Children (A/HRC/11/L.13), p. 4.
- [12] The news alert us on abusive and maltreatment by 'educators' or other 'professionals' in early childhood in many parts of the world. See: "Child maltreatment" by World Health Organization. Available at: <https://www.who.int/news-room/fact-sheets/detail/child-maltreatment>. See also: UNESCO Chair on Childhood maltreatment at University of Tours. Available at: <https://unescochair-children-maltreatment.univ-tours.fr>
- [13] "(...) The diversity, complexity, and changing nature of basic learning needs of children, youth and adults necessitates broadening and constantly redefining the scope of basic education to include the early childhood care and initial education. These can be provided through arrangements involving families, communities, or institutional programmes, as appropriate (p. 76)". World Education forum (2000). The Dakar framework for action. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000121147>
- [14] Alison Gopnik, Ph.D in a Unicef interview said that "there's even some evidence there's learning inside of the womb". Available at: <https://www.unicef.org/parenting/child-development/when-do-babies-begin-to-learn>. See also: Prenatal experience with language shapes the brain. DOI: 10.1126/sciadv.adj3524; and also: Brain health Begins Before Birth (B4): A "learning" pregnancy and birth cohort study, DOI: 10.1101/2025.03.12.25323835; Does learning begin prior to birth? By Rachel Wallach. Johns Hopkins University & Medicine. Available at: <https://giving.jhu.edu/story/learning-before-birth>.
- [15] J. García-Gutiérrez, "El maestro ante las tecnologías emergentes". En M. G. Amilburu (Coord.) Ética y deontología profesional para maestros y educadores (pp. 85-98), Narcea.

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