

LEGISLATIVE REFORM INITIATIVE

**Report of the Expert Meeting
27 – 28 September, 2004**

Global Policy Section, UNICEF NY

Summary

On 27 and 28 September, the Global Policy Section (DPP) held an Experts Meeting on Legislative Reform at Harrison Conference Center, Glen Gove. The Experts Meeting, which is part of the Legislative Reform Initiative launched by GPS, brought together UNICEF COs and their government counterparts, as well as experts of civil law, common law, sharia law and plural legal systems to share experiences, provide examples and brainstorm on best ways to ensure that legislative reform process is holistic, comprehensive and actually results in positive changes for children.

The main findings of national studies conducted in 13 countries with different legal traditions (homogeneous and mixed legal system) were presented during the Expert meeting. These studies, commissioned by UNICEF COs, revealed that law reforms have been piecemeal and scattered, and that a lot need to be done in order to achieve full harmonisation of national legislation with the Convention on the Rights of the Child and other international treaties. The Experts meetings offered an opportunity for us to learn about good practices, lessons, and discuss about UNICEF's future actions with regard to legislative reform. The issues of community participation and education, training, and capacity were considered as important elements of legislative reform processes.

Four eminent international experts in the area of children's rights made a presentation, each one presenting a critical issue with respect to legislative reform. These were: the interconnection between women's rights and children's rights, the strengths and challenges Islam presents for the implementation of the CRC, the role and process of laws, particularly with regard to the implementation of policies, and the role of lawyers, judges and parliaments in the implementation of the CRC.

As one of the outcomes of the Experts meeting, the participants adopted the outline of the Inter-Country studies which will examine how the CRC is being translated into national legislation in the four legal traditions of civil law, common law, sharia based system and mixed legal system. The Inter-Country studies, the first studies of these kind on the impact of the CRC in legal traditions, will be conducted by the four international experts and will ultimately be issued in a book which will be made available to academics and policy makers. Given the very high quality of the studies and the experts, it is anticipated that the book will be a good demonstration of UNICEF intellectual leadership in the area of children's rights.

The Experts meeting concluded that while UNICEF has acquired a strong expertise in the area of legislative reform, there is the need for creative strategies to support legislative reform initiatives at national level, particularly in terms of advocacy and fundraising strategies, and for increased collaboration between UNICEF HQ and COs.

This Experts meeting is considered as an important step towards the preparation of technical guidance for UNICEF programming on legislative reform, and a manual/handbook for States, parliaments, NGOs, finance ministers and other stakeholders; the Manual will reinforce the potential influence of legislative reform on social policy, budget design, and resource allocations mechanisms.

Date: 27 September, 2004

Session I

Phase I – Global Overview of Legislative Reform Initiatives (Products)

The purpose of this session was to present the outcomes of Phase I of the Legislative Reform Initiative.

Topic 1 – States Parties to the CRC

By Nadine Perrault, UNICEF GPS

The presentation provided an overview of States' initiatives for the implementation of the CRC through legislative reform. One of the most important elements of the study is to examine each legal system. In common law countries, the incorporation of the CRC in domestic jurisdiction requires legislation, and the CRC does not prevail over domestic laws. In civil law countries, once a state ratifies it, it becomes a part of domestic laws. Among Sharia law countries, many reservations are found. Plural legal system is the most complex and hard to analyse. Impetus for legislative reform include the ratification of the CRC, the establishment of a human rights institution, regional enforcement mechanisms for human rights norms, international development, and the evolution of the interpretation of religious laws. Challenges to legislative reform include the absence of comprehensive review, law enforcement limited to civil rights affairs, allocation of resources, low rate of legal literacy, and lack of participation of NGOs in the process. The presentation concluded on some recommendations: encourage ratification of human rights treaties and withdrawal of reservations, and review legislation and mechanisms for participation.

