

UDC 341/342.7

THE BEST INTERESTS of THE CHILD AND THE RIGHT TO EDUCATION

VICTORIJA DORINA

Belarusian State University, Belarus

The paper deals with the problems of realizing the right to education in the best interests of children. Attention is paid to the difficulties in realizing the right to education for some groups of children. It is concluded that it is necessary to revise the curriculum in accordance with the recommendations of the Convention on the Rights of the Child in order to ensure the best interest of the child in education.

At first glance, it may seem that in the modern world education covers most of the world's population, and the development of information and communication technologies makes it possible to study even at a distance of thousands of kilometers from an educational institution, but this is far from the case. Until now, 57 million children of primary school age do not have the opportunity to attend school. Moreover, the challenges posed to the world community in recent years (pandemics, armed conflicts and an increase in the number of refugees, etc.) have shown how vulnerable certain groups of the population have turned out to be in connection with the realization of the right to education. It is not for nothing that quality education is one of the Sustainable Development Goals, which is to ensure inclusive and quality education for all and to promote lifelong learning.

Within the framework of this study, we will turn to ensuring the best interests of the child in realizing the right to education. What is education in the best interests of the child?

The 1989 Convention on the Rights of the Child calls on states to recognize the right to education (Article 28) and to exercise this right on the basis of equal opportunities, in connection with which free and compulsory primary education should be introduced, the development of secondary and vocational education should be encouraged, and higher education should be made available ... Special attention is paid to methods that reflect respect for the human dignity of the child.

The right to education of the child should be considered in conjunction with the basic principles of the Convention, one of which is the principle of ensuring the best interests of the child. In accordance with this principle, education must meet certain criteria. According to General Comment No. 14 on the child's right to prioritize the best interests of the child, these criteria include access to quality free education, non-formal education, qualified teachers and professionals, an enabling environment for the child to take into account, and the development of appropriate teaching and learning methodologies [1, p. 79].

But is it really important to take into account the best interests of the child in education? Is not the opportunity to get an education itself a guarantee of the best interest?

At its most basic level, education in the best interests of the child really means that the child has the very opportunity to receive education. People with education will find work faster, exercise the right to health, are less at risk of being involved in criminal activities, and participate in the economic and political life of society and the state. Education promotes gender equality, increased tolerance and more peaceful societies. However, education with the best interests in mind means not just getting an education, but also taking into account the individual characteristics of each child, providing the most comfortable environment for the formation of a personality capable of having their own point of view, developing unique abilities, meeting needs, and an individual approach.

According to researchers, modern schools do not have the primary goal of promoting the best interests of the child. Ensuring the best interest has become a core principle in child law and policy, for example, with regard to child custody, adoption, and child health. Oddly enough, in the implementation of the educational process, the best interest is lost in school rules and policies in almost all countries [2, p. 4]. Thus, there is a difference between law and practice. However, the school must involve the child in education, provide highly qualified professionals, programs, provide a friendly, safe environment and guarantee equal educational opportunities. Low-income children should have the same opportunities to realize their potential as their better-off peers, the attitude towards unsuccessful students should be the same as towards excellent students, and every effort should be made to ensure equality of opportunities for children with disabilities.

In a study on education in the best interests, to ensure the best interest of the child in education, R. Howie and K. Covel [2, p. 11] propose reforms in three directions: first, the creation and development of conditions for preschool education systems (especially important for low-income families); secondly, the qualitative improvement of the school and class (recruitment, training and retention of high-quality specialists, as well as the involvement of leaders who see the potential in each of their children without regard to the family background

and opportunities); thirdly, in accordance with the Convention on the Rights of the Child, the reform should develop school culture and take into account all the rights of the child in the educational process. This will serve to fulfill the child's best interests and ensure a positive learning environment.

Ensuring the best interest in education must reach all groups of the population. First of all, children from low-income families face the problem of realizing their rights.

Poverty often overlaps with ethnic issues. African Americans and Hispanics in the United States, Aboriginal children in Australia and New Zealand, children from Bangladesh and Pakistan in the United Kingdom, and Roma children in Europe are in most cases poor. However, they tend to be cut off from education not only because of this, but also because of discrimination and cultural bias.

