



Report of the

**Conference on  
Legislative Reform to Achieve Human Rights**

Expert Consultation and Panel Discussions

18-19 November 2008  
New York



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## Executive Summary

### **Background to the Conference**

One of the major contributions of international human rights treaties has been to establish human rights in domestic legislation. Both the International Covenant on Civil and Political Rights (ICCPR, 1966; Articles 2.2), and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966; Article 2.1), call upon States Parties to adopt legislative measures that incorporate their provisions at the domestic level. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) goes further in emphasizing the importance of constitutional reforms to bring about the advancement of women.

Article 4 of the Convention on the Rights of the Child (CRC, 1989) places the obligation on ratifying States to take “all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention”, thereby making the Convention’s principles and provisions a reality. In addition, States Parties have also agreed to hold themselves accountable for this commitment before the international community.

Human rights treaties have, to a great extent, inspired governments to examine their domestic frameworks’ conformity with the provisions of international and regional human rights law. In many parts of the world, serious attention has been paid to the structural and legal barriers that prevent the realization of human rights at the national level.

Legislative advances to achieve human rights have come about through advocacy efforts and actions by various actors including governments, legislatures, civil society, NGOs, and treaty bodies. While UNICEF has played a leading role in encouraging legal reform in relation to children’s rights, other stakeholders have also supported reforms that have impacted directly or indirectly on the realization of children’s rights.

Linking these efforts and strengthening collaboration between actors involved in legislative reform will move the CRC agenda forward and foster achievement of the World Fit for Children (WFFC) goals and the Millennium Development Goals (MDGs). To achieve this, awareness of these synergies must be raised by systematically disseminating good practices and lessons learned, and integrating the human rights based approach into all legislative reform processes.

### **Purpose and objectives of the Conference**

The Conference on Legislative Reform to Achieve Human Rights was part of the joint effort of UNICEF and its partners to promote the adoption of legislative and policy frameworks that comply with international standards and serve as a basis for promoting democratic governance and achieving the Millennium Development Goals within the context of the Millennium Declaration—particularly concerning the rights of children and women worldwide.

The Conference drew upon existing experience in a range of contexts to shed light on how international and regional human rights instruments can be implemented and enforced through national legislation so that they can become a reality for children in all

countries, taking into account different approaches to legislative reform in different legal systems and country contexts.

### **Overview of the Conference**

The first day of the Conference featured an expert consultation bringing together a small number of experts from UN agencies, parliaments, non-governmental organizations, and academic institutions working on legislative reform. It consisted of a series of presentations followed by questions and discussions. The second day of the Conference was open to a wider audience: It consisted of a series of panel discussions followed by questions and discussions.

#### ***Day 1: Expert Consultation (18 November 2008)***

The presentations provided an opportunity for representatives from participating organizations to showcase their current work on legislative reform and discuss challenges and opportunities in achieving children's rights and the MDGs. The presentations focused on the following issues:

- Entry points, including approaches and strategies for promoting legislative reform;
- scope of interventions (including main areas of interventions);
- good practices and models to be followed;
- lessons learned and major challenges/obstacles faced by organizations/institutions, and
- capacity development opportunities (materials and tools on legislative reform, including training and activities).

The expert consultation also developed recommendations for strategic alliances and partnerships between different stakeholders on ways to advance children's rights within the context of their work.

#### ***Day 2: Panel Discussions (19 November 2008)***

The three panel discussions, followed by questions and discussions focused on the following themes:

- Panel 1:** Promising approaches to achieve children's rights
- Panel 2:** Advancing the human rights relationship between women and children through legislative reform
- Panel 3:** Legislative framework: enforcement and implementation

During the panel discussions, Ms. Ann Veneman, UNICEF Executive Director, presented the Handbook on Legislative Reform: Realising Children's Rights, Volume I.<sup>1</sup> The Handbook is designed to support the implementation of the CRC and CEDAW by setting out ways of influencing legal measures, social policy and institutional change to promote equality among men, women and children. It is structured in several volumes.

Volume I of the Handbook comprises the following five chapters:

1. Comprehensive and Holistic Reform on Behalf of Children's Rights
2. Assessing Compliance of National Legislation with International Human Rights Norms and Standards
3. Constitutional Reforms in Favour of Children
4. Legislative Reform for the Protection of the Rights of Child Victims of Trafficking

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<sup>1</sup> [www.unicef.org/crc/files/LRIHandbook\\_-\\_final.pdf](http://www.unicef.org/crc/files/LRIHandbook_-_final.pdf).

## 5. Realising Children's Rights to Adequate Nutrition through National Legislative Reform

Volume II of the Handbook is under preparation, and will include chapters related to gender-based violence and female genital mutilation.

The lessons learned from the experiences presented during the panel discussions, and at the expert consultation, reinforced the understanding that legislation are essential to providing a foundation for the realization of the rights of children and women. Governments must ensure compliance of national laws with the international treaties they have ratified, including with recommendations and Concluding Observations of the relevant treaty bodies.

A human rights based approach – one that involves identifying the immediate, underlying and structural causes of human rights violations, empowering the most vulnerable individuals and reinforcing the capacity of duty bearers – must inform all legislative reform initiatives. Review, monitoring and assessment mechanisms must be built into laws, with appropriate budget allocations provided. Above all, legislative reform processes must incorporate a women and child-centred approach. And opportunities must be created for the participation of children and young people from all backgrounds in all stages of legislative reform initiatives (drafting of laws, monitoring, implementation and enforcement).

## Day 1: Expert Consultation

The expert consultation provided a forum for an exchange of approaches, strategies and interventions in legislative reform. It led to a debate and greater understanding of the legislative reform process. The consultation was conducted in two sessions. During the first session, various UN agencies shared their initiatives and strategies, including their strengths, successes and challenges in the area of legislative reform. In the second session, partners and agencies outside of the UN system shared their approach to and experiences with legislative reform to achieve human rights. This led to a rich discussion on strategies for collaboration and constituency building in legislative reform.

### 1

## Introduction

The first session highlighted experiences of UN agencies, including the United Nations Division for the Advancement of Women (DAW), the International Labour Organization (ILO), the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), UNICEF and the World Health Organization (WHO). The second session brought together practitioners and academics including Amnesty International USA, Columbia University Law School, the Inter-Parliamentary Union and Lawyers Without Borders.

WHO highlighted its experience with initiatives in mental health law reform in Member States. It outlined WHO's interventions for legislative reform to advance child and adolescent health, including the rights-based law and policy assessment tool for adolescent sexual and reproductive health.

UNFPA shared its experiences with legislative reform in relation to population and development, sexual and reproductive health, and gender. The presentation outlined challenges and main strategies in legislative reform in these areas, highlighting successful experiences. UNDP showcased its work with parliaments, detailing obstacles faced, best practices and lessons learned. ILO's experience in relation to the elimination of child labour showcased the lessons learned in the ratification campaigns for ILO Conventions 138 (Minimum Age Convention, 1973) and 182 (Worst Forms of Child Labour Convention, 1999).

DAW discussed its experience in creating entry points for legislative reform for promoting women's rights. The presentation focused on a recently developed tool, namely a set of guidelines and a model framework for legislation on violence against women, intended for use by different stakeholders involved in legislative reform. UNICEF shared its global and national strategies in the context of legal reform initiatives, highlighting examples of law reform related to children's rights. The UNICEF Innocenti Research Centre's presentation detailed the process and outcome of a study on law reform in child trafficking, including the main recommendations of the study, and the need for political support, establishment of national child-protection systems and a multi-sectoral approach.

The presentation of Prof. Peter Rosenblum of the Columbia University Law School reflected on the changing face of human rights activism. The Inter-Parliamentary Union's

presentation outlined its strategies and interventions for promoting children's rights by working closely with parliaments. Amnesty International USA used the examples of its advocacy around the International Violence against Women Act to showcase successes and challenges in their experience with law reform. Lawyers Without Borders suggested ways in which human rights activists can partner with private attorneys and law firms on legislative reform to achieve human rights, including the drafting and implementation of the laws.

The experiences shared led to a rich discussion on the role and strategies of UN agencies in the area of legislative reform to further human rights. It prompted a number of questions, such as:

- How can the gap between international agencies and parliaments be bridged? Are there adequate competencies within UN agencies to work closely with parliamentarians?
- Are development agencies allocating enough time and resources to working with parliaments and fulfilling their need for information and data to support discussion and debates?
- How can UN agencies maintain their neutrality, while supporting legislative reform, as its process can be influenced by the prevailing political agenda?
- How can children's and women's rights be more effectively promoted in domestic law making?
- How can UN agencies support legislatures in the developing world to meet the demands of the growing and changing international legal framework?

As a result of these discussions, participants suggested strategies for collaboration at national, regional and global levels to advance women's and children's rights. These include undertaking joint research and joint pilot projects, including through establishing task forces in a number of areas, as well as reviewing national laws against international human rights standards and following up on the Concluding Observations of the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women. At the country level, active participation of UN agencies in the legislative review within the CCA (Common Country Assessments) was suggested. Poverty Reduction Strategies were identified as providing an important entry point for inter-agency collaboration on legislative reform for children's and women's rights as a means to achieve sustainable development. Participants highlighted the importance of collecting evidence which demonstrates the effectiveness of adopting a human rights-based approach to legislative reform. Such evidence will be useful in efforts to secure resources and commitment to support legislative reform.

### **WELCOME ADDRESS**

In her welcoming address at the outset of the Expert Consultation, Ms. Elizabeth Gibbons, Associate Director, Division of Policy and Practice, UNICEF, said that this was the first time UNICEF had held a conference exclusively dedicated to legislative reform and human rights. Over the past decade, UNICEF, together with its partners, had played a leading role in encouraging legal reform with regard to children's rights. UNICEF had developed tools and guidance to capture knowledge and lessons learned from various legal systems.

In many countries other UN agencies, as well as civil society organizations, had increasingly been engaged in reforms that had direct or indirect impact on the situation of children. In some cases, these initiatives had greatly facilitated the work of UNICEF and resulted in positive changes for children at the country level. Though the focus on

legislative reform had not always involved all UN agencies, the initiatives led by other actors had at times opened up space for interagency dialogue on human rights issues. It had become possible for all agencies to benefit more from each other's work, by undertaking systematic efforts to share diverse experiences and progress.

There were many challenges facing the implementation of legislative reform at the country level, including structural and legal barriers, weak national institutional frameworks and inadequate technical or financial resources for execution and enforcement. Within many organizations, resources for legislative reform work were not always available; gaps also existed in expertise in this area, particularly in understanding the links between the legal framework and development goals. Working together in the area of legislative reform could enable agencies to be engaged in initiatives of much larger scope than what their respective mandates would allow. It could also allow organizations to maintain longer-term engagements with governments to ensure that reforms were comprehensive and holistic and led to the realization of human rights.

## 2

### **Session 1: Legislative Reform to Achieve Human Rights – Experiences within the UN system**

The first session included two panels comprising three presentations each, from agencies within the UN system.

#### **2.1 Panel 1**

The moderator for Panel 1 was Mr. L.N. Balaji, Chief, Strategic Planning Unit, UNICEF, who welcomed speakers from WHO, UNFPA and UNDP.

