

Center for Reproductive Rights Information Brief

Experts from the African Committee of Experts on the Rights and Welfare of the Child General Comment No. 9 on Article 11 of The African Charter on the Rights and Welfare of the Child on the Right to Education

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The overall purpose of the General Comment is to guide States Parties on how to promote, protect and fulfil the right to education for children in Africa as provided under Article 11 considering the specific challenges they face on the continent. It further seeks to establish a causal link between a child's right to education, a child's wellbeing and development and the guiding principle of children's rights protected under the African Charter on the Rights and Welfare of the Child (The Charter/ACRWC).

Education is inseparable from a child's wellbeing, development and dignity.

Over the years, other African treaties, adopted after the African Charter have significantly expanded on the context, scope and objective of the right to education. Despite various legal guarantees, access to the right to education remains a challenge in Africa with a large percentage of its children still without any form of proper education. There are several challenges that have convoluted the proper implementation of free basic and secondary education fit for purpose in Africa addressed in the General Comment including:

- School-related sexual and gender-based violence,
- Discrimination in accessing education, particularly for girls, children with disabilities, indigenous children, and children in nomadic communities
- Harmful practices such as child marriage, female genital mutilation
- Exploitation of children, including child labour, forced begging, sexual exploitation.

Generally, the Committee applies four interlinked general principles as the lens through which it interprets, promotes and monitors the implementation of all provisions of the Charter. These include non-discrimination, the best interest of the child, child participation, and the right to life, survival and development. An additional principle is identified considering its relevance in the implementation of the right to education, which is the evolving capacity of a child.

THE PURPOSE OF EDUCATION UNDER ARTICLE 11

The Committee notes that children learn in schools from both the formal education and their interaction in the school environment with their peers, teachers and others. Hence, the following aims of education can be achieved through formal education as well as establishing and maintaining a school environment that cultivates these aims:

- The promotion and development of a child's personality, talents, mental and physical abilities – Article 11(2)(a)
- Foster respect for human rights and fundamental freedoms – Article 11(2)(b)
- Strengthening and preserving African morals and positive traditional values and culture – Article 11(2)(c)
- Preparing a child for a responsible life in a free society – Article 11(2)(d)
- Preserving national independence and territorial integrity – Article 11(2)(e)
- Promoting African unity and solidarity – Article 11(2)(f)
- Developing respect for the environment and natural resources – Article 11(2)(g)
- Promoting the child's understanding of primary health care – Article 11(2)(h)

School attendance protects children from violence and abuse (Article 11 (3) (d))

COMPONENTS OF THE RIGHT TO EDUCATION – ARTICLE 11(3)

The Center for Reproductive Rights would like to highlight 2 components as we advocate for laws and policies that promote access to adolescent sexual and reproductive health and rights: Regular attendance and reduction of dropout rates – Article 11(3)(d) and Children who become pregnant – Article 11(6).

Regular attendance and reduction of dropout rates – Article 11(3)(d)

Article 11(3)(d) places two correlating obligations on States; to take measures to encourage regular attendance of children in school and to take measures to reduce school dropout rates. It mandates State Parties to take legislative, administrative and other measures to these ends. The Committee recognises the role of school attendance and retention in protecting children from violence and abuse.

The GC acknowledges several causes of irregular attendance and dropout including:

- Socio-economic factors such as poverty and child labour.
- Factors anchored on gender-based discrimination, such as harmful practices like child marriage, Female Genital Mutilation, teenage pregnancy and sexual Violence.
- Health related issues such as malnutrition and morbidity coupled with lack of access to healthcare services.

Recommendations to ensure regular attendance and reduce school dropouts

- Consistent monitoring or record-keeping of pupils' attendance: this can be done by mandating schools to generate a mechanism, such as a toolkit or policy on school dropout prevention that continually collects and analyse attendance data.
- Provide and enable psychosocial support systems in schools for children vulnerable to dropping out due to several reasons.
- Establish strong and sustainable partnerships with key stakeholders to educate parents and guardians on the adverse effects of school dropouts.
- Take legal, administrative and other measures to eradicate any harmful practices including targeted measures for girls affected or at risk of harmful practices such as child marriage and FGM.

No girl should be expelled, punished, or discriminated against because she is pregnant.



Children who become pregnant – Article 11(6)

Article 11(6) obliges States to take all appropriate measures to ensure that girls who become pregnant before completing their education are enabled to continue and complete their education. Various countries in Africa have laws and/or practices that negatively affect the education of pregnant girls. The legal, practical, socio-cultural barriers in several African countries that jeopardise the education of girls who become pregnant while enrolled in education facilities include:

- Expulsion laws and policies and lack of protective legislation
- Re-entry restrictions
- Restriction to attend regular education,
- Childcare responsibilities
- Stigmatisation and discrimination
- Gender norms that discourage return to school and unsupportive school environment.
- Financial constraints

Laws that discriminate against pregnant girls must be repealed or replaced.

