

Children's Rights and Business
A CONVERSATION WITH BUSINESS
AND THE
COMMITTEE ON THE RIGHTS OF THE CHILD
September 17th, 2012

On 17 September 2012, UNICEF and the Committee on the Rights of the Child organized a webinar on the "General Comment on Child Rights and the Business Sector". The purpose of the webinar was to inform and consult with business on the upcoming General Comment. The General Comment seeks to provide guidance to governments on their duties and responsibilities with regards to the impact of business on children's rights.

The webinar explored such questions as:

- What can government do to support business to respect and support children's rights?
- From child labour to conflict minerals, to marketing and advertising — how can policy and legislation create an enabling environment for business?
- What has worked? What government actions have supported your business to respect children's rights?
- What are the challenges?

The webinar featured guest speaker Ms. Marta Maurás. Hailing from Chile, Ms. Maurás is a member of the Committee on the Rights of the Child, and has been Vice-President of the Committee since 2010. She is an independent consultant in social policy, human rights and international relations, with experience in a number of senior international roles including as the Special Envoy of UNICEF for Latin America and the Caribbean, Secretary of the Commission at the Economic Commission for Latin America and the Caribbean, Director for Economic and Social Affairs.

Frances Sheahan, independent consultant and expert on child rights and business, also provided and discussion.

This note provides a brief summary of the discussions during the webinar.

Presentation

Ms. Maurás provided a brief overview of the development process for the General Comment. This has included an extensive consultations process with young people, civil society, business and government – through online feedback as well as in-person meetings in Africa, Asia and Latin America. As the consultation process draws to a close, re-writing will commence shortly on final drafts. The final report will be presented to the Committee for adoption in January 2013. She noted that in the history of the Committee, it has only issued 13 General Comments; and it was therefore an indication of the importance of this theme.

She then spoke of the current structure and content of the General Comment which is divided into 5 sections – (i) Introduction; (ii) Objectives and Structure; (iii) General Obligations; (iv) State

Obligations and General Principles of the CRC in the Context of Business Activity; (v) Measures of Implementation.

The section on general obligations looks at the role of the state with regards to children and the private sector from three perspectives. Firstly, the state has a duty to respect children's rights when it undertakes a commercial role and then it must of course respect children's rights in the context of its own commercial activities and relationships. Secondly, the state has a duty to protect children from harm by third parties such as business actors – here the state must put in place measures to prevent negative impacts by business on children's rights. Where violations have occurred, states have an important obligation to investigate, and ensure justice, accountability and remediation for victims. Finally, states can take positive steps to fulfil children's rights – this section included such issues as rule of law; promotion of responsible business practise such as anti-corruption, and payment of taxes; transparency in business-government arrangements; and ensuring that the privatization of basic services does not compromise children's rights.

The next section looks at the basic principles of the Convention on the Rights of the Child – non-discrimination, best interests of the child, the right to life, survival and development, and child participation in the context of children and business.

The final section of the General Comment provides practical suggestions of *measures of implementation* that States can take. Here states are asked to consider legislative, regulatory and administrative measures to encourage business to respect and support children's rights; Child Rights Impact Assessment and due diligence for business related policies and initiatives, etc.

Ms. Maurás stressed that when it came to children the imperative for action was urgent – impacts on children were often irreversible and had lifelong consequences.

Discussion

The subsequent discussion focussed on the following areas:

Child Rights Impact Assessment

There were a number of questions raised about child rights impact assessment noted in the General Comment. One participant asked about additional guidance for business; while another suggested that the current text would need greater clarification. Ms.Maurás clarified that there are two types of assessments – firstly, business should undertake child rights impact assessment in the context of its business activities and relationships. Here, Ms.Maurás said the government role was to promote and encourage business effort. However, the General Comment also calls for governments to undertake Child Rights Impact Assessments of their own; in this context, it is a tool for governments to understand the potential impact on children of laws, policies and initiatives related to business.

In general for both types of assessments, Ms.Maurás touched on a number of challenges. These included – a lack of awareness and knowledge inside business and government; and the lack of appropriate data, statistics and baseline information, both locally and nationally. Marta Maurás stressed the importance of consulting with and listening to children; she explained that children are very aware, and interested in their situation, and therefore we must take the child's voice into

account. Ms.Maurás agreed that there was still much work to be done in developing guidance and best practise to conduct a child’s rights impact assessment. Frances Sheahan added that given the multiple realities and contexts of different government, the General Comment has not recommended a “one size fits all” approach to designing a child rights impact assessment.

Suba Jayasekaran from UNICEF New York noted that UNICEF was working with the Danish Institute for Human Rights to develop a Child Rights Self-Assessment tool for business; and this would be available shortly.

Content of the General Comment

Participants highlighted areas of the General Comment which they felt would benefit from additional clarification and detail. In addition to the sections on Child Rights Impact Assessment (para 45) noted above; there were also comments elaboration of the impacts of Pharmaceutical companies (paragraph 35) on children’s rights.

Frances Sheahan noted this, and said they were grateful for all suggestions to improve the text. Both Ms.Sheahan and Ms. Maurás explained that there were strict word restrictions on the document; which made it difficult to include all information on substantive issues.

Consultations and Development Process

Clarifications were sought on the level of input and feedback received from NGOs and business; and whether there were more consultations planned. Marta Maurás informed webinar participants that engagement with both NGO’s and businesses has been a priority for the Committee throughout the process – both national and regionally. NGOs, she noted had been the most engaged and most active, providing extensive feedback and comments on the document. The business community had participated in national consultations organized in Argentina, India for example; but she would like to have seen increased participation from the business community. The Consultation process was now drawing to a close, and the only remaining activity was an International Seminar in Sion, Switzerland where a number of civil society organisations and a number of businesses were scheduled to participate and provide feedback on the final draft.

Reporting by State Parties

One participant queried whether governments/State Parties would have to report on compliance with the General Comment; and how this would relate to their regular reporting requirements to the Committee. Marta Maurás stated that members of States do not have to report specifically on the General Comment, but that States would be strongly encouraged to incorporate reporting on implementation into their regular periodic reporting to the Committee.

Linkages to the Post-2015 Process

The final question asked – What can we hope to see, or do to ensure children’s rights and business are addressed in the post 2015 agenda? Marta Maurás noted that as someone who had personally been involved in the development of the first set of Millenium Development Goals; she very much hoped that the new process would incorporate some of the basic issues which have been brought out by the human rights treaty bodies on issues of development, particular those to do with children. And hopefully, this General Comment would help assess business sector impact with regards to MDGs and what should happen next.

Conclusion

Marta Maurás expressed her gratitude for the opportunity to hear feedback and input through the webinar; and that the Committee would very much like to have undertaken many more such consultations specifically with the business sector; but also with the labour unions with and this is an area where more work was needed. Yet, she felt that despite the constraints, the consultation process had received many rich contributions from NGO, business community, children and international organizations.