



Claiming Comprehensive Sex Education is a Right Does Not Make It So: A Close Reading of International Law

Executive Summary

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For more information about States' responsibilities under international law with regard to sex education, and examples of how IPPF, SIECUS, TMBs, and others distort those responsibilities in order to serve their ideological agendas, read the fact sheet and the pre-printed, working copy of the article, at www.wya.net/sexualeducation.



There is No International Right to Comprehensive Sex Education

In the international law and policy realm in recent years, the debate surrounding sex education has focused on the question of whether States must provide “comprehensive sex education.” This debate is troubling because the term “comprehensive” is a misnomer—comprehensive programs do not give a complete picture of human sexuality. Rather, “CSE” is a pedagogy whereby institutions like the International Planned Parenthood Federation (IPPF) and the Sexuality Information and Education Council of the United States (SIECUS) emphasize sexual fulfillment and pleasure, advocate contraceptive use and access to abortion, and seek to empower children and teenagers to explore sexuality and gender identity. These programs do not emphasize a holistic understanding of the human person in relation to sexuality. CSE programs are not age-appropriate or culturally sensitive.

Organizations like IPPF, SIECUS, and treaty-monitoring bodies (TMBs) are telling States that CSE programs are required under international law. This is not true. No international human rights treaty mentions sex education. International consensus documents do suggest that States provide sex education, but they are intentionally vague in this area and do not prescribe a specific type of sex education. When these organizations and TMBs tell States that a failure to provide CSE violates international law, they are misrepresenting the law to serve their ideological agenda. International law does not mandate any particular type of sex education. States may provide the sex education programs of their choice, taking into account the culture, religion, and norms of their people.

These organizations and TMBs have no power to create law. Non-governmental organizations (NGOs) like IPPF and SIECUS have no authority to analyze or interpret international law. States may simply ignore the statements of NGOs. TMBs are authorized to formulate general analyses of a treaty’s provisions, but the interpretations of TMBs are not authoritative, and the TMB does not have the power to pronounce a State in violation of a treaty. Instead of following the misleading pronouncements of TMBs and NGOs, States need to understand what international law requires of them with regard to sex education.

A. Treaties Do Not Mandate CSE

International human rights treaties are written in broad, vague language. They establish a right to the enjoyment of the highest attainable standard of physical and mental health, but do not tell States how to fulfill this right. Treaties do not mention comprehensive sex education, let alone require States to provide it.

1. International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” The treaty does not explain the parameters of the right to health or prescribe specific actions that States Parties must take to facilitate the access to health care. It does not include a right to reproductive health or sexual health.

The ICESCR also recognizes “the right of everyone to education,” but requires States to “have respect for the liberty of parents . . . to ensure the religious and moral education of their children in conformity with their own convictions.” The provisions regarding education do not mention sex education as a component of primary, secondary, or higher education.

2. International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) affirms the liberty of parents to “ensure the religious and moral education of children in conformity with their own convictions.” The ICCPR does not provide any further guidance on education and does not mention sex education.

3. Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) says that



States must ensure equal access to “information and advice on family planning.” CEDAW also affirms a woman’s right to “decide freely and responsibly on the number and spacing of children” and “to have access to the information, education and means” to do so. Although CEDAW requires States to provide women with access to information, counseling, and services related to family planning and pregnancy, it does not require any particular type of family planning information.

4. Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) ensures the application of existing rights to children. It requires States to recognize “the right of the child to the enjoyment of the highest attainable standard of health.” Building upon this language originally found in the ICESCR, the CRC requires States to ensure that parents and children “are informed, have access to education and are supported in the use of basic knowledge of child health.” The CRC also requires States to “take appropriate measures . . . to develop preventive health care, guidance for parents and family planning education and services.” This intentionally vague language means that States are not required to provide family planning education and services to children. The requirement that States take “appropriate measures” means that States are free to implement the family planning education and services that are appropriate in the context of their national policies and local cultures, values, and traditions. The CRC does not mandate that States provide comprehensive sex education to children.

The CRC also recognizes the family as “the fundamental group of society and the natural environment for children’s growth and well-being.” States must respect the rights and duties of parents to provide appropriate direction and guidance in the child’s exercise of his or her rights.

B. International Consensus Documents Do Not Mandate CSE

Multilateral declarations by international conferences are not a source of binding international law. They are aspirational in nature, meaning States Parties are free to follow or not follow the provisions of a consensus document. These documents are important, though, because if a lot of States follow the document out of the perception that it is required by law, then the document can become evidence of customary international law. Once established as part of customary international law, a practice becomes binding.