Recommendations for ensuring that pregnant (and parenting) girls complete education

- State Parties should take legislative measures to prohibit the expulsion of pregnant girls from school, to protect pregnant girls from discrimination, and ensure the availability of conducive procedures and a school environment to enable them to complete their education.
- Legislation that prohibits expulsion due to pregnancy should also prohibit other associated practices such as mandatory pregnancy testing at schools, prohibition of school re-entry, restriction of education options of pregnant girls to private, extension or other non-regular education institutions.
- States must ensure that pregnant girls are not subjected to any form of punitive measures based on falling pregnant while in school.
- State Parties must further mandate all institutions of learning and schools to adopt school policies that would ensure that children who become pregnant continue their education by availing support, including flexible scheduling of alternative options of continuing education, lifting unnecessary bureaucracies for re-entry after childbirth, and where possible by facilitating examination and care for pregnant students according to their needs.
- Policies should also include methods of learning that would accommodate young mothers in school, enable or facilitate access to quality childcare, and admit their children into early childhood programmes at the same school.
- States should instruct schools to give guidance and counselling to girls who fall pregnant, and report the cause of pregnancy. If it is caused by sexual abuse, relevant procedures should be undertaken to ensure perpetrators are prosecuted and the pregnant girl is given access to one-stop services.
- School systems should actively play a role in the prevention of teenage pregnancy by addressing the underlying factors. Among others, States should incorporate age-appropriate sex education, and provide safe spaces for peer-to-peer learning and avail psychosocial support.
- States should popularise and expand the provision of sexual and reproductive health services to adolescents and must ensure that such services are accessible and child friendly.
- States should enhance their efforts to prevent and redress gender based sexual abuse, violence and exploitation against girls and to provide child friendly reporting and referral mechanisms where medical, physical, psychosocial, and other support services are provided.
- State Parties must undertake extensive sensitisation of community stakeholders, teachers and other school staff, and parents on the rights of pregnant girls and young mothers to continue and complete their education and on their right to protection from discrimination and abuse.

THE NATURE AND EXTENT OF STATE PARTIES' OBLIGATIONS RELATING TO ARTICLE 11

Article 11(3) indicates that States are required to take all the necessary measures to fully realise the right to education, and Article 1 and its General Comment outline indicative measures that may be undertaken in fulfilling the obligation. The joint reading of Article 1, its General Comment, and Article 11 of the Charter provide that the nature of State Obligation includes, among others, legislative measures, institutional measures, administrative measures, budgetary measures, and judicial measures. These measures are important in implementing the obligation to respect, protect, and fulfil the right to education.

Legislative measures

- States should adopt laws, policies, regulations, and strategies on education which are in line with the standards laid down under Article 11 and the General Principles.
- States should also undertake continuous and regular reviews of laws and policies to ensure their harmonisation with regional and international standards.
- States should proactively review their laws to rectify inconsistencies as well as fill existing gaps.
- Laws and regulations that discriminate against girls, married girls, and pregnant girls should be repealed and replaced with laws and regulations that provide special measures of protection for such group of children.

Institutional and administrative measures

Implementing and realising the right to education requires various institutional and administrative measures to be undertaken by States.

- States should establish an institution that is tasked with coordinating the implementation of the right to education. These institution/s should be adequately resourced and coordinate with other sectors to provide education for all children.
- States are, therefore, required to undertake measures to address the prevalent challenges which include high dropout rates, teenage pregnancy, corporal punishment, and sexual exploitation in schools through prevention of teenage pregnancy through sexual reproductive health rights education, ensuring that schools are free from violence and sexual abuse, providing sanitary pads for girls, introduction of school feeding programs among others.
- States shall undertake measures to on-board children out of school through the provision of extra support and complementary sessions, as well as the provision of education in flexible and alternative hours.

Related References

The full General Comment can be accessed here:

<https://www.acerwc.africa/sites/default/files/2025-07/ACERWC%20GENERAL%20COMMENT%20No.%209.pdf>

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) Decision No. 002/2022 on the right to education for pregnant and parenting girls:

<https://www.acerwc.africa/sites/default/files/2022-10/ACERWC%20Decision%20final%20Communication%20No-%200012Com0012019.Tanzania.pdf>

ACERWC Teenage Pregnancy in Africa Study Report (2022):

<https://www.acerwc.africa/sites/default/files/2023-01/Teenage%20Pregnancy%20Jan22-compressed.pdf>