Topic 2 - Budget and Law Reform

By Jay Chaubey, UNICEF GPS

The presentation explained the importance of budget allocation in the Legislative Reform Initiative. In order to ensure the real and effective implementation of law, all line ministries need to be involved in the process. Also, assessment of budgetary process and effect of budget allocation is indispensable. South Africa was presented as a good example. A study on the implementation of the Child Justice Bill in South Africa shows an example of cost effectiveness analysis which compares the resource costs of different implementation options. The presentation concluded on the importance of governments' accountability for the input and output of a budget and outcome of the budgetary policy.

Topic 3 - CRC Committee Recommendations on Legislative Measures

By Vanessa Sedletzki, UNICEF GPS

The objective was to present the findings of a study of the CRC Committee's recommendations related to legislative reform. The presentation examined several relevant areas and highlighted regional differences. Challenges include awareness raising, the way of the implementation of effective trainings, the establishment of child sensitive complaint mechanisms, monitoring mechanisms, and the establishment of firm infrastructures. UNICEF can contribute to the improvement of these issues by working with the CRC Committee, carrying out comprehensive strategies, assisting in drafting laws and raising awareness, providing trainings, and establishing child sensitive complaint mechanisms.

Topic 4 - UNICEF's Assistance to Legislative Reform

By Akila Belembaogo, UNICEF GPS

The presentation showed various kinds of UNICEF's assistance, such as technical assistance and strengthening partnerships. The outcomes of these assistances include new legislation, reform of national institutions, the improvement of partnership, the accumulation of experiences and data. The constraints of legislative reforms are cultural practice, inconsistency of the implementation of norms under the CRC, limited capacity in terms of finance and human resources, and difficulty with mobilising partners. It is important to note that improvement can be realised by strengthening cooperation between UNICEF and counterparts and raising awareness of child rights issues.

Session II

National Studies to Assess the Impact of the CRC in Legal Systems

The purpose of this session was to present the national studies conducted in selected countries.

Topic 1 – Experience of countries with civil law system

Armenia, Azerbaijan, Burkina Faso and Dominican Republic

By Naira Avetisyan, UNICEF Armenia and Maria Usuad, Dominican Republic

The national studies reveal that there are still certain gaps in legislative and institutional reform with regard to the implementation of child related provisions. (Much of the post-independence legislation was prepared using international standards and documents, thus legislation related to children and their families is progressive and protective.) Under the civil law system, international treaties once ratified prevail over national legislation in case of conflict. In spite of this, the practice of directly applying international treaties in courts is limited. However, after the ratification of the CRC, some countries have enacted laws that reflect the CRC provisions.

Some of the main obstacles for the implementation of the CRC are: Absence of coordinating institutions/structures; inconsistency between legislative requirements and the social-economic situation; poor infrastructure and mechanisms for enforcement (regulations, standards, guidelines etc.); gaps in legislation; lack of coordination among key state actors; poor cooperation between governmental and non-governmental organizations. Moreover, there are no mechanisms to ensure that adequate proportion of the budget is devoted to children's issues. In countries emerging from transition, the majority of law enforcement mechanisms became non-functional as a result of non-compliance with international standards.

Recommendations:

There is a need for increased advocacy for the implementation of the CRC provisions, to develop policies and comprehensive strategies directed to children's and women's rights, to undertake country-specific analysis of the protective nature of legal environment. Children and young people should be more involved in legislative reform process. The human rights based approach can provide concrete guidelines and specific tools. It is also important to share experiences across countries.

Topic 2 – Experience of countries with common law system

Barbados, Jamaica, OESC and Zimbabwe (*please note: Zimbabwe has a mixed system*).

By Tracy Robinson, National Expert, Barbados

Tracy briefly described the peculiarities of the common law system, which is based on judge-made law and evolves from tradition, custom and precedent. Since law gets made when cases are considered, it is important to have advocates for children's rights. In the countries under review, international treaties cannot be enforced in domestic courts unless they have been incorporated into domestic law by legislation. However, the legislation incorporating CRC principles and standards has been piecemeal and ad hoc.