#### **2.1.1 Facilitating Legislative Reform to Advance Child and Adolescent Health: Experiences from WHO**

*Mr. Marcus M Stahlhofer, Human Rights Adviser, Child and Adolescent Health and Development, WHO*

In recent years, WHO had accelerated its support to Member States to advance legal reform on a wide range of health issues. This involved revision of and increased support for reform in the following areas:

- International health regulations
- Framework Convention on Tobacco Control
- Health legislation
- Mental health
- Essential medicines
- Sexual and reproductive health
- Child and adolescent health

WHO has a long-standing experience in health legislation, but in recent years the support for this area of work seems to have decreased. The WHO Health Legislation

Unit currently has limited capacity, and while some direct assistance in legal reform has been provided to Member States, the focus is very much on maintaining a database on Member States' health laws. However, much progress had been made in legal reform in areas of mental health and essential medicines. In the area of sexual and reproductive health, especially for adolescents, WHO had made advances in providing assistance to many Member States. Together with UNICEF, WHO had worked on making essential medicines accessible for children. However, WHO could play a much larger role in strengthening the legislative framework around essential medicines.

#### **LEGAL REFORM IN MENTAL HEALTH: AN ILLUSTRATION**

Within the area of mental health, there was an acute need for strengthening legal and policy frameworks. Laws and policies were absent or inadequate in most countries. There were insufficient mental health services, and when they were available, for example psychiatric institutions, they were often in poor and degrading conditions. People affected with mental illnesses often faced human rights violations, and confronted stigmatization and discrimination outside the institutions.

WHO's support to member states included supporting countries to develop human rights based mental health laws. A number of tools for devising a legal framework had been developed, such as a human rights-based checklist and a resource book. In addition, human rights monitoring mechanisms had been established. Training had been imparted for health professionals, law enforcement officials and people with mental disabilities. WHO looked forward to extending this work in the area of child and mental health.

#### **FACILITATING LEGISLATIVE REFORM TO ADVANCE CHILD AND ADOLESCENT HEALTH**

WHO is working to facilitate legislative reform to advance child and adolescent health through promotion of the following:

- Regional child survival and adolescent health strategies, and their national adaptation
- UNICEF-WHO-Harvard paper on laws and essential medicines for children
- Follow-up to CRC Concluding Observations and recommendations
- Training on child rights and health

This work had been facilitated through the development of tools for comprehensive review and rights-based analyses of laws, regulations and policies to strengthen the availability and implementation of child survival programmes and increase access to sexual and reproductive health services for adolescents. WHO had also provided assistance in the review and amendment of legislation in relation to the International Code of Marketing of Breast-milk Substitutes.

Although WHO assists its Regions and Member States in the development of child survival strategies, there had not been a consistent focus on the importance and role of legislative reform in this process. The European Regional Child and Adolescent Health Strategy promotes a number of activities including the promotion of legislative reform. However, other regional Strategies only refer to the importance of the CRC and other international instruments as legal and normative frameworks.

So as to strengthen the ability of the Organization and its Member States in systematically addressing law and policy aspects of child survival, and within the framework of international human rights, WHO is currently in the process of developing a Child Rights Situation Analysis (CRSA) for Child Survival. It will provide added value in the application of CRC for data collection on key legal and policy aspects which impact on child survival/health programmes. These aspects included vital registration, health

worker competencies and supervision, social insurance, material assistance and budgeting, and supporting and protecting caretakers.

The CRSA aims at analysing the law and policy data, combined with existing child survival data, creating a platform to identify strategies for strengthening both laws and policies, and programmes. It will emphasize the need for comprehensive examination of the health-related legal and policy environment and its implications for maternal, newborn and child health.

The findings of the CRSA will be integrated into the strategic planning process for child survival. This will result in creating a holistic approach to child survival, emphasizing health outcomes, goods and services, and underlying determinants of health, such as budgeting and insurance. It also supports legal impetus for improving child survival programmes.

In addition, integrating the findings of the CRSA in the strategic planning process will highlight government accountability to international commitments; will create opportunities to involve a wider range of government sectors in data analysis and in the synthesis of findings into strategic next steps; and will emphasize the need for more systematic disaggregation of data to identify child health inequities and disparities - including underlying causes of differences among sub-groups.

WHO hopes to conduct the first field test of the CRSA in 2009.

#### **RIGHTS-BASED LAW AND POLICY ASSESSMENT TOOL FOR ADOLESCENT SRH**

WHO is further strengthening the law and policy assessment tool for adolescent sexual and reproductive health to assist countries in applying a human rights framework in identifying and addressing legal, policy and regulatory barriers to: (a) adolescents' access to, and use of, sexual and reproductive health care information and services; and (b) the provision of quality services.

The tool facilitates a systematic application to laws, regulations and policies of human rights principles such as non-discrimination, participation and accountability. They enable a thorough examination of relevant laws and policies to ensure that they are supportive of, rather than a barrier to, adolescents' sexual and reproductive health, as well as compliant with a government's human rights obligations.

The tool also compiles data and includes analysis of health issues related to improving antenatal, delivery, postpartum and newborn care; providing high quality services for family planning, including infertility services; eliminating unsafe abortion; combating sexually transmitted infections, including HIV, reproductive tract infections, cervical cancer and other gynaecological morbidities; and promoting sexual health.

These tools had been field tested in Sri Lanka and Tajikistan, where there were multi-sectoral teams performing high quality research. However the ownership and commitment always remained within the Ministry of Health. WHO also planned to apply the tools in the Americas.

#### **LESSONS LEARNED AND CHALLENGES**

Defining what constitutes "health" and the "right to health" requires an in-depth analysis of laws, regulation and policies, with expert alliances and resources to cover all grounds. Health Ministries in individual countries needed to take ownership. Cost effectiveness and sustainability of legislative reform in the health area required political commitment

from governments, agencies and the donor community. At the same time, implementation and enforcement required in-depth analysis of factors impeding legislation.

## **2.1.2 Legislative Reform in Relation to Population and Development, Sexual and Reproductive Health and Gender: Experiences from UNFPA**

*Ms. Luz Angela Melo, Human Rights Technical Advisor, UNFPA*

### **POPULATION AND DEVELOPMENT**

In most countries, census legislation is in place, so parliaments in general do not have to adopt new laws in this area. International standards stipulate that a census should be conducted every 10 years. However many countries lack the funds to follow such legal requirements. Many countries also are unable to fund a permanent census office. UNFPA helps these countries to establish such offices.

However, even when there is a legal framework for conducting a census, it rarely addresses some human rights challenges—for example, in collecting information on minorities, such as illegal migrants in the labour force. Although such information is collected in some countries, the results are often not shared. Governments are reluctant to reveal that there are people in the population who do not enjoy the same rights as citizens. In some instances, illegal migrants outnumber nationals in a labour market, and this has political implications for many governments. There is a real need to ensure that census laws take into account the rights of marginalized and excluded groups.

### **SEXUAL AND REPRODUCTIVE HEALTH**

Beliefs concerning traditional gender roles are a challenge in legislative reform with regard to sexual and reproductive health. Where laws are in place, convincing stakeholders such as ministries to enforce them remain a challenge. Where laws are implemented, equitable access to services need to be ensured.

Conscientious objection exists mainly in Latin America and North America. Some health providers can choose not to participate in procedures they find objectionable. This can be extended to entire hospitals, affecting fertility treatments, and other practices, but according to international standards, conscientious objection is an individual right and does not prevent the State from offering reproductive health services.

### **GENDER EQUALITY**

In order to attain gender equality, strategies addressing cultural sensitivities are needed. Changing laws is necessary but not sufficient. In order to strengthen law enforcement, a deep engagement is required to facilitate change, as cultural beliefs are often stronger than laws. For instance, female genital mutilation (FGM) and child marriage persist and are deeply rooted in some traditions and cultures, even though they are illegal in many countries. Values and practices that go against human rights are common.

UNFPA's work on legislative reform adopts a culturally sensitive approach such as the understanding that laws need to reflect people's lives. For instance in relation to FGM, UNFPA's work—while aimed at abolishing this harmful practice—take into account its significant meaning in the lives of people..

Law reform is an important step to bringing about change. But the change must also come from within the culture and family. There are positive and negative aspects in each culture. There is a need to build upon the positive aspects, and partner with law enforcement agencies and those that protect human rights to end the negative aspects of a culture or tradition.

#### **EXAMPLE OF LAW REFORM WITH A HUMAN RIGHTS-BASED APPROACH**

*Ecuador provides a good example of a Free Maternity Law, which guarantees free high quality health services for pregnant women and children under five years of age. At the local level, it is the responsibility of municipalities to implement the law—for example, by educating the population, or by financing the transfer of emergency health cases from towns to cities. User Committees have been established by the National Council of Women in Ecuador, with assistance from UNFPA. The Committees' role is to monitor compliance of the law by health centres at the municipal level. These Committees consist of seven to ten members, both women and men, elected by their communities. The Committees provide information to communities, set priorities for community needs and bring forward cases of abuse and negligence. They prepare reports on services, notify authorities of cases of maternal and infant deaths, and participate in evaluations of law enforcement.*

### **2.1.3 UNDP Perspective to Legislative Reform to Achieve Human Rights**

*Mr. Kevin Deveaux, Parliamentary Development Policy Advisor, UNDP*

Within UNDP, democratic governance has the largest single portfolio. At any given time, UNDP is working with 40 national parliaments on human rights issues.

#### **UNDP'S WORK WITH PARLIAMENTS**

Parliamentary development has three key functions: law-making, oversight (ensuring the government is implementing the laws), and representation (ensuring the views of the public are reflected in the laws).

There are two main avenues for engagement or entry points for work with national governments on achieving human rights:

- The parliamentary role in developing and monitoring national human rights action plans.
- The parliamentary role in representation and oversight of the executive's activities with regard to human rights.

In this regard, it is important to determine the capacity of parliaments, members of parliaments and their staff, to know what can be accomplished.

However, it needs to be recognized that parliamentary development is inherently political. It requires engagement with political parties, parliamentary groups and civil society organizations. Working with the media is important, as they can create political

circumstances where the parliament and the executive must act. It is also important to involve the executive as laws were drafted by ministries before being passed by the parliament.

UNDP emphasizes working with national governments in supporting the enhancement of government institutions and legal frameworks. It works closely with national human rights institutions and also collaborates with the Office of the High Commissioner for Human Rights and other UN agencies. UNDP also works to ensure that international and regional human rights instruments are integrated into national action plans.

One good example was a pilot programme in Vietnam which involved public hearings on a health insurance law. This was part of oversight, where members of parliament were involved in a routine engagement with citizens, therefore seeking public opinion. Simultaneously, WHO saw this as an opportunity to partner with UNDP as they were concerned with some aspects of this law.

### **BEST PRACTICES**

UNDP's best practices in the engagement of parliament involve the following:

- National ownership through parliamentary strategic planning: In order to ensure that the parliament is actively supporting the issues, strategic planning is important. UN agencies need to consider the issues prioritized by parliament, whether it was child rights, domestic violence, or child labour, for example. Identifying the issues and priorities of the parliament will lead to national ownership.
- At the country level, UNDP works together with a number of human rights institutions, government agencies, NGOs and ombudspersons. This helps to create synergy between the executive and the parliament.
- UNDP supports a "demand-driven" process, which means that the agency works with communities in getting issues and concerns developed at the local level to create a demand for change. UNDP also works to ensure that members of parliament respond to the voice of civil society. This was likely to result in political action at the parliamentary level.

