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# CRC General Comments on Children's Health, Impact of the Business Sector and the Right to Rest, Leisure and Play

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## Three General Comments

In April 2013, the UN Committee on the Rights of the Child (CRC) published the three General Comments which had been adopted at its 62nd session. General Comments 15, 16 and 17 relate to the right of the child to the enjoyment of the highest attainable standard of health; on State obligations regarding the impact of the business sector on children's rights; and the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, respectively.<sup>1</sup>

General Comments are essentially statements of how the Committee believes particular issues should be interpreted, for example General Comment 15 relates to art.24 of the 1989 UN Convention on the Rights of the Child (the "Convention").<sup>2</sup> General Comments are not legally binding but are regarded as adding "flesh to the bones" of the Convention and constitute authoritative interpretation of the substantive rights contained in the treaty. They thus represent another important source of information for States parties in guiding their understanding of the obligations they have undertaken.

General Comments have been utilised to address the vagueness and open-ended nature which characterise so many international human rights instruments. Notwithstanding this, the reception given to General Comments has been somewhat mixed and they are not always regarded as being authoritative. An alternative view is that they hold the equivalent weight of Advisory Opinions which are to be given cognisance but no more than that. They have also been viewed as broad, unsystematic statements not meriting any particular legal weight. These diverging views are reflected in the ways in which governments have responded to General Comments. Some consider them an attempt to attribute to the treaty provisions a meaning they do not possess. However, whatever status one accepts General Comments as having, they do represent a useful benchmark.

The CRC is made up of 18 independent experts, selected because of their recognised expertise in the area of children's human rights issues. Individuals are elected for a period of four years and serve in their personal capacity, not as the representative of any State. Elections are held on a staggered basis every two years and members can be re-elected if re-nominated, as per art.23 of the Convention.

General Comments from the CRC have been issued on a wide variety of subjects, including adolescent health; the treatment of unaccompanied and separated children outside their countries

of origin; protection from corporal punishment and other cruel or degrading forms of punishment; children's rights in juvenile justice; and the right of the child to be heard. It is the three most recent General Comments to which attention is now given.

## CRC General Comment 15—Right to Enjoy Highest Attainable Standard of Health

### Introduction

Article 24 of the Convention contains legally binding obligations in relation to the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. CRC General Comment 15 clarifies the normative context of the article 24 right—including elaborating principles for the realisation of the child's right to health under art.24—and offers guidance and support to states parties and other duty bearers on practical measures for implementing the right. The impetus for General Comment 15 is the recognition that a majority of mortality, morbidity and disabilities among children could be prevented if the necessary political commitment was present and sufficient resources were allocated towards making existing knowledge and technology available for the prevention and treatment of illness and provision of appropriate care.<sup>3</sup>

It is notable that General Comment 15 acknowledges that, while inevitably there will be economic constraints on the extent to which certain States can fulfil their article 24 obligations—given that States are required to fulfil their responsibilities only to the maximum extent of their *available* resources<sup>4</sup>—all States, *regardless of their level of development*, are required in terms of General Comment 15 to take immediate action to implement the relevant obligations as a matter of priority and without discrimination of any kind.<sup>5</sup> This is particularly significant because a State that is, for example, less developed economically would not be permitted to circumvent its responsibilities by claiming lack of resources if it happened to be practising discrimination (such as unfair distribution of resources) against the children of one section of the population at the same time as directing resources to the children of a different (and favoured) section, for instance a different ethnic group.

Clearly the article 24 right does not impose a resourcing burden upon a State that goes beyond what its economic circumstances would ordinarily allow. But at the same time, the principles for the realisation of the child's article 24 right in section II of General Comment 15 (see discussion below) do not permit *such resources as there are* to be unfairly allocated. (The "cake", in other words, may be bigger or smaller depending on the economic strength of a particular State, but the slices need to be the same size—or, at any rate, otherwise fairly cut.) It is also worth noting that unfair distribution of resources could put a State in conflict not only with the principle of non-discrimination enunciated in paras 8–11 of the General Comment but with the principle of the best interests of the child referred to in paras 12–15.