According to V.L. Kabanova, discrimination against Roma children through the creation of special schools (the so-called "segregation in education") undermines the implementation of the principle of ensuring the best interests of the child. Education does not cope with the function of integrating ethnic minorities into society, sometimes it is government policy that is to blame, and sometimes the opinion of the parents of other students who oppose coeducation. Such actions do not allow the execution of judgments of the European Court of Human Rights, recommendations of the treaty bodies on human rights [3, p. 233].

In the Republic of Belarus, the problem of the rights of national minorities, on the one hand, is not as noticeable as in multiethnic states. In its periodic report on the implementation of the provisions of the Convention on the Rights of the Child, the Republic of Belarus noted that citizens of Belarus who identify themselves as a national minority have the opportunity to study the language and literature of the national minority, the culture and traditions of their people [4, p. 362]. However, an alternative report by human rights organizations highlighted the problem with the realization of the right to education in the native language. For example, the Polish minority is the second largest in Belarus with about 294,000 people, but only about 1% of Polish children receive education in their native Polish language. The presence of Polish teachers, citizens of the Republic of Poland, who work in public schools as volunteers, is also limited. Statistics on the number of children studying in their native language in educational institutions are not public, not available to experts from the civil sector, including organizations of national minorities [5, p. 22]. Learning received in a language other than the mother tongue can often call out a child's misunderstanding of the material, complicates the assimilation of the program, which puts him in an unequal position with other children and does not properly ensure his interests. Therefore, states should take effective measures to realize the right to education in their mother tongue.

Another group that is more vulnerable is migrant children. In addition to the problem of access to education, the issue of its quality also arises.

According to Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on general principles concerning the human rights of children in the context of international migration, all children in any state, including those who do not have documents proving their identity, have the right to receive education, as well as access to adequate nutrition and affordable health care [6, p. 6a].

Researchers highlight the following key aspects of protecting the rights of migrant children in the context of the best interests of the child: the requirement for states to develop comprehensive interagency strategies in the field of education with the participation of child protection authorities; linking discrimination in education with the right to life and the right to health; ensuring access to education for all children without discrimination, regardless of their migration status; taking into account the gender aspect in the education of migrant children [3, p.247].

It is critical to realizing the right to education in the best interests of children that certain elements are in place to assess issues and priorities and ensure that the most vulnerable are not left on the sidelines. The so-called framework 4 "A" ("Availability", "Accessibility", "Acceptability", "Adaptability") [7, p. 14]. In line with this framework, education must take into account certain interrelated and essential characteristics that have demonstrated their particular relevance during the COVID-19 crisis. These are availability (functioning educational institutions, including sanitary and hygienic conditions for men and women and safe drinking water, as well as qualified teachers, teaching materials, computer and information technology); accessibility (educational institutions and programs should be physically and economically accessible to all without any discrimination); acceptability (the form and content of education, including curricula and teaching methods, must be acceptable to students and parents); adaptability (education must be flexible and adapt to the needs of a changing society and respond to the needs of learners in their different social and cultural settings).

The transition to distance learning in connection with the spread of COVID-19 has shown the possibility of obtaining education without leaving home, however, in addition to knowledge, the school also provides psychological and social support, and some groups of children have the opportunity to receive meals only at

school. It is also necessary to pay attention to the risks associated with the transition to online education for children who are at risk of digital isolation or with special educational needs.

Dependence on online distance learning tools for lifelong learning can exacerbate inequalities. According to UNESCO, half of the total number of students (about 826 million students) who have not attended school as a result of the COVID-19 pandemic do not have access to a home computer, and 43% (706 million) do not have Internet access at home.

The problems of gender inequality in education have become especially acute during the pandemic. Blocking and breaking links with educational services has increased the risk of domestic violence and psychosocial disasters, sexual and gender-based violence, child marriage, child labor, child trafficking, recruitment and use in armed conflict. Based on the post-Ebola crisis figures, it is estimated that about 10 million girls will not return to school after they open [8, p. 2].

Gender equality issues are relevant even in the absence of a crisis. Girls remain one of the largest groups who find it most difficult to access education. About a third of countries in developing regions have not achieved gender parity in primary education. In Oceania, Western Asia and sub-Saharan Africa, girls continue to face barriers to enrollment in both primary and secondary school. This disadvantageous situation in education also leads to less access to vocational training and limited opportunities for young women in the labor market. In countries where girls' access to education is not difficult, the interests of the child face other challenges. Often, school curricula, textbooks and teacher training materials include skills that reflect gender stereotypes. In the Republic of Belarus, there is still a division of girls and boys in labor education lessons, which forms stereotypical ideas about the social role in the future. So far, the education curriculum does not include sexual and reproductive health issues with an emphasis on non-discrimination and sexual and reproductive rights, as well as issues of sexual orientation and gender identity.