### **HIGHLIGHTS OF PLENARY DISCUSSION FOLLOWING THE PRESENTATIONS**

Parliamentarians and other decision makers frequently lack information and/or data to support their discussions and arguments. The wealth of information generated by UN agencies must be shared with parliamentarians in order to fuel their debates. Providing technical support on the issues to sectoral ministries (who draft laws) and also to parliamentarians (who debate laws), can be a strategic way to influence the legislative process. Specifically, it is critical to ensure that lawmakers are aware of international norms and standards, obligations entered into by the State concerned by adhering to international treaties, and availability and understanding of global policy frameworks to support and inform law making processes

This entails developing and investing in a long-term relationship with parliamentarians and building their trust in the support that UN agencies provide. International agencies produce evidence-based studies which should be shared with parliamentarians as well as with civil society organizations. UN agencies must make an effort to communicate with parliamentarians in a jargon-free manner. At the same time, linking issues to the prevailing political agenda and priorities can spark the interest of parliamentarians in subjects relevant to the country concerned.

In order to develop mutually beneficial relationships with parliamentarians, adequate competencies and skills are required within the UN agencies. In some UN agencies' national offices, there are parliamentary officers working in this area. This practice needs to be strengthened and given higher priority.

Apart from providing key information to parliamentarians, UN agencies can work together with them to ensure the implementation of laws and to ensure that the voices of the people are reflected in law making. It is also important to clarify to lawmakers the need for concrete legislative responses, in addition to policy responses, to many of the current development issues.

It is crucial to uphold principles of neutrality as UN agencies, as legislative reform can easily become a partisan issue.

## 2.2 Panel 2

The moderator for Panel 2, Ms. Rangita de Silva de Alwis (Senior Advisor, International Programmes, Wellesley Centers for Women, Wellesley College) introduced presentations from ILO, DAW and UNICEF.

### 2.2.1 Legislative Reform to Achieve Human Rights: The ILO experience on the Elimination of Child Labour

*Mr. Jose-Maria Ramirez, Technical and Legal Officer, International Programme on the Elimination of Child Labour, ILO*

Of the 189 Conventions that can be referred to as pertaining to human rights, there are only two that deal with child labour.

Table 1.1. Estimates of different categories of child work by age, 2000 and 2004

Age group (years)		Child population		Of which: economically active children		Of which: child labourers		Of which: children in hazardous work	
		2000	2004	2000	2004	2000	2004	2000	2004
5-17	Number (millions)	1 531.4	1 566.3	351.9	317.4	245.5	217.7	170.5	126.3
	Incidence (% of age group)	100.0	100.0	23.0	20.3	16.0	13.9	11.1	8.1
	% change from 2000 to 2004	-	2.3	-	-9.8	-	-11.3	-	-25.9
5-14	Number (millions)	1 199.4	1 206.5	211.0	190.7	186.3	165.8	111.3	74.4
	Incidence (% of age group)	100.0	100.0	17.6	15.8	15.5	13.7	9.3	6.2
	% change from 2000 to 2004	-	0.6	-	-9.6	-	-11.0	-	-33.2
15-17	Number (millions)	332.0	359.8	140.9	126.7	59.2	51.9	59.2	51.9
	Incidence (% of age group)	100.0	100.0	42.4	35.2	17.8	14.4	17.8	14.4
	% change from 2000 to 2004	-	8.4	-	-10.1	-	-12.3	-	-12.3

Source: Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

Currently, there are 188 International Labour Conventions dealing with different issues within the world of work. With regard to the attainment of the most basic human rights at work, there are 8 conventions considered as fundamental, of which 2 deal with child labour.

**ILO Convention 138 (1973)** sets the standard with regard to the minimum age for work or employment. It clearly states what has to be done with regard to a legal framework at the national level. According to Convention 138, national laws or regulations (or the competent authority) shall:

- determine the minimum age for work or employment,
- determine the types of employment or work considered as hazardous,
- may permit light work,
- provide for all necessary measures to ensure effective enforcement,
- define the persons responsible for compliance, and

- prescribe the registers/other documents to be kept by employers.

**ILO Convention 182 (1999)** highlights certain forms of exploitation which are to be considered as the worst forms of child labour. These comprise all forms of slavery or practices similar to slavery; the commercial sexual exploitation of children; the use of children for illicit activities and hazardous work. Convention 182 calls for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. It highlights that national laws or regulations (or the competent authority) shall determine the types of employment or work considered as hazardous.

According to ILO Convention 182, each member shall:

- establish monitoring mechanisms,
- design and implement programmes of action,
- take necessary measures to ensure the effective implementation and enforcement, including penal or, as appropriate, other sanctions, and
- designate the competent authority responsible for implementation.

The Conventions are supported by the CRC which states that “children (should) be protected from economic exploitation and from performing any work that is likely to be hazardous or interfere with the child’s education or to be harmful to the child’s health or development (physical, mental, spiritual, moral or social)”.

#### **THE RATIFICATION CAMPAIGN**

The Handbook for Parliamentarians on eliminating the worst forms of child labour, developed by the Inter-Parliamentary Union and ILO, outlines a seven measures programme by which parliamentarians can contribute to the elimination of the worst forms of child labour. The seven measures are as follows:

1. Ratify ILO Convention 138 and ILO Convention 182.
2. Adopt and enforce legislation to prohibit worst forms of child labour
3. Establish programmes to eliminate worst forms of child labour
4. Monitor and evaluate progress towards their elimination
5. Provide the financial and human resources needed
6. Mobilize public opinion and form alliances for the elimination, and
7. Promote international cooperation to prohibit and eliminate the worst forms of child labour.

The first step, as proposed by the framework above, is the ratification of the two Conventions. ILO worked closely with parliamentarians, not only to promote ratification of the Conventions, but also to promote national laws to support the ratification. ILO Convention 138 has been ratified by 151 countries, while ILO Convention 182 has been ratified by 169 countries.

#### **INTERNATIONAL LABOUR STANDARDS: REGULAR SUPERVISORY MECHANISM**

ILO Member States have to submit periodic reports on measures taken to give effect to the provisions of ratified Conventions, both in law and in practice. Copies of these reports have to be sent to the most representative workers’ and employers’ organizations at the national level. In the case of ILO Conventions 138 and 182, reports have to be submitted every two years.

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) reviews and comments upon the reports submitted by governments along with

observations made by employers and workers. In recent years, following significant increase in the ratification of Convention 138 and Convention 182, an important number of reports presenting the child labour national situation, in law and in practice, have been received and analysed by the CEACR.

Despite several such measures being taken at the international and national level, there are still nearly 220 million child labourers in the world. An important reason for this is that child labour takes place in the informal sector, which is unregulated. There is poor law enforcement in this sector. The role of labour inspection is crucial to overcome this challenge, which requires that national labour inspectorates receive adequate allocation of both human and financial resources. At the same time, it is important to work with governments to ensure that child labour and, in particular its "worst forms", are a priority for them. At the national level, ministries of Labour, Social Affairs and of Education need to get connected.

Key entry points include involving lawmakers, including generating a social dialogue between workers and employees. There is also a need to disseminate good practices on international standard databases. Interagency coherence, clear concepts on child labour and statistical clarity are also crucial. In some areas it is important to establish linkages between child labour issues and broader frameworks, such as between child trafficking and labour migration, or between child domestic work and women's work, for example. ILO, UNICEF and other agencies need to join hands to develop joint strategies to overcome worst forms of child labour.

### **2.2.2 Legislative Reform to Achieve Human Rights: The Example of Violence Against women**

*Ms. Christine Brautigam, Chief, Women's Rights Section, Division for the Advancement of Women (DAW)/DESA, United Nations*

The Division for the Advancement of Women (DAW) provides substantive support to intergovernmental bodies – the Commission on the Status of Women, as well as the Economic and Social Council and the General Assembly – on gender equality issues, with a focus on follow up to the Beijing Declaration and Platform for Action and subsequent intergovernmental policy guidance and mandates. It is responsible for preparing parliamentary documentation on gender equality issues, conducts policy research and analysis, elaborates policy options and recommendations, and prepares technical materials. The Division organises ad hoc expert group and technical meetings, as well as panel and side events in conjunction with intergovernmental meetings. It facilitates NGO participation in such meetings, and develops communication and outreach activities, including dissemination of and follow up to policy outcomes. The Division also undertakes capacity building activities, in particular for national machineries for the advancement of women. It also participates in inter-agency and UN system-wide coordination activities.

## **ENTRY POINTS FOR PROMOTING LEGISLATIVE REFORM**

The DAW presented its work in the area of violence against women, and used this example to demonstrate ways for promoting legislative reform.

At the global policy level, the Division promotes legislative reform by including relevant recommendations in various reports of the Secretary-General it is mandated to submit to intergovernmental bodies. For example, the Secretary-General's in-depth study on violence against women, issued in 2006 (A/61/122/Add.1 and Corr 1), places significant emphasis on the need for legislative reform on violence against women. Other examples include the Division's recent report on forced marriage of the girl child (E/CN.6/2008/4), and on the elimination of rape and other forms of sexual violence (A/63/216) which contained calls for relevant legislation and its enforcement on the prevention of violence, as well as the prosecution and punishment of perpetrators and the protection of victims. The Division's report on trafficking in women and girls (A/63/215) also called on States to review and revise national legal frameworks to ensure criminalization of all forms of trafficking in persons of all ages, with penalties that are commensurate with other serious crimes, and provisions in law for prevention measures and protection and support for victims.

The DAW also uses intergovernmental mandates as basis for further policy development and advocacy in the area of legislative reform to prevent and address violence against women. The Beijing Platform for Action and the outcome document of its 5-year review of 2000 called on States to create and maintain a non-discriminatory and gender-sensitive legal environment and to review and revise existing legislation on violence against women. Recent resolutions of the General Assembly on intensification of efforts to eliminate all forms of violence against women (A/RES/61/143, and A/RES/63/155) highlighted the need for action in the legislative realm, and also gave examples of good practice. The General Assembly has recommended action to evaluate and assess the impact of legislation and, where necessary, reinforce criminal law and procedure. It has also identified as a best practice the incorporation into law of measures aimed at preventing violence against women.

These global policy instruments complement the international legal framework and provide detailed guidance on the types of measures required to achieve compliance with treaty obligations. Human rights treaty bodies, in particular the Committee on the Elimination of Discrimination against Women, advise States on how to bring their domestic legislation on violence against women into conformity with global standards and ensure that violence against women is prosecuted and punished, and that victims/survivors have adequate means of redress and protection. Regional instruments also call on States to strengthen their legal frameworks, and a growing body of jurisprudence on violence against women requests States to respond with legislative action.

## **MATERIALS AND TOOLS FOR LEGISLATIVE REFORM: THE EXAMPLE OF VIOLENCE AGAINST WOMEN**

Legislation is a key element in a holistic approach to addressing violence against women. These laws have evolved markedly over the past two decades, and significant steps have been taken at national level to categorize such violence as a form of gender-based discrimination and a violation of women's human rights and to strengthen the legal framework to bring it in line with international human rights standards.

However, legislative gaps continue to exist. As noted in the Secretary-General's study "As at 30 April 2006, 89 States had enacted legislative provisions that specifically addressed domestic violence". Marital rape could be prosecuted in at least 104 States. 90 States had some form of legislative provision against sexual harassment. 93 States had some form of legislative provision regarding trafficking in human beings. And 15 of the 28 African States where female genital mutilation is prevalent had enacted laws.