### *Normative context*

The normative context for General Comment 15 is described in detail in section III with additional commentary on related obligations and responsibilities in section IV. Broadly, the legal background comprises arts 24.1 and 24.2 of the Convention. Article 24.1 enshrines the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. The CRC interprets this right widely—obvious matters such as curative and rehabilitative health measures are included. However, this is extended to *preventative* health measures and to health promotion and palliative services. Article 24 is interpreted holistically so as to encompass a right for children to grow and develop to their full potential, and live in conditions that enable them to attain the highest standard of health. This necessitates the implementation of programmes addressing the underlying determinants of health.<sup>6</sup> The General Comment states the broad policy objective that relevant services must be made available in sufficient quantity and quality and be within the physical and financial reach of *all* sections of the child population. The article 24.1 requirement that no child be deprived of the right of access to health care services is interpreted to include an obligation on States to identify and remove any barriers to children's access to health services, whether financial, institutional or cultural.<sup>7</sup> Special attention must be given to underserved areas and populations.

Article 24.2 of the Convention encompasses a general obligation to ensure the proper implementation of the article 24.1 right and lists a raft of specific measures that States must take in order to address the practicalities of implementation. General Comment 15 focuses on each of the article 24.2 measures, but a few of the more noteworthy issues identified for priority action by States include adolescent morbidity and mortality which are generally under-prioritised and universal access for children to primary care services as close as possible to where children and their families live.<sup>8</sup> Other issues (out of many) identified for action include addressing adolescent mental ill-health (including depression, eating disorders, anxiety and psychological trauma resulting from abuse, neglect, violence or exploitation); making immunisation against common childhood diseases universally available; addressing child obesity; and providing clean drinking water and proper sanitation. Women's rights are linked to children's rights in the context of preventable maternal mortality and morbidity. The General Comment identifies this not only as a grave violation of the human rights of women and girls but as a serious threat to the child's right to health.

Section IV of the General Comment focuses in part on the article 4 obligations and responsibilities that apply generally to the Convention. In the case of economic, social and cultural rights—such as a child's right to enjoyment of the highest health standards—States are required (as mentioned above) to undertake relevant measures to the maximum extent of their available resources. Where needed, this must be done within the framework of international co-operation. The requirement

that States—regardless of their level of development—take immediate priority action to implement relevant obligations is mitigated to an extent in cases where the available resources are demonstrably inadequate. In that situation, as the General Comment makes clear, States must still undertake targeted measures *to move as expeditiously and effectively as possible* towards the full realisation of the child's right to health.<sup>9</sup>

### *Principles for realisation of health standards*

One of the key elements of General Comment 15 is the commentary in section II on existing established principles applying to the rights of the child. The principles are recast for the purposes of interpreting the core Convention right to health in art.24. The principles highlighted in the General Comment encapsulate those of "the child's rights approach", namely those of non-discrimination and the best interests of the child, the right to life and the right of the child to be heard. Non-discrimination has already been touched upon briefly above, whilst the right to life and its connection with health is largely self-evident. The best interests of the child and the right of the child to be heard have become increasingly topical in recent years,<sup>10</sup> and are briefly discussed here—arguably they are especially significant principles so far as children are concerned. They are also mutually supportive in that it must always be in an individual's best interests—particularly a child's, where historically children's views have often been ignored—that he or she be heard and that, correspondingly, he or she be given a "voice".<sup>11</sup>