In realizing the child's right to education and ensuring his best interests, special attention should be paid to children with disabilities. It is necessary to ensure children's access to inclusive education in integrated classrooms, which requires the preparation and allocation of the required number of specialized teachers, the provision of assistive technologies and devices, the development of individual curricula; and ensuring the reasonable accommodation of school infrastructure, sports and recreation facilities, school transportation and learning. In this case, education will be consistent with all the goals and principles of the Convention on the Rights of the Child and ensure the best interests of the child.

Summing up, we note that education must comply with all the provisions of the Convention on the Rights of the Child, the principles of non-discrimination, respect for the rights and dignity of the child, preservation of his individuality, and all this will ensure the best interests of the child. The curriculum must directly take into account the social, cultural and economic conditions in which the child finds himself, his present and future needs, as well as his changing abilities, teaching methods must correspond to the differing needs of different children. This means education in accordance with all the rights enshrined in the Convention on the Rights of the Child.

REFERENCES

1. Замечание общего порядка №14: о праве ребенка на уделение первоочередного внимания наилучшему обеспечению его интересов (пункт 1 статьи 3 Конвенции о правах ребенка), 29 мая 2013 г. [Электронный ресурс]: Комитет по правам ребенка. – Режим доступа : <https://www.refworld.org.ru/docid/528b2c874.html>. – Дата доступа : 04.04.2021.
2. Howe, R. B. Education in the Best Interests of the Child: a Children's Rights Perspective on Closing the Achievement Gap / R. B. Howe, K. Covell. University of Toronto press, – 2013. – 253 p.
3. Кабанов, В. Л. Реализация принципа наилучшего обеспечения интересов ребенка по международному и национальному праву / В. Л. Кабанов. – М. : Экон-Информ, 2018. – 332 с.
4. Объединенные пятый и шестой периодические доклады, представленные Беларуси в соответствии со статьей 44 Конвенции, подлежащие представлению в 2017 году, 18 марта 2019 г. [Электронный ресурс] : Комитет по правам ребенка. – Режим доступа : <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsng3QhcRVOo18YEahXg1gOFT3Vp2Onjc9N8taDgeMr1OmCxO0C%2Fxr5srUcpKkz%2F59dK%2B%2B5OD57C9JSVv2usQu8DZ%2F073X7gikGSSAk7mxNsU>. – Дата доступа : 14.09.2020.
5. Альтернативный доклад коалиции белорусских НГО о выполнении Республикой Беларусь Конвенции о правах ребенка, Минск 2019 г. [Электронный ресурс] : Белорусский Хельсинкский Комитет. – Режим доступа: https://belhelcom.org/sites/default/files/by_alternative_report_crc.pdf. – Дата доступа: 30.04.2020.

6. Совместное замечание общего порядка № 3 (2017) Комитета по защите прав всех трудящихся-мигрантов и членов их семей и № 22 (2017) Комитета по правам ребенка об общих принципах, касающихся прав человека детей в контексте международной миграции, 17 ноября 2017 г.. [Электронный ресурс]. – Режим доступа: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsrMulHhdD50s6dX7ewCBgofxxT0l9nDrP0z0mv2jWNaopY4vAwpVtTIDv0mvxKTEvFVHc9x6vUtpK5o6%2FisFu24SSi9d%2Bh8z42oEMN5AkCjс>. – Дата доступа: 06.03.2021.
7. Right to education: impact of the COVID-19 crisis on the right to education; concerns, challenges and opportunities, 15 June 2020 [Electronic resource] : Human Rights Council. – Mode of access: https://www.ohchr.org/Documents/Issues/Education/A_HRC_44_39_AdvanceUneditedVersion.docx. - Date of access: 15.03.2021.
8. Fry, L. Girl's education and covid-19 [Electronic resource] / L. Fry, P. Lei : Malala fund, 2020. – Mode of access: https://downloads.ctfassets.net/0oan5gk9rgbh/6TMYLYAcUpjhQpXLDgmdla/dd1c2ad08886723cbad85283d479de09/GirlsEducationandCOVID19_MalalaFund_04022020.pdf. - Date of access: 10.02.2021.