*Source:* Study of the Secretary-General on violence against women, A/61/122/Add. 1 and Corr. 1, Box 11

To help overcome these legislative gaps, the DAW has developed guidelines and model framework for legislation on violence against women, with the support of an expert group held in May 2008 by DAW in collaboration with UNODC. The expert group meeting:

- Analysed different approaches in the law for addressing all forms of violence against women;
- Assessed lessons learned in the implementation of legislation on violence against women, with particular attention to effectiveness of legislation; and
- Identified good practices in the law and recommended standards for legislation on violence against women.

The resulting guidelines and model framework is intended to assist States and other stakeholders in enhancing existing, and developing new, legislation on violence against women. In regard to each of the areas covered, the framework provides recommendations on content, as well as good practice examples.

#### **GUIDELINES FOR DEVELOPING LEGISLATION ON VIOLENCE AGAINST WOMEN**

- Defining the legislative goal
- Consulting with all relevant stakeholders
- Drafting evidence-based legislation
- Utilising guiding principles for legislation on violence against women
- Ensuring coordinated and gender-sensitive implementation of legislation.

#### **CONTENTS OF THE FRAMEWORK FOR LEGISLATION**

##### CONTENTS OF THE FRAMEWORK FOR LEGISLATION

- Legislative preamble
- Implementation
- Monitoring and evaluation
- Definitions
- Prevention
- Protection, support and assistance to complainants/survivors
- Investigation and legal proceedings
- Protection orders
- Sentencing
- Family law cases involving violence against women
- Civil law suits
- Asylum law and violence against women

One key insight from past experience is the recognition that a comprehensive legislative approach to violence against women is needed. Definitions of all forms of violence against women covered in the law should be broad and in accordance with international human rights standards. Legislation should encompass not only the criminalization of all forms of violence and the effective prosecution and punishment of perpetrators, but also

provisions on prevention and the empowerment, support and protection of victims/survivors.

In order to encourage the use of the guidelines and framework, workshops will be organised with a range of stakeholders such as governments, parliamentarians, and civil society and UN entities. DAW is also widely disseminating these guidelines and framework through a website, inter-agency networks and civil society networks. The framework will also be expanded to other forms of violence against women.

[http://www.un.org/womenwatch/daw/egm/vaw\\_legislation\\_2008/vaw\\_legislation\\_2008.htm](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/vaw_legislation_2008.htm)

### **2.2.3 Legislative Reform to Achieve Human Rights: UNICEF's Experience**

*Mr. Daniel Seymour, Chief, Gender and Rights Unit, UNICEF*

Following a human rights based approach to legislative reform ensures that the reform is based on human rights instruments and principles. It links to the work of treaty bodies, integrating gender perspectives and ethnicity and disability issues in law reform. A human rights based approach addresses the reality beyond the law, making the legislative reform more comprehensive, covering a range of child rights issues (for instance, legislative reform in the area of child nutrition might also require reform in health laws, or child protection laws, among others). A human rights based approach to legislative reform would also focus on capacity development of judges, lawyers and institutions.

UNICEF'S global strategy for legal reform initiatives includes advocacy, focusing on organizing and facilitating exchanges between UN agencies and multi-sectoral groups. A review of UNICEF's experience on legislative reform has been undertaken through the development of case studies examining legislative advances in a number of countries. UNICEF has also developed several tools and produced guidance on this issue. A publication on comparative analysis of diverse legal systems has been developed. Research and studies in areas such child marriage and domestic child labour have been undertaken, including development of programming guidance. Technical assistance is also provided to field offices and counterparts.

At the country level, UNICEF is building partnerships with parliamentarians; providing direct technical support to key actors and is working with civil society to support its participation in legislative reform processes. Capacity needs assessments are being undertaken to inform capacity building plans. The establishment of human rights institutions, community based organizations and monitoring bodies is being supported.

#### **A FEW EXAMPLES OF LAW REFORM**

*Promoting and Protecting Children's Rights through Legislative Reform in Pacific Island Countries:* In 2008, six Pacific Island countries came together to share experiences, update their skills, and commence a new set of action plans to reform legislative systems guided by the CRC, with support from UNICEF. Based on their own analysis of national progress, and with inputs from children and young people, government delegates and youth representatives have developed action plans to better promote and protect the rights of children through strengthened laws, legal institutions, services,

policies and budgets. The plans also identify possible entry points for future support of UN agencies, regional agencies, NGOs and donors in relation to legislative reform.

*Sierra Leone Child Rights Act (2007) – Legislation as a foundation for children’s rights:* The Sierra Leone Child Rights Act introduced into domestic law the international definition of a child as any person under the age of 18, and other provisions of the CRC and the African Charter on the Rights and Welfare of the Child. It includes a prohibition on the use of land mines and other weapons declared by international instruments to be adverse to children. The law prohibits early marriage, military conscription of children and child trafficking. It also has an important focus on the “best interest of the child”.

*Sports Law in Vietnam (2006) – Human rights perspective in legislation for children:* In relation to football matches, the Sports Law in Vietnam mentions how sports could be more inclusive and could promote children’s rights.

Challenges to UNICEF’s work on legal reform initiatives include poor dissemination and sharing of best practices. There is a need for analysis of what organizations have done—what has worked and more importantly what hasn’t worked. It is crucial to monitor progress and measure impact, and to apply lessons learned. Partners need to be mobilized and alliances strengthened.

#### **2.2.4 Child Law Reform: Some Lessons from Research**

*Ms. Susan Bissell, Chief, Implementing International Standards Unit, Innocenti Research Centre, UNICEF*

The International Standards Unit at the Innocenti Research Centre (IRC) in Italy analyzes international normative frameworks and national laws. It also undertakes concurrent policy analysis and child-centred and intervention-focused case study research.

IRC has undertaken a study of 62 countries on General Measures of Implementation of the CRC, in which law reform is integral. IRC has also conducted global research on child trafficking, in which legal frameworks are a focus.

The key findings in the process of the overall law reform study were as follows:

- The CRC has been incorporated into the domestic law in more than half of the countries studied.
- Nearly one third of the countries have incorporated provisions on the rights of the child into their national Constitutions.
- Codes or comprehensive laws on children have been adopted by nearly half of the countries reviewed.
- Considerable law reform is evident in the area of child protection.

The research on child trafficking was conducted in six regions—West Africa, Africa, Europe, South Eastern Europe, Central Asia and South Asia. The objectives of the research were to:

- Present analyses of law and policies to prevent and respond to child trafficking;
- Present child rights based programme practices;
- Provide conceptual clarity and enhance knowledge and awareness on child rights standards;

- Strengthen cooperation between stakeholders, including with children and adolescents, and
- Strengthen programming and identify messages for advocacy.

Definitions of trafficking vary among national laws, and trafficking falls under the responsibility of different entities, which makes cooperation difficult. Not all countries have laws that criminalize child trafficking and few countries have a clear legal provision to protect victims from being subjected to criminal prosecution for offences related to their situation as trafficked persons. Trafficking is often addressed only as a law enforcement and criminal justice issue, and the legislation seldom includes welfare components such as legal, psychosocial and other kinds of assistance to the victim.

Children receive insufficient legal information and assistance and few countries have reformed the judicial process to make it child-sensitive. Legal remedies for victims are lacking in most countries, as are formal witness protection structures for children who are victims of trafficking, abuse and exploitation. The legal age of majority for children and other age limits defining the child in different contexts varies in national legislation. This affects how stakeholders address children's needs and respect their ability to make decisions.

National legislation often addresses child trafficking only within the context of sexual exploitation of women and children or women and girls. Boys are sometimes less protected by law from sexual exploitation than girls. Efforts to address trafficking have, in some countries, resulted in restrictive migration policies. At the same time, a strong focus on trafficking may neglect children who migrate or are internally displaced, but end up in exploitative situations.

## **RECOMMENDATIONS**

- Ensure political support; by ratification of key legal instruments, harmonization of national legislation, resource mobilization and effective programme implementation. Include child trafficking in all National Action Plans for Children.
- Promote national child protection systems, to be operational at the national and the community level, with a strong focus on prevention. Focus on research, data collection and information sharing; addressing root causes of child trafficking; community mobilization, and training of professionals.
- Undertake a multi-sectoral approach including legal, medical, social and psychosocial services.
- Establish a uniform system to identify children who have been subject to abuse and exploitation, whether as a result of trafficking or otherwise. The issue of identification must be addressed not only by government authorities but also by civil society organizations working with children. However, quality services should be available and accessible to all children, independent of identification.
- Refine judicial proceedings to include formal witness protection procedures, ensure the psychological well-being and privacy of the child through in camera proceedings, provide adequate protection and compensation to victims, and expedite prolonged legal processes through fast-track child-friendly courts and the use of video testimony. Children should be informed about their rights and have access to legal support and other services. They should also be given the opportunity to participate in developing reintegration programmes.
- Establish national systems of psychosocial care, starting with the development of minimum standards of care, protection and reintegration. Each country needs to

develop rules for the registration, inspection and regulation of care facilities, and technical guidelines and protocols for practice.

- Develop cooperation with multiple stakeholders at international and national levels to ensure the sustainability of anti-trafficking programmes and plans. This must include the participation of children in developing initiatives. In the process of increasing cooperation among NGOs and national organizations and bodies, the role of community-based organizations needs to be strengthened in developing and implementing anti-trafficking initiatives involving all relevant stakeholders in the community. This requires more focus on community mobilization as a mechanism to prevent trafficking and address its root causes.
- Develop bilateral and multilateral agreements and plans of action to strengthen cross-border activities, including identification of child victims, family tracing, repatriation documentation and cross-border transfer protocols.
- Develop a systemic approach that ensures cooperation among all relevant sectors, institutions and professionals working with children. It is necessary to recognize the linkages between violence, abuse, exploitation and trafficking, and between trafficking and migration. Such a systemic approach also facilitates the redress of the root causes of child protection violations, including gender-based discrimination.
- Develop monitoring tools and procedures for protection systems at national and community levels. Child protection systems and practices need to be regularly monitored and evaluated.
- Develop participatory mechanisms and train stakeholders to ensure the involvement of children and young people in programming and policy development. Programming should be based on children's specific needs and take into account children's views, as well as the needs and views of caregivers and field personnel who work directly with children.

## **CONCLUSION: THE IDEAL LEGAL FRAMEWORK**

Legislative reform is an ongoing process. Laws need to be reformed in a holistic manner, in conformity with international standards. In relation to protection rights, care has to be taken to 'do no harm' in efforts to protect the rights of children. At the same time, participation of children in legal, administrative and other proceedings needs to be legislated and safeguarded.

### **Discussion with the Executive Director:**

*During an informal discussion with Ms. Ann Veneman, UNICEF Executive Director, at the lunch break, several ideas came forth to advance legislative reform to achieve human rights, such as:*

- *Involving the professional legal community in supporting legislative reform and human rights. Engaging with law school graduates who are interested to work in the international arena. Tapping law firms who are sensitive to their corporate social responsibility;*
- *Documenting and disseminating good practices, demonstrating results for children through legislative efforts;*
- *Building a web-based tool at the UN level that compares national laws to the ratified conventions, providing disaggregated data.*
- *Developing minimum standards and/or model laws in various areas. These standards can help assess national legislation, and suggest areas for law reform.*

## HIGHLIGHTS OF PLENARY DISCUSSION FOLLOWING THE PRESENTATIONS

The thread that ran through all presentations was the confluence between gender equality and children's rights.