Obstacles to implementation of the CRC are: Antiquated juvenile justice laws, inadequate child protection laws (not grounded in CRC principles), ineffective domestic violence laws, corporal punishment allowed by law and supported by public, etc. None of the countries in the study require a proportion of the budget be allocated to children either by law or regulation.

Recommendations:

One important action point is to create institutions to ensure protection of children's rights. There is a need for a responsive system. A starting point is to identify challenges in the CCA so that they can be included in UNDAF and involve all UN partners. Advocacy efforts should be directed at Parliament (for legislative review and reform) and Judiciary (to encourage use of human rights treaties in judicial decisions). Advocacy is needed to influence national budget allocations. Technical assistance and capacity building is required for MPs, judges, lawyers, as well as law enforcement officers, social workers, teachers, representatives of the media, etc. Raising public awareness through the media, civil society, schools, etc. is also important.

Topic 3 – Experience of countries with customary law system

Ghana and Benin

By Beatrice Duncan, UNICEF Ghana

Beatrice stated that the discussion of customary law does not exclude the influence of common law, since both systems apply together. She noted that in Ghana, individuals have the right to choose to be ruled by customary law, whereby conflicts are heard by traditional tribunals. However, in Benin, according to the new Family Code (2004), customary law no longer applies with respect to matters ruled by the Code, such as marriage, adoption, women's rights to inheritance, etc.

Beatrice mentioned some of the impact of custom and tradition on children's rights and the implementation of the CRC, which underscored the important role of traditional rulers. She also highlighted good practices and lessons learned from legislative reform efforts, and noted that the 1992 Constitution of Ghana and the 2004 Family Code of Benin provided good entry points. It is important to involve traditional rulers prior to ratification of Conventions, and to assess institutional and budgetary preparedness for the implementation of domestic laws.

Recommendations:

Beatrice stressed the importance of auditing our capacity to implement the CRC and other laws, and of facilitating dialogue among custodians of tradition to comprehensively review customary law in the light of CRC provisions. A literature review of the status of received law is needed, with the positive and negative aspects of culture and tradition documented and assessed. Traditional rulers need to be actively engaged in law reform processes. Prominent religious and traditional rulers could be used as UNICEF ambassadors and advocates. The visibility of the role of tradition in the overall global agenda should be ensured (e.g. NEPAD and MDG's).

Topic 4 – Experiences of countries with Sharia law systems

Jordan, Mauritania and Morocco

By Maha Homsy, UNICEF Jordan and Dr. Mohammad Al-Quda, National Expert, Jordan

Maha summarized the results of the national studies, which reveal that CRC provisions and Islamic law are complementary. However, reservations to the CRC present obstacles to its implementation. Another obstacle is that the interpretation of Sharia differs from country to country. Also, there is confusion between the influence of Sharia and influence of customs and traditions with regard to rights. Moreover, while there is a link between the status of women and children's rights, national dialogue on women's rights is less easily accepted. Another obstacle is the status of international treaties in domestic law. For example, in Jordan, legal procedures were never completed to make CRC legally binding, and so it cannot be enforced.

With regard to analyzing the impact of the CRC, Maha said that it was important to note the distinction between countries where Sharia is the main source of legislation; where Islamic law has little influence on domestic law; and where domestic law is partly influenced by Islamic law. In general, lack of government commitment and consistency has slowed the process of legislative reform. Reforms have not been uniformly comprehensive or systematic. Laws do not always reflect the reality in the countries, are not always enforced in rural areas, and their implementation is limited by social behavior. Lack of monitoring mechanisms weakens the implementation process. On the positive side, in some cases the legislative reform process has led to public discussion on sensitive issues such as child labor and sexual abuse.

