



1st May 2020

The Rt Hon Elizabeth Truss MP
Secretary of State for International Trade
President of the Board of Trade
Minister for Women and Equalities
King Charles Street,
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(sent via e-mail: ~~~~~@trade.gov.uk)

Dear Liz,

I write now on the rationale underpinning the production and dissemination of the Trans-Toolkits, which have in the last few years been used as ‘training’ books in many if not all State schools. These toolkits claim the United Nations Convention on the Rights of the Child (UNCRC) as their authority. I question this claim below as a former Member of the Parliamentary Assembly of the Council of Europe and as a successful witness in the ground-breaking ECHR case on Child Trafficking where I used the Convention correctly.

I see the major discrepancies I note below as of such importance that the relevant materials are withdrawn for further analysis and detailed consideration.

I am concerned that these ‘Toolkits’ base important assertions on misleading statements such as:

- “Refusing to accommodate a trans child/young person could constitute discrimination.” (citing Article 2)
- “Education settings must keep the best interests of a trans child/young person at the heart of decisions made about them.” (citing Article 3)

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- “Trans and gender questioning children/young people have the right to develop and grow in school, and this article states clearly that they should be supported in that.” (citing Article 6)
- “Parties should respect the right of the child to their own identity and name.” (citing Article 8)

In point of fact,

Article 6 tasks States to ‘ensure to the maximum extent possible the survival and development of the child’, while Article 8 asks States to protect the child’s identity: ‘to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference’

- Toolkits continue “When education settings make decisions about a child/young person, they should consult and inform the child/young person and take their views into account.” (citing Article 12)

This claim is false in that it is a gross misinterpretation of Article 12: States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given *due weight in accordance with the age and maturity of the child*

- Another Toolkit claimed link states “If a child/young person comes out as trans there is no immediate need to inform their parents/carers or other people (citing Article 16); while

Article 14. 2, states that ‘States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right [to freedom of thought, conscience and religion] in a manner consistent with the evolving capacities of the child.’

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Moreover, the preamble regards *the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community*

This is a gross misinterpretation of article 16, suggesting a divide between children's interest and their parents' interest for the child whereas the article actually says the child shall not be *'subjected to arbitrary or unlawful interference with his or her privacy, family, home...'*

In fact, article 3 ("best interest of the child") reinforces that by saying that *States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her...*

- The toolkits state "The right to information that is important to their health and wellbeing. For trans and gender questioning children/young people, this includes telling them about the support available." (citing Article 17)
- And that "Education settings have a key role in keeping trans and gender questioning children/young people safe from bullying, including transphobic bullying." (citing Article 19)
- Adding "Proper access to education for trans children and young people can only be achieved in a supportive environment that is free from bullying and discrimination." (citing Articles 28 and 29)

Article 2 in fact says no child should be subjected to "discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." The term 'accommodating' is not used.

Article 3 says "The best interests of the child shall be a primary consideration." It does not say the only or central consideration. This is a common fallacy often used to claim 'ownership' of rights that belong to the child.

See above, reference to Article 3

As a general point, the only articles referring to sex are those concerning the state's obligation to protect children from sexual abuse and sexual exploitation.

Last but not least, there is a wealth of well-established research that identity is a life-long process.

Article 12 requires that States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. In addition to this, Article 14. 2, states that 'States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right [to freedom of thought, conscience and religion] in a manner consistent with the evolving capacities of the child.'

Moreover, the preamble regards the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

Suggesting a divide between children's interest and their parents' interest for the child is a gross misinterpretation of article 16, which actually says that the child shall not be 'subjected to arbitrary or unlawful interference with his or her privacy, family, home...'

In fact, article 3 (best interest of the child) reinforces that by saying that States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her...

Article 19 refers to the State's obligation to protect children from abuse: States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

See above, reference to Article 3

As a general point, the only articles referring to sex are those concerning the state's obligation to protect children from sexual abuse and sexual exploitation.

Last but not least, there is a wealth of well-established research that identity is a life-long process. Any decisions taken within a child's time frame in relation to a child's identity needs to take that into account.

In conclusion, I hope that you will agree with me that the wealth of such damaging misinterpretations of the ECHR is so grave that the relevant toolkits and their associated materials should be withdrawn from schools now.

Yours ever,



Baroness Nicholson of Winterbourne