It is important to base solutions on what children are saying. Strategies must be developed to involve children and young people in legislative reform initiatives.

It is also important to assess the capacity of parliaments across the developing world to meet the demands of the growing and changing international legal framework with a view to strengthening their capacities. In addition to the international human rights treaties, the various committees that monitor the implementation of the human rights provisions contained in those treaties have their own regulations and special recommendations for the States. In order to enable a State to respond to these demands, a coordination mechanism must be developed. At the same time, acknowledging that legislative reform is an ongoing process will create the space and political will to keep pace with changes in the international legal framework. It will also ensure that adequate resources are allocated for implementation and enforcement. This will in turn create sustainability in the legislative reform process.

# 3

## **Session 2: Legislative Reform to Achieve Human Rights – Experiences of Practitioners and Academic Institutions**

The moderator for this session, Ms. Beatrice Duncan (Child Protection Expert, UNICEF Ghana), introduced presentations from Columbia University, the Inter-Parliamentary Union, Amnesty International USA and Lawyers Without Borders.

### **3.1 The Changing Face of Human Rights in Relation to Legislation: Reflections from Columbia Law School**

*Prof. Peter Rosenblum, Associate Professor and Co-Director of the Human Rights Institute, Columbia Law School, Columbia University*

The face of the human rights activist has changed over the last few decades. Earlier the activist would build partnerships with civil society and NGOs, some in order to get funding and others in an effort to work to empower local organizations. Attention to the process of implementation of national legislation and polices began following the end of the Cold War, when activists discovered the importance of working with governments.

Before the Cold War any work on human rights equalled anti-sovereignty. Very often activists had to confront their prejudices against the state. Legislatures and legislators, who had been the last on the list of activists' partners, began to take prominent roles in new and surprising ways. In a new wave, human rights defenders began to get involved in parliaments, recognizing the need to partner with legislatures and legislators. In

Cambodia and Romania, many people took active roles in defending human rights in the legislatures. A similar example occurred in the Democratic Republic of Congo, where the deputy head of the Assembly led a commission to investigate mining contracts.

It is crucial to strengthen the implementation process, with critical scrutiny and effective quality control when States adopt international law. Regarding laws that are drafted to address local concerns, there is a need to promote human rights at the regional level, especially in the private sector. For example, special economic zones—created by some countries within a geographical area—come with their own regulations and often freeze national laws, including the social protection of workers and their families. As a result, corporations operating in these zones can be exempt from the laws of the country they are operating in. Within the country, these can affect social protection and national legislation on social issues.

### **3.2 Legislative Reform to Achieve Human Rights: The Experience of the Inter-Parliamentary Union**

*Ms. Kareen Jabre, Manager, Gender Partnership Programme, Inter-Parliamentary Union*

The Inter-Parliamentary Union (IPU) is an international organization of national parliaments, established in 1889. It is composed of 154 member parliaments, and involves 35 staff committed to working for the promotion of parliamentary democracy. IPU's political and programmatic work supports parliamentary initiatives on human rights issues. The protection and promotion of human rights are among its main goals. Article 1 of the organization's statutes defines human rights as an essential factor leading to democracy and development.

#### **IPU'S WORK ON CHILDREN'S RIGHTS**

Historically, IPU's work had been on human rights as a whole. The organization's work has now also extended to women's rights and gender issues. The programme of activities related to children has been ongoing for almost 10 years, moving from global to national levels. Child-related activities have been developed in close cooperation with UN partners, in particular UNICEF and ILO. The activities revolve around the basic functions of parliaments.

IPU raises the awareness of and provides information to Members of Parliaments (MPs), with the idea of making children's rights a political priority. Regular panel discussions and assemblies on child rights and child protection issues are organized at IPU, and field visits are organized for MPs to engage with children around specific child-related issues. In such initiatives, it is ensured that both men and women MPs are involved.

IPU builds the capacity of MPs to address children's rights at regional and national levels. Regional training for MPs is undertaken, addressing specific child-related issues. The idea is also to build regional dynamics and cooperation among the MPs on issues of concern such as trafficking, juvenile justice, sexual exploitation of children and FGM.

IPU also works to enhance parliaments' capacities to address child rights issues by working with parliamentary committees on human rights and gender issues; working with parliamentary staff and supporting the research capacity of parliaments. Tools such as a Handbook for Parliamentarians on child related issues such as child protection, worst

forms of child labour, child trafficking, juvenile justice and violence against children have been developed.

It is imperative to strengthen parliaments' involvement in UN treaty mechanisms. The reporting processes and recommendations of CRC and CEDAW monitoring committees are rarely discussed in parliaments. However, growing attention is being paid by these Committees on whether their recommendations are being discussed at the parliamentary level. IPU is also researching how parliaments work on human rights, focusing on parliamentary committees.

The experiences of IPU reveal the need for political backing and support from MPs to make children's rights a priority among governments. There is a need to invest in the institution of parliaments. Realistic goals need to be set within the national context. Constant awareness-raising among MPs on child rights issues is crucial. It is also important to apply lessons learned and best practices, from gender mainstreaming to children's rights. It is crucial that parliaments have national ownership of child rights issues and are more open to children.

In addition to their law-making function, parliaments also set priorities, adopt budgets for law enforcement and oversee the legislative process and monitoring of legal implementation. The role of the parliament is also to express the diversity of opinion and interests of the people it represents. It is therefore important for the United Nations, civil society, and other stakeholders work in partnership with parliaments.

### **3.3 Legislative Reform to Achieve Human Rights for Women and Girls: Amnesty International USA's Campaign to Promote the International Violence Against Women Act**

*Ms. Daphne Jayasinghe, Acting Advocacy Director for Europe/Central Asia, Violence Against Women and Other Themes, Amnesty International USA*

Amnesty International is an international human rights organization with 2.2 million members, including activists all around the world. Amnesty International USA (AIUSA) is responsible for mobilizing activism in the United States.

#### **INTERNATIONAL VIOLENCE AGAINST WOMEN ACT**

In 2006 a network of NGOs and staff of the U.S. Senators Joe Biden and Richard Lugar developed the International Violence Against Women Act (IVAWA), legislation addressing violence against women. This issue has found champions in the U.S. Congress as well as in the newly elected administration, and therefore requires follow-up. IVAWA seeks to address weaknesses of current U.S.-funded programmes to address violence against women internationally. In 2008, it was estimated that there were 350 government programs with a global violence against women component administered across 8 agencies. However, there is no coordination within or between the agencies that administer the projects. The proposed legislation would create two senior positions in the U.S. government in order to target this specific issue.

The IVAWA will create funding for governmental and non-government programmes to reduce gender violence by increasing legal and judicial protections; enhancing the capacity of the health sector; increasing education and economic opportunities;

developing programmes to change social norms that lead to violence against women; integrating programmes that prevent and respond to gender violence into all U.S.-funded humanitarian assistance; conducting training in preventing and responding to gender based violence for U.S. military personnel and contractors deployed to humanitarian relief, conflict and post-conflict situations; and prescribing emergency measures in response to mass outbreaks of gender violence.

#### **DEVELOPING THE BILL – GOOD PRACTICES**

In developing the bill, several good practices were followed such as extensive consultation with international NGOs, community organizations and government officials on what can be achieved prior to drafting the legislation. A coalition of NGOs worked closely with Senate champions and civil society to develop and draft the bill. Moreover, congressional leaders were involved in promoting the bill, which provided the campaign much visibility and credibility. There was also constituent/grassroots support for the bill, including from unions and faith-based groups, who mobilized their constituents.

#### **OPPORTUNITIES AND CHALLENGES**

Several aspects of the bill create opportunities for its adoption. The bill involves a bipartisan issue – prevention of violence against women and girls – which has wide support. Moreover, successful implementation of the domestic legislation set a strong precedent. The bill will mainstream gender equality across all foreign assistance programmes. This is an issue engaging a range of civil society organizations. However, the U.S. administration and Congress are sensitive to certain issues related to addressing violence against women – family planning in particular; however, IVAWA does not change any existing laws or practices on reproductive health or family planning. Grassroots organizations have been engaged in promoting the bill. A diverse range of materials and resources have been developed to support their advocacy such as postcards and flyers, issue briefs, information on model programmes, questions and answers among others. A ‘lobby day’ and training for grass-root activists was organised in Washington, DC. It was a real success as it was the first time that many of the activists were able to approach their Members of Congress. An AIUSA film titled, *Women of Liberia: Fight for Peace*, raises some of the issues IVAWA seeks to address. Three women featured in the film who were former child soldiers, participated in screening events in New York and Washington DC, lobbying meetings with Congressional staff and media promotion of the film and IVAWA. They received media training which will help them in their ongoing education work in Liberia and Europe. AIUSA also utilised advocacy opportunities around the 16 Days of Activism to end violence against women.

### **3.4 Working with Private Law Firms in Legislative Reform to Achieve Human Rights: Reflections from Lawyers Without Borders**

*Mr. Jeffrey L. Sheldon, McDermott Will & Emery LLP and Christina M. Storm, Founder and President, Lawyers Without Borders*

Lawyers Without Borders (LWOB) is an international non-profit organization, funded by multinational companies, that undertakes research, training and capacity building in the area of law reform and human rights. Based on the experience of LWOB, the presentation provided examples of how private law firms can be engaged in legislative

reform processes to achieve human rights, including formation of the law and its enforcement.

Lawyers can be engaged in looking at Conventions and agreements on human rights, and can provide valuable assistance in understanding definitions, which can have subtle nuances and differ amongst different cultures, languages and legal systems. These demystified norms can be used as templates, models and recommendations for best practices, as well as a catalyst to generate dialogue.

While legislatures remain constant, legislators change. This makes legislative reform an ongoing process. Constant education and interaction with lawmakers, including parliamentarians, then become an integral part of the process. Lawyers can help in supporting the training of legislators to encourage more effective local implementation. This includes the training of judges, prosecutors and police for better law enforcement, as well as informing the general public to improve awareness of their rights. Lawyers can also help in drafting model legislation, especially concerning children, as this requires technical expertise. Lawyers can also help in recommending viable enforcement mechanisms and help in interpreting laws. Because lawyers are strongly encouraged by courts and bar associations to provide *pro bono* legal services that will advance important social goals, it is possible to enlist lawyers' support in such legislative reform efforts at no or very low cost to sponsoring organizations.

As an example, a law firm working *pro bono* under the auspices of LWOB conducted research on land and inheritance rights in Tanzania, which showed that the laws were biased against women and therefore put them, and their children, at risk upon the death of their spouse. The research called attention to conflict between the national law and traditional law based on local customs and recommended several ways to overcome this dichotomy. Such experience can form the basis for writing new legislation. Similarly, LWOB secured the assistance of lawyers to help draft guidelines for UNICEF on alternate care for children without parents.

#### **HIGHLIGHTS OF PLENARY DISCUSSION FOLLOWING THE PRESENTATIONS**

Legislative reform must be approached more broadly and holistically. Law reform related to children's rights must take into account issues that do not directly affect children, such as land laws and inheritance laws, for example.