Under art.3.1 of the Convention, public and private social welfare institutions, courts of law, administrative authorities and legislative bodies are required to assess the best interests of the child and to make this a primary consideration in all actions affecting children. Being a principle of general application, it must be observed in all health-related decisions concerning children. As the General Comment makes clear, all such decisions are to be based on the child's physical, emotional, social and educational needs, age, sex, relationship with parents and caregivers, and his or her family and social background. Article 12 embodies the child's right to express views freely and for those views to be given due weight. The child has a right under art.12.2 to be heard in relevant judicial and administrative proceedings. As this is also a principle of general application, it applies to health-related decisions, but subject to the (article 12.1) qualification that a child's age and maturity are relevant considerations. The General Comment emphasises the relevance of children's views on all aspects of health provisions, including, what services are needed, how and where they are best provided, barriers to accessing or using services, the quality of the services and the attitudes of health professionals.

### *Framework for implementation*

Broadly (and finally for present purposes), General Comment 15 requires States to provide an environment that facilitates the discharge of all relevant obligations and responsibilities regarding the child's right to health. States must establish an appropriate



regulatory framework which allows for monitoring and ensures accountability.

## **CRC General Comment 16—State Obligations Regarding the Impact of the Business Sector on Children's Rights**

### *Introduction*

CRC General Comment 16 is, to an extent, distinguishable from the other two General Comments considered here as it is not restricted to one article of the Convention but rather explores the relationship generally between business activities and the rights of the child in relation to overall obligations of States under the Convention. This is a highly significant document not only with regard to the rights of the child but also, more widely, in the context of the relationship between business and human rights. This is the first UN human rights treaty body to explore this relationship directly. Previous documents have only tangentially done this, and in general terms—i.e. not directly referring to business, but to the private sector in general.<sup>12</sup> And, as the General Comment itself notes, it is especially relevant because, at the present time, there is no international legally binding instrument on the responsibility of business vis-à-vis human rights.<sup>13</sup>

During the past decade the CRC has been reviewing the impact of privatisation of certain activities and the role of the private sector in relation to children's rights.<sup>14</sup> General Comment 16, however, has its origins in the current initiatives by the international community and UN bodies to build on the framework of the UN Special Representative on Business and Human Rights, John Ruggie's "Protect, Respect and Remedy"<sup>15</sup> and the accompanying Guiding Principles.<sup>16</sup> The work of the CRC has also been influenced by the efforts of other organisations working not only on business and human rights issues in general, but more specifically on the relationship between business and children's rights. Especially relevant are the Children's Rights and Business Principles elaborated by the UN Global Compact, UNICEF and the NGO Save the Children.<sup>17</sup>

### *Scope and application of General Comment 16*

In line with Ruggie's Framework, General Comment 16 differentiates obligations of States from corporate responsibilities in the area of children's rights.<sup>18</sup> Its main aim is to clarify the scope of the obligations of States in relation to activities involving the private sector and to provide States with a framework for the implementation of the Convention as regards business as a whole. However, importantly, the CRC recognises that businesses have responsibilities regarding children's rights which they must meet; and States must ensure that they do so.<sup>19</sup> In addition, businesses should not undermine the State's ability to meet its obligations towards children established by the Convention and its Protocols. The CRC considers that States should encourage businesses' corporate social responsibility commitments, as they help create a business culture which is respectful to children's rights and indeed can contribute to their advancement. However, such voluntary actions cannot be a

substitute for the role of the State in regulating business, or for businesses to comply with their own responsibilities to respect children's rights.<sup>20</sup>

### *General principles of the Convention as they relate to business activities*

Section III of General Comment 16 follows the same structure as the previous comment: identifying the four general principles within the Convention which are the basis of all States' decisions and actions relating to business activities and operations. The four overarching principles are: the right to non-discrimination (art.2); the best interest of the child (art.3.1); the right to life, survival and development (art.6); and the right to be heard (art.12). States must ensure that all their legislation, policies, programmes, administrative and judicial proceedings that deal with business or concern business activities comply with these principles. Among these measures, States should guarantee that business issues are not intentionally or unintentionally discriminatory towards children in their content or implementation nor affect their survival and development, not only directly but also through their parents and caregivers. They should also ensure that children are heard with regard to the business activities that directly affect them and their communities and that they have access to and meaningful participation in the necessary judicial remedies related to them.