Recommendations:

Need for a comprehensive strategy for legislative reform, which includes the dissemination of law; training of professionals to build expertise around CRC; in-depth study of Sharia to use it as a base for legislative reform; education on CRC provisions and children; and a monitoring mechanism. Greater attention to be paid to issues of budgetary constraints and poverty; new codes for the integrated principles of the CRC; and completion of legal procedures for adopting the laws. Also needed is advocacy to influence decision makers on legislative change; communication to change popular perception of children; and better data collection and evaluation.

Some of the major discussion points

On partnerships:

- Need to stress the importance of the CCA process at the national level, where several UN agencies are looking at the legal reform process, and to get legislative reform issues into the CCA. Need for more synergy in the country teams and to take advantage of UNICEF's country leadership. A lot is being changed or added onto the CCA guidelines, and this presents us with an opportunity.
- There is often a lack of collaboration at the inter-agency level. Project-based interventions result in the recipient countries creating vertical institutional structures which remain in place even after the aid/funding is gone. Budget allocations from the national budget continue to be needed for these vertical structures.
- NGOs who are visible, have money, are well-funded can sometimes end up alienating people in poor rural areas when their time is spent in advocacy efforts on rights, and when there are no practical channels for the poor to claim their rights.
- Legal reform is a long process that begins at the ratification stage. There is the need to involve partners from the very beginning, since crucial actors do not understand what it involves in the long term. Need to approach it with donors such as EU, DFID etc, who can come on board strong from the beginning.
- There is also the importance of involving the religious sector. We (UNICEF) are only now working on what religions say about children. One of the first we are looking at is Islam: taking WFFC as a whole, and seeing how the Quran views them, how Sharia deals with them.
- We need to talk not only with bilateral but with multilateral donors such as the World Bank, which is moving in the opposite direction with respect to institutional

structures. They can hinder implementation (for example, if they take a project-based approach).

On enforcement and coordination within government:

- In some countries, there is definite political will, but there is lack of implementation.
- Funding of laws is a problem. In many countries, law does not have provision for funding, and budget office are rarely involved in discussion with legislators.
- There is the need to build an institutional culture to address the budget, so that money for children's rights should not be diverted to other purposes. For that effect, functionaries who deal with the budget on a daily basis should be involved in legislative reform process.

Session III

Human Rights-Based Approach to Legislative Reform : Main Elements & Challenges

The purpose of this presentation was to discuss some of the elements of a rights-based approach to legislative reform.

Topic 1 - A gender perspective in Legislative Reform

By Savitri Goonesekere, Expert

Savitri began her presentation by presenting some elements of a rights approach to legislative reform. She argued that legislative reform to be effective must be based on a policy framework and provide for implementation of the law. She stressed that a gender perspective should be incorporated in to both these critical states of legislative reforms, since laws in all legal systems, both in their formulation and implementation have affected, and continue to affect men and women, differently. She explained that in most societies, formulation of laws has been affected by women's relationship to children. Historically, the legal status of women and children has been linked, in a "protective" approach that has disempowered both groups. Consequently, the reality of women's economic and social contribution in the family and community has often not been reflected in important areas of laws. The speaker gave a few examples of areas where laws have resulted in inequality and discrimination against women and especially girl children (e.g. early marriage). She concluded by stressing that a good understanding of human rights and of negative trends of laws with respect to women's and children's rights is important if legislative reform is to integrate a human rights approach, and effectively transform normative standards, and strengthen law enforcement and implementation at the national or domestic levels.

Topic 2 - Legislative reform and implementation of child rights in Muslim jurisdictions

By Shaheen Sardar Ali, Expert

The speaker started by providing an overview of sources of Islamic law and its application to family law (of which child rights is a component). She stressed that the essential characteristic of human rights in Islam is that they constitute obligations connected with the Divine and derive their force from this connection. The respect of human rights is an aspect of, and a basic condition for, respecting the rights of God. The speaker added that a strong element of the Islamic tradition is the emphasis of child care as a social responsibility and not simply that of the parents and immediate family. Consequently, there is no contradiction between the CRC and Sharia. She gave a few examples on the strengths of Islam with respect to child rights such as joint parental responsibility, breastfeeding and the concept of fosterage. She concluded that for measures undertaken for the protection, survival and development of the child to be successful, it is imperative to link it to the welfare and uplift of women (e.g. legislation ensuring survival and development of the child; maternity benefits to the mother; child benefit provisions of social security by compulsory social insurance; removal of illiteracy and provision for compulsory education).