The example of Amnesty International reveals how a U.S.-based law can have a "trickle-down effect" in other countries. While the lobbying strategy of the International Violence against Women Act was particular to the United States, the best practices that emerged from this experience can be applied to other areas.

Engaging with professional bodies such as lawyers, law firms, bar associations is important, as they are crucial actors in the legislative reform process, with significant knowledge and skill in interpreting and understanding laws and enforcement mechanisms.

While partnership with lawyers should not be underestimated, civil society and communities also need to be made familiar with the laws and their enforcement. There is a need to strengthen the judicial system and mechanisms, while also creating access to justice by developing citizen-friendly court systems and effective redress mechanisms.

It is extremely rare that a parliament is involved in CEDAW and CRC reporting, as parliaments only play an important role in the follow-up of recommendations on legislative reform.

Strategies must be developed to involve children in parliaments and in legislative reform initiatives. While some parliaments have involved children, they have done so in a limited manner. Public hearings have been organized during the legislation drafting process and during the monitoring process, where children have been involved. The UNICEF adolescent development and participation unit has experience in working with parliaments. The lessons learned from such experiences must be applied by practitioners.

# 4

## **Session 3: Discussion: Learning from Experience – Collaboration and the Way Forward**

Having learned from the rich experiences of various organizations, and the opportunities and challenges they have encountered in legislative reform to achieve human rights, participants discussed ways to collaborate and strengthen their efforts toward legislative reform. In considering the way forward, participants addressed the following questions:

- How can organizations refine their approaches to ensure that children’s rights are central to their strategies?
- How can organizations work together to advance children’s rights at global, regional and country levels?
- What strategies should be pursued to strengthen collaboration and advance sustainable development through legislative reform?
- How can organizations mobilize financial and human resources to support legislative reform? (Building internal capacity, assisting partners through partnership and participating approaches, building networks.)
- How can partnerships between key actors be formalized?
- How can high level commitment be ensured?

### **Highlights of the Discussion**

Refining approaches to ensure children’s rights are central to organizational strategies, and can involve the following:

#### **CULTIVATING A SKILL SET**

Within agencies, there must be specialized people available to work with parliaments, who are trained in political processes and have experience working in political environments.

WHO, in its experience in promoting legislative reform on mental health, often witnessed resistance to the human rights based approach. In order to overcome this resistance, WHO undertook extensive training of doctors and hospitals working on mental health. Over time, training was also requested from ombudspersons and parliaments, to learn more about human rights in mental health.

## **PLANNING FOR A LONG TERM PROCESS**

Bringing about legislative reform is a long-term process requiring long-term commitment and planning. It is important to be aware of the parliamentary cycle and political calendar in the country. It is important not to create unrealistic expectations. Donors must understand this, as they often dictate deadlines for achieving results.

## **SHOWING EVIDENCE**

In order to secure resources and commitment to support legislative reform, there should be evidence available to show results of a human rights based approach. Evidence is the foundation on which a strategy can be built for further legislative reform to achieve human rights. Documenting case studies, highlighting successes and showing results are important strategies to ensure integration of a human rights based approach in all legislative reform initiatives.

## **SUPPORTING PARLIAMENTS**

Organizations must provide parliaments with technical support, making sure they do not receive contradictory information. At the country level, a joint capacity assessment can be undertaken, which can be fed into an action plan for working with parliamentarians. In many countries, UN agencies have a focal point in the congress or parliament, involved in the law making process. It can be beneficial to build upon these contacts and use them as channels to forward joint messages.

Collaborating at global, regional and country levels to advance children's rights can involve the following:

## **UNDERTAKING JOINT RESEARCH AND ACTION**

UN organizations can undertake joint research, develop joint pilot projects and establish task forces on legislative reform to achieve human rights. Each organization has a special skill set and expertise that should be utilized.

It is important to ensure that there is commitment among the agencies and a common platform for them to work together. Work on the follow up to the Concluding Observations of the CRC and CEDAW Committees, may provide a basis for developing common ground among the agencies.

## **HARMONIZING NATIONAL LAWS WITH INTERNATIONAL STANDARDS**

At the outset of a legislative reform initiative, national laws should be compared to the international human rights treaties that the relevant country has ratified. UNICEF's Handbook for Legislative Reform details the process of reviewing national law against international standards. This can be a starting point for legislative review.

## **USING THE CCA AND PRSP AT THE NATIONAL LEVEL TO PROMOTE LEGISLATIVE REFORM**

At the national level, the Common Country Assessments (CCA) should include a comprehensive analysis of legislation in the country. While the legal analysis in most countries is currently led by UNDP, other agencies also need to take a deeper interest in it. Strategies to strengthen collaboration and advance sustainable development through legislative reform can involve looking at law reform policies within poverty reduction strategies. This has been done successfully in Bangladesh, where issues raised by children during the PRSP (Poverty Reduction Strategy Paper) consultation process, have been successfully addressed in national legislative reform. It is vital to integrate children, women and human rights issues in university curricula. UNICEF has prior experience in this area.

## Annex 1

### AGENDA OF THE EXPERT CONSULTATION

- 9.00 – 9.15 **Welcome – Objectives of the meeting**  
Elizabeth Gibbons, Associate Director, Gender, Rights & Civic Engagement Section, UNICEF
- 9.15 – 10.15 **Presentation 1: Legislative Reform to Achieve Human Rights: Experiences within the UN System**  
*Moderator: L.N. Balaji, Chief, Strategic Planning Unit, UNICEF*
- **WHO** (Marcus M. Stahlhofer, Technical Officer FCH/CAH)
  - **UNFPA** (Luz Angela Melo, Human Rights Technical Advisor)
  - **UNDP** (Kevin Deveaux, Parliamentary Development Policy Adviser)
- 10.15 – 10.45 **Discussion**
- 10.45 – 11.00 Coffee Break
- 11.00 – 12.00 **Presentation 2: Legislative Reform to Achieve Human Rights: Experiences within the UN System**  
*Moderator: Rangita de Silva de Alwis, Senior Adviser, International Programmes, Wellesley Centers for Women, Wellesley College*
- **ILO** (José-Maria Ramirez, Technical and Legal Officer, International Programme on the Elimination of Child Labour)
  - **DAW** (Christine Brautigam, Chief, Women’s Rights Section)
  - **UNICEF** (Susan Bissell, Chief, Implementing International Standards Unit, Innocenti Research Centre; Daniel Seymour, Chief, Gender and Rights Unit)
- 12.00 – 12.30 **Discussion**
- 12.30 – 2.00 Lunch
- 2.00 – 3.00 **Presentation 3: Legislative Reform to Achieve Human Rights: Experiences of Practitioners and Academic Institutions**  
*Moderator: Beatrice Duncan, Child Protection Expert, Ghana*
- **Columbia University** (Prof. Peter Rosenblum, Associate Professor and Co-Director of the Human Rights Institute, Columbia Law School)
  - **Inter-Parliamentary Union** (Kareen Jabre, Manager, Gender Partnership Programme)
  - **Amnesty International USA** (Daphne Jayasinghe, Acting Advocacy Director for Europe/Central Asia, Violence Against Women and Other Themes)
  - **Lawyers Without Borders** (Jeffrey L. Sheldon, McDermott Will & Emery LLP and Christina M. Storm, Founder and President, LWOB)
- 3.00 – 3.30 **Discussion**

3.30 - 3.45 Coffee Break

3.45 – 5.30

**Discussion on collaboration and way forward**

*Moderator: Elizabeth Gibbons, Associate Director, Gender, Rights & Civic Engagement Section, UNICEF*

**Wrap up**

Rangita de Silva de Alwis

Senior Adviser, International Programmes, Wellesley Centers for Women,  
Wellesley College

## Annex 2

### LIST OF PARTICIPANTS (EXPERT CONSULTATION)

<b>Organization</b>	<b>Name</b>
Amnesty International USA	Ms. Daphne Jayasinghe, Acting Advocacy Director Europe/Central Asia, Violence Against Women
Brazil	Mr. Paulo Henrique Ellery Lustosa da Costa, Federal Deputy, Brazil
Child Protection Expert, Ghana	Ms. Beatrice Duncan
Columbia University	Prof. Peter Rosenblum, Associate Professor and co-Director of the Human Rights Institute, Columbia Law School
DAW	Ms. Christine Brautigam, Chief, Women's Rights Section
DAW	Ms. Janette Amer, Social Affairs Officer
DAW	Ms. Gemma Connell, Programme Officer
ILO	Mr. Jose-Maria Ramirez, Technical and Legal Officer, International Programme on the Elimination of Child Labour
Inter-Parliamentary Union	Ms. Kareen Jabre, Manager of the Gender Partnership Programme of the Inter-Parliamentary Union
Lawyers Without Borders	Ms. Christina M. Storm, Founder and Chief Executive Officer, Lawyers Without Borders
Lawyers Without Borders	Mr. Jeffrey L. Sheldon, McDermott Will & Emery LLP
UNDP	Mr. Kevin Deveaux, Parliamentary Development Policy Adviser
UNFPA	Ms. Luz Angela Melo, Human Rights Technical Advisor
UNICEF	Ms. Marta Santos Pais, Director, Innocenti Research Centre
UNICEF	Ms. Maie Ayoub von Kohl, Principal Adviser, Gender
UNICEF	Ms. Elizabeth Gibbons, Associate Director, Gender, Rights & Civic Engagement Section
UNICEF	Ms. Susan Bissell, IRC, Chief, Implementation of International Standards on Children's Rights
UNICEF	Ms. Anne Skatvedt, Representative Jordan

UNICEF	Dr. L. N. Balaji, Chief, Strategic Planning Unit
UNICEF	Mr. Daniel Seymour, Chief, Gender and Rights Unit
UNICEF	Ms. Nadine Perrault, Human Rights Specialist, Gender and Rights Unit
UNICEF	Ms. Gbemisola Akinboyo, Human Rights Specialist, Gender and Rights Unit
UNICEF	Ms. Nicola Brandt, Programme Officer, Gender and Rights Unit
UNICEF	Ms. María Cristina Ramírez, Policy Analysis/Legal Reforms Specialist, Bolivia
UNICEF	Mr. Stephen Hanmer, Civil Society Partnerships
UNICEF	Ms. Katayoon Beshkardana, Intern
University of Connecticut	Ms. Nana Amos, Programme Manager, UNESCO Chair for Human Rights and Institute of Comparative Human Rights
Wellesley Center for Women, Wellesley College	Dr. Rangita de Silva de Alwis, Senior Adviser, International Programs
WHO	Mr. Marcus M. Stahlhofer, Adviser, Child and Adolescent Rights
WHO/PAO	Mr. Javier Vasquez, Human Rights Adviser

## Day 2: Panel Discussions

The second day of the Conference featured panel discussions that were open to a wider audience, bringing together close to 200 participants from UN missions, the UN system, parliaments, NGOs, law schools and other academic institutions—including experts in the fields of human rights, development and legislative reform.<sup>2</sup> The panel discussions were followed by questions and discussions.

The panel discussions centred on the following themes:

### **Panel 1: Promising approaches to achieve children’s rights**

The panel presented an overview of experiences from various legal systems and examined the extent to which these experiences provide opportunities for achieving rights entitlements, on the one hand, and development goals, on the other.