### *Nature and scope of State obligations*

The general obligations under the Convention require States to respect, protect and fulfil children's rights in relation to business activities and operations that impact upon children.<sup>21</sup> Crucial to the relationship between business and children's rights is the recognition by the CRC that these obligations assumed by States under the Convention are obligations of result and of conduct. States are, therefore, not relieved of their obligations under the Convention and its Protocols if their functions are delegated or outsourced to a private business (or to a non-profit organisation for that matter).<sup>22</sup>

General Comment 16 analyses each of the responsibilities in turn—i.e. respect, protect and fulfil—as well as the duty to provide effective remedies and reparations for the violation of relevant obligations. In this regard, para.30 of the General Comment specifically extends the obligation to provide remedies and reparations in respect of violations of children's rights by third parties such as business enterprises.

Regarding the obligation to respect, General Comment 16 mainstreams children's rights in the business sphere by declaring that "all business-related policy, legislation or administrative acts and decision-making should be transparent, informed and include full and continuous consideration of the impact on the rights of the child".<sup>23</sup> As part of its obligation to protect children's rights, the CRC specifies the due diligence standard to measure the level of compliance when it asserts that the State is responsible for the infringements caused or contributed to by business if it fails to take the necessary measures to prevent, investigate, adjudicate



and redress such violations.<sup>24</sup> As part of the positive action needed to comply with the obligation to fulfil, States should foster a culture respectful of children's rights among business, through establishing stable and predictable legal and regulatory environments and promoting knowledge and understanding of the Convention and its Protocols among government departments and agencies that shape business practices.<sup>25</sup> In respect of remedies, the CRC is clear that business should be subjected to prosecution and sanction in the case of causing or contributing to children's rights violations.<sup>26</sup>

The CRC also examines a restricted set of contexts in which business activities and operations are most likely to impact on children's rights. As the General Comment notes, the list is not exhaustive, but usefully highlights specific circumstances in which States' legal and institutional frameworks are frequently insufficient or ineffective, or are under pressure. This may result in business enterprises having a significant impact upon children's rights. The specific contexts studied in more detail are: A. Provision of services for the enjoyment of children's rights; B. The informal economy; C. Children's rights and global business operations; D. International organisations; and E. Emergencies and conflict situations.

#### *Framework for implementation*

Section VI of the General Comment establishes a framework for implementation which foresees the development by States of measures of various kinds: legislative, regulatory and enforcement, remedial, policy, coordination and monitoring, collaborative and awareness-raising.

Among the most innovative and interesting measures suggested in this section are the development of the concept of due diligence for business in the area of children's rights, the definition of child rights impact assessments and the specific role for national human rights institutions in raising awareness of the Convention's provisions amongst business enterprises. All of these suggestions form a clear nexus with the UN Guiding Principles on Business and Human Rights.

### **CRC General Comment 17—Right to Rest, Leisure, Play, Recreational Activities, Cultural Life and the Arts**

#### *Introduction*

Article 31 of the Convention recognises the right of the child to rest, leisure, play, recreational activities and free and full participation in cultural and artistic life. The departure point for the CRC General Comment 17 is that it expresses concern not only at the generally poor recognition given by States to this right but at the resultant lack of investment in appropriate provision. The General Comment also notes the "weak or non-existent" protective legislation put in place by States and the invisibility of children in national and local level planning. A particular issue of concern highlighted in the General Comment is in relation to the enjoyment and conditions of equality (and, therefore, *inequalities*) associated with the article 31 right—in particular, difficulties

experienced by girls, poor children, children with disabilities, indigenous children, and children belonging to minorities. General Comment 17 is intended to address these and other concerns and to raise the profile of the article 31 right. It is also intended to assist awareness and understanding of art.31 in the life and development of children and to outline measures designed to ensure the implementation of the right.