Some of the major discussion points

On advocacy:

- While advocating for the implementation of the CRC, there is the need to develop strong argumentation which touches upon cultural as well as religious beliefs;
- Advocacy is one of the best ways to get Parliamentarians, Religious leaders and others to better understand the principles and provisions of the CRC; Consequently, there is the need for funding for advocacy work;
- It is recommended to organise meetings of this sort for groups that are supportive of the CRC as well as for its detractors with the involvement of leaders open to Human rights discourse.

On legislative reform as a process of working through partnerships:

- The human rights approach and implementation of child rights is a process, not a technical exercise.
- Legislative reform, particularly research activities, could be used as a tool for advocacy, and entry point for partnership. The best strategy is to come up with hard-core research and use the evidence to counter-argue with the one who are not convinced;
- Reforms introduce change, and people are hesitant with change. It needs deep cultural dialogue. Human rights is not a dogmatic issue but a conversation. Legislative reform should be progressive. There is the need for internalisation and discussion of law reform/changes to increase adherence to it and successful implementation;

- UNICEF can play a major advocacy role with regard to the document that is being prepared on child rights in Islam. This would be a crucial document if implemented. It will help create solidarity, in particular amongst Islamic leaders, especially in today's world.

On regional and international texts/instruments:

- Any regional document should reinforce the CRC.

Topic 3 – Social policy and legislative reform

By Emilio Garcia Mendez, Expert

Emilio began by saying that the main objective of our legislative reform is not so much the content of law reform, but the process. Thus, we have to address the relationship between the content and the process. For example, in Latin America, the implementation of legal reform is directly related to the implementation of the CRC. Emilio traced the process as it began in Brazil in 1986, coinciding with the end of authoritarian rule and conflict, and the close relationship between the CRC and democracy. Law was seen as an instrument of democratic social policies, which are non-authoritarian, non-bureaucratic, decentralized, and present alternatives to the institutionalization of children. There was no way to go to scale without putting this into national legislation.

Emilio stressed that law is the only way to establish sustainable social policies and to institutionalize community participation. It is not sufficient, but it is a necessary starting point. He compared the projects of the 1980s with the rights-approach (i.e. the shift from needs to rights, from programmes to processes, and from protection of people to protection of their rights). He indicated that problems and challenges with implementation are that reforms are politically sensitive, new skills are needed for advocacy on children's rights as well as new types of planning.

Topic 4 – Actors and crucial partnerships with respect to legislative reform

By Rebeca Rios-Kohn, Expert

Rebeca discussed the important partners for successful legislative reform efforts. She stressed that cooperation with Parliamentarians, judges, and lawyers should be strengthened and formalized with concrete activities and defined goals and objectives.

The role of Parliamentarians was crucial in the ratification of the CRC. Indeed, CRC was ratified in countries because of the Parliamentarians. There is the need to continue relationships with them, work with them strategically, and constantly re-build relationships within legislatures. Rebeca explained the features of the common law system, in which international treaties cannot be enforced unless they have been incorporated into domestic law by legislation. Incorporating the entire treaty, which requires an act of Parliament, is preferred, since the treaty remains in its original form. Rebeca stressed that Parliamentarians need reliable data, capacity, and new skills, including an education on

human rights, and analyzing budgets.

An independent judiciary with relevant capacity and skills is also key. Judges play a critical role applying human rights principles and standards in their judicial decisions. Judges can be enlisted to apply the CRC and CEDAW in their work and to promote their use among the legal profession. Judicial independence enables judges to do so without fear of adverse consequences.

