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THE BEST INTERESTS OF THE CHILD IN A CHANGING WORLD

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The Best Interests of the Child principle is a dynamic dance between three nodes: children's rights and best interests, sociocultural norms, and a rapidly changing world – each with their own pull-on children's experiences. The power of the Best Interests principle is that it continuously challenges the sociocultural norms that disempower children, and similarly does not automatically give way to the tragedies or thrills of a changing world, but examines it and puts it to task to ensure the best interests considerations are always paramount. Thus, the dynamic dance, with the 'best interests' being the constant pull for change that is more respectful of children and their rights.

What most excites me about the Best Interests Principle is that:

- It pulls together all four guiding principles of the CRC in a meaningful manner.
- It embodies a child-centered approach, challenges power relations and holds adults with decision making power accountable for children's wellbeing and development.
- It is rooted in the understanding that the child exists as part of a community – not an isolated entity – and that their best interests must take that cultural context into account and safeguard their membership in their families and communities.

I cannot emphasize how important that is to an Arab girl, like myself, where pulling her "forward" could be an aggressive confrontation with the community she loves and feels she belongs to. The balance is critical.

Let me now pull that lens upwards and think of all children in this changing world, and look into two examples defining this changing world for children today: refugees and education, and engaging in a digital world.

1. Refugees and education – with the growing number of crises around the world, and the increasing number of children on the move away from their homes and schools, it is imperative that their right to learning not be compromised, and that schooling is actually utilized to promote non-discrimination by ensuring integration in schools, and children's participation is respected in practice. A country that is signatory to the CRC has committed to the child rights articles as the legal reference if legislation does not adequately make those provisions. But the persistent question is: how do we implement these best interests of the child? Senior level decision makers need

to have an understanding of the best interests principle, the conventions and laws that promote it, so that they have a path with which to implement it. This is frequently the stumbling block to regularizing the status of refugee children in schools and putting in place accommodations that promote their educational and social integration.

2. Children in the digital world – this is a vast issue that deserves much more discussion, and I am very pleased to see a number of papers presented today addressing it. The main point that I would like to put forth is this: it is impossible to imagine children today living their lives without engaging in the digital world. There are, indeed, many opportunities for them there, not only in terms of access to information, but for developing understanding and skills that are important to them in this changing world. Their best interests must include access to all children, with due considerations for their privacy and their evolving capacities to engage online in matters that they can understand enough to control. As such, the best interests principle holds heavy bearings on the protection of children while they engage in the digital world, and that must include teaching them critical analysis skills so that they can discern what they are dealing with, recognising and properly avoid or deal with online risks, including, but not only, discerning what is fake news and fake information. I would use the analogy of driving and traffic law – you can put a traffic law in place, but it is meaningless if you don't teach people how to drive a car. While putting in place legislation for online protection is important, educating children on how to protect themselves as online users is also imperative.

Speaking of legislation for online safety, I would also point out that the digital world is very fast moving, faster than us as users and certainly faster than the process of lawmaking. Any legislation that is put in place needs to be flexible and adaptable to account for these rapid changes, but needs to do so by being clear, not broadly vague. The Republic of Moldova has the opportunity to link to global and/or regional legislation emerging on the issue, such as the GDPR, allowing for the learnings from a group of countries to inform what we do here. If possible, I would also suggest that mechanisms are put in place to allow for 'self-regulation' of the implementation of the law by creating channels that allow for user reporting and feedback. The users – including children – will come face to face with online violations before anyone else, by making reporting part of the online experience, children will be empowered to recognise violations as risks to be avoided and addressing them (by reporting) to protect other children.

References:

1. Committee on the Rights of the Child General comment on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), No. 14 (2013).
2. Committee on the Rights of the Child General comment on children's rights in relation to the digital environment, No. 25 (2021).
3. UNHCR Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child, 2021.