Among other things, the General Comment examines the significance of art.31 in children's lives and undertakes a legal analysis of it. The General Comment also considers the place of art.31 in the broader context of the Convention and outlines measures for the realisation of the right contained within and the corresponding obligations of States. Each of these issues in turn is briefly discussed below. (Sport is, incidentally, excluded from the scope of General Comment 17 as it is considered to be an area of special concern in its own right.)

#### *Significance of article 31 in children's lives*

It goes without saying that if a child's right to play and recreation and related developmentally important rights are fully and properly observed, there is less scope for other important rights—such as rights that ensure that children are not victims of economic exploitation—to be marginalised or ignored. But it is clear that the article 31 right embodies outcomes that are both essential and intrinsically good for children *regardless* of any wider context in which the rights of children may be evaluated. As General Comment 17 notes:

"[E]nvironments in which play and recreational opportunities are available to all children provide the conditions for creativity; opportunities to exercise competence through self-initiated play enhances motivation, physical activity and skill development; immersion in cultural life enriches playful interactions; rest ensures that children have the necessary energy and motivation to participate in play and creative engagement."

The development, through art.31, of a *right*—ultimately carrying the force of law—serves to emphasise the need to create a "protected space" in the lives of children around play, recreation and cultural participation. The implication is that nothing less than a legally protected right will suffice. Play and recreation, as the General Comment makes clear, are essential to the health and well-being of children and to the development of creativity, imagination, self-confidence, and necessary physical and social skills.

#### *Legal analysis of article 31*

The legal analysis undertaken in section IV of General Comment 17 largely focuses on clarifying definitions of key terminology used in art.31. For instance, a characteristic that is common to the suggested definitions of all three concepts, "rest", "leisure" and "play", is that recreational time entails activities that are distinct from other, as it were, "obligated" activities such as work or



education, and provides a break, or respite, from those required activities. Thus, it is "free or unobligated time" involving "non-compulsory" activities undertaken mainly at the discretion of, and initiated and controlled by, children themselves. But, crucially, the CRC takes the opportunity to reaffirm that: "[w]hile play is often considered non-essential ... it is a fundamental and vital dimension of the pleasure of childhood, as well as an essential component of physical, social, cognitive, emotional and spiritual development".<sup>27</sup>

The General Comment also underlines the importance of a child's cultural and artistic life—protected by the rights established in art.31. In particular, recognition is given to the centrality of culture to personal and community identity and the construction of a world view that reinforces the sense of belonging that is such an integral part of a child's development. The CRC identifies three elements considered essential to the exercise of the right of cultural participation: first, ensuring that the child has access to cultural and artistic activities; secondly, guaranteeing the child's participation in such activities; and thirdly, enabling the child to make a genuine contribution towards "the spiritual, material, intellectual and emotional expressions of culture and the arts".

#### *The place of article 31 in the wider context of the Convention*

A recurring theme in General Comment 17 is the emphasis upon ways in which the article 31 right and other Convention rights are interdependent. The key point, as already suggested above, is that where rights centred around play, recreation and cultural participation are respected there is less likelihood that other important children's rights will be disregarded. The General Comment in section V highlights linkages between the article 31 right and the right to non-discrimination. As already mentioned, certain groups of children may have special difficulties in connection with recreation and play. Disabled children, for instance, may have problems (physically) accessing play areas or may have a greater need than non-disabled children for special adjustments to be made to allow for varying types of disability. Inevitably, special measures will also be necessary for children living in (for example) penal or residential institutions or in situations of conflict or humanitarian disaster.

The principle of the best interests of the child embodied in art.3 of the Convention has an obvious connection with the article 31 right in that the realisation of a right to play, recreation and cultural participation is, in the words of the General Comment, "*by definition*, in the child's best interests".<sup>28</sup> In the case of art.6 (right to life, survival and development) the key point to emphasise is the centrality of play and recreation to a child's development and evolving capacities.