On the role of lawyers, Rebeca said that they participate in drafting human rights instruments, are advocates in their communities, work closely with the judiciary, and understand the legal language contained in national constitutions, statutes and treaties. Many lawyers become professors, judges, and Parliamentarians. Lawyers should be considered in future country programming and planning in light of their leadership role. They are essential partners in legislative reform efforts.

Some of the major discussion points

On working with parliaments and the judiciary:

- In order to create a protective environment for children, it is crucial to involve Parliamentarians. For example, in Armenia, Parliamentarians were surprised to hear that we had a report on child abuse and neglect. We need to share our research and use all possible advocacy channels
- We need parliamentarians who are receptive to change/reforms, else they can be dismissive of reform efforts. For example, in Jamaica, UNICEF wanted corporate punishment to be totally banned, but disciplining children is seen as a cultural issue. We must ensure that UNICEF advocates for the full education of Parliamentarians. They must understand the CRC in totality – need training, use of the implementation handbook.
- As one of the main advocates for children's rights, UNICEF needs to develop a serious, deep relationship with the judicial system. This cannot be done from the outside. We need authentic partnerships and carefully driven and guided reform efforts.
- On access to justice: we need to know what judges are saying, and make this available to the public. Our task is to ensure that the information gets to the public. The impartiality and independence of the judiciary is paramount.
- UNICEF needs to seize the opportunities presented by initiatives such as legislative reviews. UNICEF is trying to get a seat at PRSP processes and other such fora, and should seize the available entry points.

On democratic processes and market capitalism:

- Working on the CRC and legislative reform is a long process. One example is that of legal reform codes in the public health sector, such as in salt iodization. But there have been very few convictions.
- Legislative reform is not a luxury, as is implied by the Huntington theory, which says that democracy is a luxury. We need social policies for everyone, universally. Sustainable social policies are only possible through instituting laws, otherwise we

- risk regressing into “projects for street children” (i.e. piecemeal, not comprehensive measures).
- We also need to pay attention to those transition countries in Eastern Europe, which do not have long tradition of the parliamentary system. This region needs specific capacity building and training. In Latin America, we made progress civil and political rights were well understood, so Latin American were able to claim economic, social and cultural rights. In Eastern Europe, they have largely had their economic and social rights in place, but have never had as much civil and political rights, so their issues are the other way around.

On participation in democratic processes:

- Children’s participation needs to be authentic; it should involve adolescents, and should be about their education on democratic processes.

Date: 28 September, 2004

Session IV

Inter-Country Studies on Legislative Reform

The purpose of this session was to present suggestions on the form and content of the Inter-Country studies, as well as challenges and possible methodologies.

Experiences from Phase I and Phase II: From National studies to Inter-Country studies

By Akila Belembaogo, UNICEF GPS

Akila described the purpose and principles of the Inter-Country studies, which aimed to assess the impact of the CRC in the main legal systems and traditions. They would strengthen comparative analysis within each legal system, and would highlight similarities and specificities, whether because of political will, traditions, interpretation, etc. They would also analyze the gap between theory and practice, and learn from both good practices and failures. They would make recommendations for programming and advocacy for the UN system, for UNICEF as a partner with government, for UNICEF as a part of the UN Country Team.

Certain elements would be common across the studies, such as understanding the political context and the status of the law in the country. Akila stressed the importance of taking a holistic approach and coming up with concrete recommendations for strengthening children’s rights with specific issues. We need critiques as well as alternatives, and to refer not only to the Committee’s reports but also other documents, and to highlight entry points for legislative reform in the programming process.

Some of the major discussion points

On programming versus the process of legislative reform:

- The task is not to move from undertaking programmes to only engaging in the process of legislative reform, but to give equal weight to both.
- There is the need to shift from project-based work towards processes
- Need to convince other partners both within and outside UNDAF of the need to integrate human rights into programming.