### **Panel 2: Advancing the human rights relationship between women and children through legislative reform**

This panel argued that children’s rights cannot be guaranteed in a framework that discriminates against women and diminishes their status. The legal status of women plays a significant role in shaping women’s socio-economic position in society and consequently the situation of children.

### **Panel 3: Legislative framework: enforcement and implementation**

This panel discussed the role of national human rights institutions, the judiciary and the legislature in enforcing and implementing legislative reform.

## 6

## Introduction

### **6.1 Opening Remarks and Release of the ‘Handbook on Legislative Reform: Realising Children’s Rights, Volume 1’**

Ms. Ann M. Veneman, Executive Director of UNICEF, extended a special thanks to the European Union for their support to the Conference. She also highlighted the IPU’s longstanding partnership with UNICEF and the significant work undertaken together by the agencies. IPU also supported UNICEF in organizing this conference.

Ms. Veneman noted that 20 November 2008 marked the 19th anniversary of the Convention of the Rights of the Child, while 10 December 2008 marked the 60th anniversary of the Universal Declaration of Human Rights. Over the past 60 years, legislation had played a key role in the achievement of human rights. During these years, several instruments had been adopted at the international level to support human rights, one of the latest being the Convention on Rights of the People with Disabilities (CRPD). Ms. Veneman noted that the forthcoming World Congress III against Sexual

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<sup>2</sup> Texts of a number of presentations from the Panel Discussions, including the Keynote Address and six other papers, are available in an Annex to this report.

Exploitation of Children and Adolescents (25-28 November 2008, Brazil) would also highlight legal reform and law enforcement as an important strategy to protect children from existing and emerging forms of sexual exploitation.

Agencies' experience in this area revealed that not only did legislative reform help in the achievement of human rights and sustainability of development; it also helped to empower the most marginalized members of society.

Ms. Veneman stressed that legislative reform must be strengthened at the national level, by promoting legislative frameworks, national human rights instruments and institutions that protect human rights, and promote children's survival and development. In order to support this work, UNICEF has recently published the Handbook on Legislative Reform: Realising Children's Rights. The Handbook serves as a guide for legislators, lawyer, judges and those who work with national legislation, to help make laws consistent with international legal frameworks.

## **6.2 Keynote Address**

Mr. Anders B. Johnsson, Secretary General of the Inter-Parliamentary Union highlighted legislative reform as a persistent and continuous process. Ratifying a Convention means that States commit themselves to being accountable for its implementation. This requires that national laws are in conformity with those provisions and, where they are not, reforming existing laws. However, there are no rules for legislative reform or for the nature and quality of the laws that are required. There are only standards that exist that must be adapted to the national context. Moreover, legislative reform is a collective effort which requires engagement with parliamentarians, the executive, the judiciary, law enforcement agencies and civil society.

Legislative reform must create space to listen seriously to children's views and to act upon them. It is important to involve children not only on matters of child protection laws, but also during legislative reform in other sectors that impact on children. In other words, legislative reform must be holistic.

Legislative reform must be accompanied by law enforcement mechanisms that allow monitoring of their implementation, to ensure that the legislation has the desired impact, without adverse effects. This requires that legislative reform be supported by adequate resources. It is also important to ensure that national laws are in harmony with the laws of neighbouring countries.

For effective enforcement of the laws, they must be known and understood. This means engaging with the media, the private sector and civil society to create a mass public education campaign that highlights the provisions of the law, its enforcement and monitoring mechanisms. At the same time, educational curricula in the schools should be reformed to be in conformity with the CRC.

Moreover, for countries emerging from conflict, redrafting their constitutions presents an important opportunity to reform their legislation. Countries can also use the reporting process to the CRC Committee as a time to initiate change in their legislation and make proposals for improvement. It is crucial that members of parliament are involved in this process and undertake debate on the issues presented in the report. They should also be encouraged to meet with the CRC Committee when their national reports are presented and to follow up on the recommendations made by the Committee.

# 7

## Panel 1: Promising Approaches to Achieve Children's Rights

The overall moderator for the Panel Discussions was Ms. Beatrice Duncan, Child Protection Expert, UNICEF Ghana. Ms. Marta Santos Pais, Director, UNICEF Innocenti Research Centre, was the moderator for Panel 1, which featured six presentations.

The panel presented a series of approaches to legislative reform that are concerned with understanding the critical indivisibility of civil and political, cultural, economic and social rights from an inter-disciplinary perspective. These approaches provide opportunities for comprehensive and holistic legislative reforms that require State Parties to examine not only the whole spectrum of legislation and regulations that affect the realization of children's rights - from constitutional to penal reforms - but also institutional reforms and resource allocation for enforcement and implementation. The panel presented an overview of experiences from various legal systems and examined the extent to which these experiences provide opportunities for rights entitlements, on the one hand, and achievement of development goals, on the other.

### HIGHLIGHTS FROM THE PANEL

- Legislative reform is a reflection of States' accountability for children's rights and must be guided by human rights principles (e.g., universality, indivisibility, inalienability, interdependence and interrelatedness, inclusion, non-discrimination, participation), as well as by the CRC general principles (non-discrimination, best interests of the child, survival and development, participation).
- During the process of law making and in its promotion, a process of social change can occur.
- Legislative reform can successfully build upon a convergent platform of standards and implementation lessons that address children's and women's rights while recognizing their interrelationship.
- In legislative reform, it is critical to reflect the paradigm shift in the perception of childhood, from protection to empowerment.
- Legislative reform is a long-term process that requires key actors and agencies to be systematic, active and patient.
- Reform of national legislation cannot be promoted in a vacuum; it must consider the social reality of the country and go hand in hand with a strong social investment in children.
- Monitoring law enforcement is important to assess impact, identify gaps and enable the perspectives of users to fuel further change.

## 7.1 Promising Approaches to Achieve Children's Rights: An Introduction

*Ms. Marta Santos Pais, Director, UNICEF Innocenti Research Centre (IRC)  
Chair and Moderator, Panel 1*

The first presentation highlighted the remarkable progress made in legislative reform around the world. There was now a need to reflect together on how to strengthen legislative reform in the years to come.

The Innocenti Research Centre (IRC) has traced some of the progress made in this regard across many countries. Some of the research revealed that a strong legal framework is effective in the process of fulfilment of the rights of children. The CRC has been widely ratified, and this provides many opportunities to initiate child rights based legislation. When a State ratifies a treaty there is an assumption that an overview of the national legislation takes place after the ratification. However the ratification is only a starting point.

States must adopt measures to ensure that the CRC is enforced at the national level. In the first wave of CRC implementation reports, countries demonstrated their commitment to CRC by listing all the legislation enacted since they had ratified the CRC. This was not sufficient, however. Legislation is critical but it is insufficient in bringing to reality the enforcement of any treaty. Legislative reform is a long-term process; attaining children's rights is an immense agenda that cannot be realized in the short run. Moreover, in a globalizing world, there must be a complementary collaboration on legislation across borders.

Children need to be at the centre of all legislative reform. Their perspectives must inform the legislative reform process. This requires a generation of new interventions at the legislative level, providing children with a platform to share their views.

A number of trends are visible in legislative reform across the globe. Generally, before the ratification of the CRC, laws in many countries addressed only younger age groups. New legislation now addressed all persons below the age of 18. In some cases, children's rights had been given a constitutional ranking, the highest standing in the national legal framework. Countries such as Brazil, South Africa, and the CEE/CIS countries had adopted new constitutions, adding new provisions so that children's rights are recognized. In other cases, amendments were introduced in existing constitutions, as was the case in India, on the right to education. It is important to acknowledge that the Convention has been incorporated into much national legislation. Very often States use the CRC as an interpretation tool to ensure that laws reflected children's best interests. The integration of the Convention has taken on many hues. In some cases, a children's code or comprehensive law had been issued. In other cases, specific laws for different sectors had been developed.

Key lessons from IRC's comparative analysis of law reform based on the CRC in 52 countries indicated that legislative reform is a long term and participatory process that needed space for participation of a wide range of stakeholders, including those concerned with the development and implementation of the law. This is particularly important for overcoming harmful traditional practices, where law enforcement required

the engagement of religious and community leaders, academics, parliamentarians and civil society.

Legislative reform should be supported by advocacy to create awareness about its provisions, enforcement and monitoring mechanisms. It should be complemented by educational reform, appropriate financial resources, and the coordinated efforts of child rights institutions. An impact assessment of legislation on children, before and after law enactment, was also crucial.

Legislative reform is a process about children but also for and with children, which requires that all children are able to understand the provisions in the law and are given access to its mechanisms. Investment is required to make the legislative reform process child friendly, creating familiarity with the notion of children's participation.

## **7.2 Integrating the Human Rights Based Approach to Legislative Reform**

*Dr. Rangita de Silva de Alwis, Senior Adviser, International Programmes, Wellesley Centres for Women, Wellesley College*

This presentation highlighted the fundamental principles of human rights based legislative reform, connecting them to children's rights.

The human rights principle of universality transcends national boundaries, bringing together all nations and people as one global community. The principle of indivisibility creates a linkage between human rights and child rights. It locates child rights within the interlocking web of human rights treaties.

The principle of equality and non-discrimination connects children's and women's rights. Women's unequal access to citizenship rights affects children's access to rights. The principle of participation emphasizes expanding the law making process to ensure inclusion of multiple perspectives, including those of children.

Understanding children's rights in the context of human rights entails viewing children as rights holders. This understanding is also an effective way to resolve the conflict between children's and women's rights. Children's rights must be seen in the context on gender equality. Very often gender stereotyping is rooted in childhood. Male child preference and the devaluing of the girl child leads to limited access of the girl child in terms of education, health care and so on. These biases even affect the boy child, who models this behaviour.

In order to incorporate the human rights based approach into a domestic legal framework, the spirit of international treaties must be integrated into constitutions, where the opportunity for their development or amendment exists. Constitutions define the fundamental political principles, and establish the structure, procedures, powers and duties, of a government. Influencing constitutions can result in powerful outcomes.

The legislative framework of a country includes the entire legal landscape. Children's laws don't exist in a vacuum. Gender laws, development laws, family laws, land laws—among others—affect the well being of children. One law might conflict with another. In

such cases, treaties can become powerful interpretative tools to clarify ambiguities in domestic laws.

For legislative reform to be effective, independent court systems, parliaments, and national human rights institutions must be sensitized to children's rights. These institutions raise the accountability of all state actors thereby strengthening the human rights based approach. .

There is a need to re-envision law reform as a dynamic, organic process and not as an end in itself, but something that galvanizes, mobilizes communities, makes human rights more visible.

### **7.3 Constitutional Reform and Children's Rights**

*Dr. Dessima Williams, Chair, National Inter-Agency Group of Development Organizations,  
Grenada*

This presentation provided examples of what has been achieved in the Anglophone Caribbean with regard to constitutional reform and children's rights. The objective of the presentation was to present and test the question whether legal pathways—specifically the constitutional and the legislative—lead to the empowerment of children by securing their legal rights.