A number of other key connections are highlighted in the General Comment, but amongst the most important of these are the article 13 right to freedom of expression (realised in recreation and play) and the article 30 right to cultural participation.

#### *Measures for the realisation of the article 31 right*

One particularly striking issue highlighted in General Comment 17 as a matter upon which the realisation of the article 31 right is

dependent centres on *perception*. In some parts of the world play is perceived as frivolous, unproductive and of little intrinsic value. The General Comment seeks to address this by emphasising that play is of fundamental importance to a child's well-being, health and development and should not be undervalued. More tangible measures for realising the article 31 right include provision of hazard-free play areas, non-exclusion of children from public spaces, ensuring children's access to nature, and greater investment in cultural and artistic opportunities for children.

#### *States' obligations*

Section VI of General Comment 17 requires States to guarantee the article 31 right by, *inter alia*, imposing obligations on States to respect the right (such as by not interfering with its enjoyment); to protect the right (by preventing third party interference); and to fulfil the right (such as by introducing measures ensuring the effective implementation of the right). The third of these obligations requires States to introduce appropriate legislative, administrative, judicial, budgetary, promotional and other measures. A wide variety of examples of such measures is given in section VI, including initiatives for supporting caregivers, awareness-raising initiatives, regulating non-State actors (such as the business and corporate sector—e.g. in the area of toy safety), developing child protection policies, introducing effective complaints-handling mechanisms, and underpinning all such measures (and others) with effective legislative support. Inevitably a fundamental element in all of this is planning at the municipal level, and implementation at the level of schools and other educational establishments.

#### **Conclusion**

The three recent General Comments reinforce the holistic nature of the UN Convention on the Rights of the Child and highlight that the child is not just the recipient of services but rather has an active role to play as a holder of rights. The Comments also seek to uphold the cardinal principles, namely non-discrimination; the right to life; the best interests of the child; and the right to be heard. These four principles cumulatively represent, as previously mentioned, what is often referred to as "the child's rights approach".

Furthermore, the General Comments emphasise the interconnectedness of the rights contained within the Convention. Arguably it is somewhat artificial to treat the General Comments as stand-alone documents as, read together, they have obvious repercussions on and for each other.

However, even acknowledging the need to see these rights holistically will be insufficient to their full realisation if they are not viewed in a physical context, namely the particular circumstances in which those claiming their rights live. Reading the Comments together, the importance of, for example, a healthy physical environment to the realisation of rights becomes apparent. Comment 15 notes the negative impact environmental degradation has on health and sanitation, as well as highlighting climate change as a major factor endangering the health of



present and future generations. The potential impact on the physical environment businesses have, both positive and negative, and their responsibilities to the communities and their environments in which they operate, is dealt with in Comment 16. A safe, clean environment being conducive to the right to play, leisure and cultural life is emphasised in Comment 17.

It is highly unusual for three General Comments to be issued simultaneously but this again is indicative of the interrelated nature of the rights and the influence they have on one another. Perhaps

then this is a signal that rights are becoming less "compartmentalised" in a contrived fashion. Maybe these General Comments illustrate that, like all human rights instruments, the Convention on the Rights of the Child is a living instrument which will continue to evolve and accommodate contemporary situations and issues as they arise. This is essential given the current context of increased globalisation and the need to adapt to the more extensive role and influence of non-State actors.

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<sup>1</sup> CRC/C/GC/15; CRC/C/GC/16; and CRC/C/GC/17 respectively. The General Comments were published on April 17, 2013 following the Committee's 62nd session (January 14 – February 1, 2013). At the same Session, General Comment 14 on the right of the child to have his or her best interests taken as a primary consideration (art.3, para.1) was also adopted and was published on May 29, 2013.