On democracy, politics, and legislative reform:

- In African countries there is the element of an already loaded political agenda.
- There is the need to understand what triggers legislative reform in a country;

On the approach and sources for the studies:

- Need to consider also CERD and other human rights treaties.
- Look at National Plans of Action (NPAs).
- From the perspective of UNICEF HQ, Country offices and national partners in terms of a more comprehensive source of documents.
- Need to specify and clarify who the audience is going to be for the studies.
- The audience should be not only UNICEF but also other UN agencies and partners. It should be seen as an entry point to network with agencies.
- We should use language that resonates with governments, not only with the UN..

On topics that should be covered in the studies:

- Consider reforms in economic, social and cultural rights (health, education, etc.), and not concentrate only on child protection issues.
- In some contexts, there seems to be consensus on the former, but not on child protection. Here, we need implementation of the CRC within traditions where there are conflicting issues. The important thing is to take a holistic approach that considers children's rights comprehensively.
- Link the realization of rights to the MDGs.
- The studies should take a holistic approach to including gender.
- We also need to clarify the human rights-based approach to programming, since not everyone has the same idea of what it is.

On UNICEF's work with partners:

- Important for UNICEF to work with UN agencies, and to raise the profile of legislative reform.
- It is also important to promote human rights in all processes, to take into account Action Point 2, which contains concrete actions that all UN agencies should be applying.
- We have tried to have UNICEF at all levels along with government counterparts to be involved in every aspect of the project.

Session V

Towards Technical Guidance on Legislative Reform: Phase III of the LRI

The purpose of this session was to give the participants the opportunity to play an active role in the design of the last phase (Phase III) of the LRI.

Topic 1 - IRC Project – Complementarities with the Legislative Reform Initiative

By Susan Bissell, Innocenti Research Centre

Susan described the IRC study, which aims to assess the impact of the ratification of the CRC universally, with a special focus on its special measures. The IRC study is more of an inventory of legislative reform measures rather than a study of the process. The experience of 60 State Parties is being reviewed in the study. States have been chosen on the basis of whether they had two reports submitted to the Committee, and a few other States for their experience which could be particularly informative for the implementation for the CRC. The study is based on information gathered from materials submitted to the Committee on the Rights of the Child, end-of-decade reviews of the WFFC conducted by States, reports and documents submitted to other human rights treaty bodies, and documents prepared by other UN agencies, as well as information received from UNICEF COs and National Committees in response to country-specific questionnaires.

The IRC project provided two analytical background documents to the DPP/GPS Legislative Reform Initiative: the desk review of 60 countries' experiences on implementation of the CRC, and a paper on law reform. Susan concluded by saying that the IRC study would benefit from having the legal experts involved in the LRI take a look at it.

Some of the major discussion points

On considering rights, law, and policy together:

- Important to stress that we need to look at all elements together. Making the distinction between law reform and other measures is problematic. Legislation has to go hand in hand with work in other sectors, such as policies, budgets, etc.
- Must also look at the entire process of legislative drafting, i.e. resources, budgets, policies, line ministries, regulations, etc.
- Legislative reform is a continuous process involving all these elements.
- There must be supporting parallel mechanisms (rules, regulations, institutions, etc.) to accompany legislative reform efforts in order for them to have the desired effect.

Topic 2 – Manual on Legislative reform

By Nadine Perrault, UNICEF GPS

Nadine explained the objective of the session, which was to brainstorm on best methodologies and strategies to develop the Manual and implement Phase III of the LRI.

She explained that the task for the working groups was to identify the audience/users of the manual, its content (i.e. the issues it should address) and its organization (i.e. to reflect the different legal systems and the complexity of legislative reform), as well as the strategic approach and actions required on aspects such as consultations, partnerships, social policy and budget issues, etc.

Then, she presented some ideas in terms of audience for the document (Manual), its content, character and on ways to ensure that it is gender sensitive, and that it reflects an interdisciplinary approach.