1. International Conference on Population and Development

The document that resulted from the International Conference on Population and Development, called the Programme of Action, outlines the priorities of States with regard to education and reproductive health. The Programme of Action suggests that States ensure adequate “counseling, information, [and] education” for family planning and states that “individuals of appropriate ages” should have access to “education and counseling, as appropriate, on human sexuality, reproductive health and responsible parenthood.” This information should be “comprehensive and factual” and help adolescents “understand their sexuality and protect them from unwanted pregnancies, sexually transmitted diseases and subsequent risk of infertility.”

Although the Programme of Action uses the term “comprehensive,” this does not create a right to comprehensive sex education. First, because the Programme of Action is a document of political will, and not a binding treaty, it cannot create international human rights. Second, the Programme of Action cannot be used as evidence that a right to CSE has become customary international law because numerous States objected to the underlying pedagogy of CSE, namely, including abortion or contraceptives in the definitions of reproductive health. And third, other types of sex education programs can fulfill the ICPD’s goal to help children understand their sexuality.

2. Fourth World Conference on Women

The document that resulted from the Fourth World Conference on Women, called the Platform for



Action, adopted the ICPD Programme of Action's language on reproductive health. This means the Platform for Action does not specify that States should provide any particular type of information or education related to reproductive health. The Platform for Action recommends full attention be given "to meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality" and suggests that States provide "appropriate direction and guidance in the exercise by the child of the rights recognized in the CRC and in conformity with CEDAW" in a way that is "consistent with the evolving capacities of the child . . . with parental support and guidance."

The Platform for Action also says that States should "remove legal, regulatory and social barriers, where appropriate, to sexual and reproductive health education within formal education programs" and "ensure education and dissemination of information to girls, especially adolescent girls, regarding the physiology of reproduction, reproductive and sexual health, as agreed to in the ICPD Programme of Action, responsible family planning practice, family life, reproductive health, sexually transmitted diseases, HIV infection and AIDS prevention, recognizing the parental roles." Notably, this does not require any particular type or method of sex education. Like the Programme of Action, the Platform for Action is an aspirational document and not a binding treaty, and therefore cannot create international human rights.

C. NGOs, TMBs, and Others Falsely Assert a Right to CSE

Although international human rights treaties and multilateral consensus documents do not require States to provide comprehensive sex education, NGOs, TMBs, and others falsely assert a right to CSE. For example, the Committee on Economic, Social and Cultural rights, the TMB for the ICESCR, urges States to provide comprehensive sex education in schools. In 2010 the Committee told Kazakhstan that it "notes with concern the lack of comprehensive sexual and reproductive health education programmes for girls and boys in the national school curricula . . . The Committee recommends that the State Party include sexual and reproductive health education programmes in schools."

Similarly the Human Rights Committee, the TMB of the ICCPR, has directed States Parties to provide comprehensive sex education in schools. The CEDAW Committee also has said that States must provide comprehensive sex education to comply with international law. In 2013 it told Benin to "[i]ntegrate . . . comprehensive sex education for adolescent girls and boys covering responsible sexual behavior and the prevention of early pregnancies and sexually transmitted diseases, including HIV/AIDS" and told Algeria in 2012 that it should "include more comprehensive education on sexual and reproductive health and rights in public school curricula."

NGOs misquote international law to support their arguments that States should provide comprehensive sex education. For example, the Center for Reproductive Rights claims that both CEDAW and the CRC guarantee a right to comprehensive sex education. UNFPA also claims that the CRC protects the right to comprehensive sex education. This is not true; no treaty identifies such a right.

D. Conclusion

International law does not require States to provide comprehensive sex education. Treaties provide little specific guidance to States. A narrow and proper reading of States' treaty obligations shows that States are free to determine the content of the education that they provide to their people. TMBs and NGOs have attempted to fill in the areas of treaties that were intentionally left vague. They would have States include CSE at every level and in every school, but this often does not match a State's culture, religion, and norms.

However, if States bow to the pressure of TMBs and NGOs, there is a chance that their erroneous and misleading interpretations of treaties will become customary international law. For this reason, it is important for States to follow their treaty obligations to the letter, and not be swayed by the statements of people who have no authority to analyze or interpret the treaties.