<sup>2</sup> United Nations, Treaty Series, Vol. 1577, p.3.

<sup>3</sup> See art.4 of the Convention and para.1 of General Comment 15.

<sup>4</sup> Article 4 of the Convention and para.71 of General Comment 15.

<sup>5</sup> General Comment 15, para.72.

<sup>6</sup> General Comment 15, para.2.

<sup>7</sup> General Comment 15, para.29.

<sup>8</sup> General Comment 15, paras 33–35 and 36–40.

<sup>9</sup> General Comment 15, para.72.

<sup>10</sup> See, for example, Michael Freeman, "The Best Interests of The Child? Is *The Best Interests of the Child* in the Best Interests of Children?" (1997) *International Journal of Law, Policy and the Family* 360–388.

<sup>11</sup> See, for example, Nigel Thomas, "Towards a Theory of Children's Participation" (2007) 15 *International Journal of Children's Rights* 199–218.

<sup>12</sup> For example, with regard to the Human Rights Committee, its General Comment 16, *The right to respect of privacy, family, home and correspondence, and protection of honour and reputation* (Article 17), 08/04/1988, refers to legal persons; General Comment 18, *Non-discrimination*, 10/11/1989 and General Comment 28, *Equality of rights between men and women* (article 3), CCPR/C/21/Rev.1/Add.10, 29/03/2000, both refer to private actors; General Comment 31, *The Nature of the Legal Obligation imposed by the Covenant on the State Parties*, CCPR/C/21/Rev.1/Add. 13, 26/05/2004, refers to private persons or entities.

<sup>13</sup> General Comment 16, para.8.

<sup>14</sup> The CRC has considered this relationship in several responses to State reports. In 2002 it organised a Day of General Discussion on the private sector as a service provider; see "The Private Sector as Service Provider and its Role in Implementing Children's Rights", CRC/C.121, September 20, 2002.

<sup>15</sup> Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, *Protect, Respect and Remedy: a Framework for Business and Human Rights*, UN Doc. A/HRC/8/5, April 7, 2008.

<sup>16</sup> Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, A/HRC/17/31, March 21, 2011.

<sup>17</sup> The Children's Rights and Business Principles were launched in March 2012 and comprise 10 principles which companies should adhere to see [http://www.unglobalcompact.org/Issues/human\\_rights/childrens\\_principles.html](http://www.unglobalcompact.org/Issues/human_rights/childrens_principles.html) [Last accessed June 6, 2013].

<sup>18</sup> Ruggie's framework is based on the differentiation between States' obligations to protect human rights and businesses' responsibilities to respect human rights.

<sup>19</sup> General Comment 16, para.8.

<sup>20</sup> General Comment 16, para.9.

<sup>21</sup> General Comment 16, para.25.

<sup>22</sup> The Committee had already sustained this view with regard to privatisation of services that affected the rights of the child in its General Comment 5, *General measures of implementation of the Convention on the Rights of the Child* (arts. 4, 42 and 44, para. 6), CRC/GC/2003/5, November 27, 2003, paras 42–44.

<sup>23</sup> General Comment 16, para.26.

<sup>24</sup> General Comment 16, para.28.

<sup>25</sup> General Comment 16, para.29.

<sup>26</sup> General Comment 16, para.31.

<sup>27</sup> General Comment 17, para.14(c).

<sup>28</sup> General Comment 17, para.17 (emphasis added).

#### Post-script to Wallace and Wylie, "The Case of *BH*: The Best Interests of the Child: Primary but not Paramount" (2012) 15(3) I.J.F.L. 71

Mrs H, also referred to as Miss S, who featured in the *Case of BH* discussed in a case note in a previous edition of the Irish Journal of Family Law, was released in April 2013. The United States prosecutors found on the basis of the available evidence that just one charge could be sustained against her, namely she had only been involved in one drug shipment thus warranting a lesser sentence.