Recommendations on the Manual on legislative reform (for external use)

On the objective of the Manual

- An additional objective of this document would be to ensure social mobilization and advocacy
- *Ownership* could be deepened by taking regional instruments into account (e.g. African Charter)
- In preparing the manual, one should explore existing materials and extent of use (manuals etc.)
- Important to perceive the manual as a living document. Need to think beyond the production of the manual – what comes next?
- We should use the manual and the process of creating it to establish a network.

On the users:

- Users should include lawyers involved in legal education, line ministries, ombudspersons and all agencies involved with children.

On the Content of the “Manual”

- The Manual should focus on process or substance or both
- The document should explain how to ensure that legislative reform are holistic and coherent, and implementation measures
- The document should provide concrete examples, give information on legal systems and how to assess existing national legislation related to children
- The content should include the benefits of legislative reform and effectiveness
- The manual should address social mobilization and advocacy activities related to legislative reform.
- Guidance on costing of the implementation of the law, but not the law reform itself.

On the character of the Manual

- There is the need to distinguish between the “main” users and “other” users. We could then have two products which present the information in different formats and level of technical complexity. The main product would be specialized, while the secondary product would be a popular version
- A generic manual could be developed and then adapted at country level
- Published in all UN languages.

On the actions required

- It is important that CRC Committee should keep being involved
- There is the need for regional consultations to present the LRI and exchange ideas
- Additionally, the generic manual could be adapted at country level.
- As part of the background/research work, we should identify if there are other such manuals, if they exist, how they are used. Need to talk to potential users to see what they wish to see or get from the manual.
- There is the need to brainstorm on the title of the document. It could be called “guidelines”, “handbook”, or another term that is not aggressive or dogmatic-sounding.
- We should remember that UNICEF is specially mentioned in the CRC, and is therefore mandated to comment and engage with State Parties on such topics. The CRC talks of international cooperation, which is a core part of the LRI.
- The strategy should be to hold regional consultations, and to conduct regional and intra-state technical pre-testing.

Topic 3- Technical guidance for UNICEF

By Vanessa Sedletzki, UNICEF GPS

Vanessa spoke about the value of adopting a rights-based approach to legislative reform. She presented the main aspects of the Technical document which will give information on how to develop an effective programme of legislative reform, for the implementation of reform and monitoring impact. This internal document will serve as a guide to programming in the area of legislative reform, including situation assessment and law review, strategy development, programme design, implementation, monitoring and evaluation.

Recommendations on the Technical Guidance (for internal use)

On the Objective of the Technical guidance

- The document should clearly spells out UNICEF’s role with respect to legislative reform at all stages of the reform process
- The document should provide clear guidance on rights-based approach to legislative reform. It is Important to do this with a comparative approach, because the frame of reference of legal experts might be shifting from one legal system to another. A comparative perspective would therefore be useful to them.
- The document should cross-reference all important materials on programming
- It should be made available to other partners and key donors

On the Content

- The document should identify steps that need to be taken with respect to legislative reform
- The document should give information on what is required to ensure comprehensive and holistic reform processes, and for the full harmonisation of legislation with CRC and CEDAW.

On the Character:

- The document should be a practical tool (checklist), and concise
- It should be country friendly

On its contents:

- The technical guidance note should offer legal guidance to field officers. It could be adapted to the specific context of country offices

On the relationship of technical guidance with the manual:

- The technical guidance document and the manual should have a parallel relationship.

On coordination between COs and HQ:

- Need to identify best mechanisms to continue linkages with COs; Need for ongoing contact, especially the documentation that they can provide to HQ.
- At CO level, need to take parallel initiatives to strengthen legislative reform efforts with partners. Must see how COs can make partners interested from the beginning.
- UNICEF officers should brief Reps on the initiative fully.
- Engaging other UN agencies – this is linked to Action Point 2 of the Secretary General's note, and will be rolled out. .
- Many COs are not aware of the initiative. UNICEF participants could serve as liaison by briefing them and encouraging them to participate.
- As a beginning, COs can use the guidelines that were used for the national studies.