Grenada is a majority Christian society where abortion is illegal and contraception is not easily available. Most households are female-headed and are below the poverty line. According to Grenada's constitution and legislative assembly, the age range of authority that children hold (or do not hold) is as follows:

- Age of criminal responsibility is 7 years
- Age of paying departure tax is 12 years
- Age of compulsory education is 15 years
- Age of sexual consent is 16 years
- Minimum age for driving and voting is 18 years
- Minimum age for drinking and marriage without parental consent is 21 years

Grenada ratified the CRC in 1990. In 1991, the Status of the Child legislation was passed, providing equal recognition to children regardless of the marital status of their parents. In 1994, the adoption law was standardized. In 1998, the Child Protection Act was enforced. This was followed by the establishment of a Child Welfare Authority in 2000, which was responsible for the implementation of the Child Protection Act. The Child Maintenance Act 1991 allows women, to bring to court fathers that are delinquent in payment for the support of their children. The Domestic Violence Act 2001 is also applicable to children as it is to their parents and family. In 2001, the Education Reform Law enforced compulsory education in Grenada.

Grenada gained independence in 1974. While enormous legal, social and economic progress has been made since, the country still faces many difficulties. Climate change poses a major threat to the islands. Instruments for social and economic advancement are still weak. Law making processes and bodies must promote the advancement of welfare of children. There should be a movement to shift understanding of human rights

from being about protection to being about empowerment. This should be achieved through mass human rights education.

## **7.4 Translating the Convention on the Rights of the Child: Egypt's Experience**

*Ambassador Moushira Khattab, Secretary General of the National Council for Childhood and Motherhood, Egypt*

Reforming Egypt's children's law was a highly participatory process involving over five years of advocacy centred on the CRC. It culminated in June 2008 with the adoption by the Egyptian Parliament of Amended Child Law no. 126/2008, which is comprehensive legislation that recognizes and secures the rights of marginalized children. The legislative reform resulted in comprehensive amendments to child law no. 12 passed in 1996.

The process included preparing the society for the new and amended laws and raising public awareness of its importance. There was genuine partnership with civil society, children and the UN agencies led by UNICEF. The process was challenging, as it was shrouded with a climate of religious conservatism. Additionally, some factions considered the amendments to be of "foreign nature".

The amendments have been very comprehensive and carefully woven to provide the maximum protection for the most vulnerable. They comprised over 110 articles out of the total of 140 articles. This was in itself a strategy whereby if the reform omitted an issue in one article, it was provided for in another. Article 1 of the amended law mentions that the State will ensure, as a minimum, the rights provided by the CRC and other international treaties enforced in Egypt. Overall, the legislative reform ensured strong consolidation of the letter and spirit of the CRC and the obligation of the State to implement it.

The four General Principles of the CRC – namely Non Discrimination (Article 2), Best Interest of the Child (Article 3), Right to Life, Survival and Development (Article 6) and the Right to be Heard (Article 12) – were asserted as rights as well as principles in Article 2 of the revised law. Moreover; they guided the letter and spirit of the amended law.

At the forefront of these legal amendments, was the issue of violence against children, in particular targeting marginalized children.

Civil rights and freedoms emphasize children's right to free birth registration. Children have the right to know using the latest scientific technologies and carry the name of the legitimate (not biological<sup>3</sup>) parent. Children of known mothers and contested paternity were granted, much to the dismay and resistance of conservatives, the right to birth registration by the mother. The minimum age of marriage of girls has been raised to 18 years, equal to that of boys. This article is added to the Civil Code.

The right to education empowers children to access education. A child deprived of education is treated by the law as a child at risk in need of further protection. Depriving

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<sup>3</sup> In conformity with Article 7 para.1 of CRC.

the child of education is now an offence punishable by law. The State is committed to provide financial assistance to assist poor children to access and continue their education. Education guardianship granted to the custodian of a child, in most cases the mother. This provision also faced strong resistance but was passed without strings attached.

The rights of children with disabilities are granted in accordance with the CRC including the right to inclusive education, rehabilitation, reintegration and responsibility of the media to educate the society about the rights of children with disabilities. The right to protection from violence is a cross-cutting theme, whereby all amendments were added to the penal code. FGM is criminalized with a hefty fine and imprisonment. Trafficking of children, is clearly defined and criminalized, with extraterritoriality insured. This includes transfer of organs, and exploitation of children in prostitution and pornography, including through the Internet and cartoons. Violation of the right of the child to privacy is punishable by a heavy penalty. Worst forms of child labour as defined by ILO Convention 182 are criminalized as well.

The right to protection from corporal punishment (CP) is stipulated as a general provision, but the law does not stipulate for a penalty. Prohibition of CP in the home was strongly opposed. Increased emphasis is required on mandatory reporting of violence, and in this regard there was strong opposition that led to serious reservations on the text.

Realizing the rights of children of imprisoned mothers commits the state to establish a nursery in every female prison. The child can accompany a mother until he/she reaches four years of age and cannot be separated until the child turns one year old. A completely transformed new decentralized protection system is established including at the local level, enhancing the role and ownership of local community. Along with protection Committees NCCM child helpline network is legally acknowledged as protection mechanisms. The entry point for protection is ensuring that marginalized children access their right to quality education.

A new reformed restorative juvenile justice system now categories children as follows: those at risk; in need of strengthened protection versus liable to perversion; victims and witnesses to crime; and children in conflict with the law. The focus is on preventing child delinquency and reintegration of children at risk. In another achievement; that surprisingly went without too much hassle, the minimum age of criminal responsibility has been raised from 7 to 12 years, with corrective measures only for children below 15 years of age. The deprivation of liberty is now regarded as a last resort and for the shortest possible duration with periodic review. No imprisonment during investigation is allowed and there cannot be life imprisonment or the death penalty for children under 18. . Finally, the way has now been paved for the establishment of specialized child courts and child-sensitive judges and social workers (including at least one female worker) are to be put in place.

The passage of these amendments has been a great success, especially in view of the conservative wave in Egypt. Despite the outstanding success of the amendments, many challenges remain such as:

- The full implementation of the law needs continued societal awareness of its importance. The media has a very important role to play.

- Raising awareness and capacity building of all professionals dealing with children is crucial. The challenge is to attract, especially the judiciary and law enforcement officials to the notion of training.
- The implementation of the law requires allocation of adequate resources. How can we do this against a culture that treats children's matters as non-issues?
- The success of any protection policy is in the prevention of child delinquency. This requires a number of ministries and NGOs to focus on vulnerable children, such as those liable to drop out of school, to become street children, to join the labour market, or to become victims of sexual exploitation.
- Rehabilitation of the victims needs to be strengthened.
- A stronger centralized and disaggregated data system with emphasis on marginalized children needs to be accelerated.

A strong system of monitoring and evaluation is required to ensure law enforcement.

## **7.5 Implementing Children and Women's Rights: Experiences from East Asia**

*Prof. Susan Roosevelt Weld, Policy Director of Georgetown University Law – Asia*

### *Improvements and Developments in East Asia*

Following the ratification of CEDAW in China, a national law on protection of the rights and interests of women was passed. This generated interest in working for women rights in China using the Convention. The law included sections on domestic violence, while also supporting preferential policies in employment and politics in order to support gender equality. China also eventually put criminal laws against trafficking and child prostitution. Later, the Ministry of Education also created funds for the education of girls. The laws provided teeth to CEDAW, filling in various gaps in the Chinese domestic legal system.

There were several ways in which China was able to ensure implementation of the laws. It used "mass-line", a tool of the national government party, to gather ideas, notions and thoughts of the public. In addition, local women's committees, under the All China Women's Federation, monitored the progress of implementation.

When the time came for China to report to CEDAW, a lot of progress had been made at the legislative level, but cultural biases towards women still remained. The emphasis on tradition as the source of social evils, did not apply in the case of China. It was seen that many cases of girl child abortion in China were the result more of China's one child policy than of traditional norms. In cities, the girl child continued to thrive, but this wasn't the case in the countryside, where the issue was linked to the inheritance of land.

As for the implementation of legislation, a "supervision from the top" model was used to ascertain whether the law was being followed. This model did not work. What was needed was a legal empowerment and protection programme for women. Although Chinese citizens can freely question all layers of the government, they seldom receive answers. The complaints mechanism needed to be made transparent.

In Japan, women in the workplace have a long way to go to achieve gender parity. Japan's Equal Employment Opportunity Law, had not been greatly effective in improving

the situation of Japanese working women. Korea has been declared a model in improving women's rights, having developed a gender equality scale—an assessment tool that other cultures could also adapt.



## **Panel 2: Advancing the Human Rights Relationship between Women and Children through Legislative Reform**

Ms. Christina M. Storm, Founder, Lawyers Without Borders was the panel moderator.

The panel argued that children's rights cannot be guaranteed in a framework that discriminates against women and diminishes their status. The legal status of women plays a significant role in shaping women's socio-economic position in society and consequently the situation of children. In many countries the imbalance between men and women in social, economic and political spheres negatively affects the situation of children. Addressing gender-based discrimination and violence against women and children is crucial to establishing equitable legal regimes that facilitate the realization of the rights of both women and children.

Both the CRC and CEDAW are based on the principles of human rights and reaffirm human rights as universal, indivisible and interdependent. The panel argued that within the human rights framework, the underlying commonality of issues and experiences between women and children become apparent. The panel focused on a few areas in order to illustrate how taking full advantage of the relationship between the human rights of women and children can lead to legislative reform processes that promote the rights of both groups efficiently.

### **HIGHLIGHTS FROM THE PANEL**

- Ensure consistent understanding of human rights and human rights instruments within the UN agencies, across their global, regional and national programmes.
- It is not just the empowerment of women alone that would benefit the wellbeing of children. It applies vice versa too. The CRC also leads to the empowerment of women.
- States are plagued with the “prevention legislation dilemma”—i.e., when rights are violated the State has the capacity to condemn the violation and protect the victim; however, the State needs laws that prevent the violations of rights in the first place. The inclusion of preventive strategies within laws to safeguard children's rights can be challenging. For instance, ending child pornography on the Internet can require making laws that invade privacy. Similarly, building a preventive mechanism within anti-spanking laws in families can be challenging as most often families are considered a private domain. Moreover there is a fear of over-criminalization of parents.
- The law reform process must allow for a child-centred approach, creating space for children to be involved in it.
- Keeping with the principle of indivisibility, specialized agencies should work not in a vacuum, but with each other, to support creation of laws that are holistic.

## **8.1 Legislative Reform and Traditional Practices: Gender-Based Discrimination**

*Mr. Mélégué Traoré, Member of Parliament and Former Speaker of Parliament, Burkina Faso*

The presentation focused on efforts being undertaken to eradicate female genital mutilation (FGM) in Burkina Faso. The presenter drew on his own experience as a village chief.

There are more than 60 tribes in Burkina Faso. While some practise FGM, others forbid it. Today more than 70 per cent of women in Burkina Faso are affected by FGM.

The struggle against FGM has involved several steps over a long period of time. It was the European missionaries who took the first step against the practice, but it was a marginal effort. The second step came in the 1970s, when women's associations and NGOs acknowledged that FGM was a tradition, but asserted that people could fight against and can still "be an African", i.e., retain one's identity.

However, the women's associations' fight against FGM was not enough to eradicate the practice. The third step was taken by the government. In the 1980s, government leaders made a big social move, including making the fight against FGM a central issue. This step was crucial, as without the government's support, not much success could have been achieved.

The fourth step came in the 1990s when a law was adopted to change the penal code in Burkina Faso to criminalize the practice of FGM. The law was important, but it was not the last step, nor was it sufficient to changing the practice. The law needs to be enforced to be made effective. The movement to enforcement must involve citizens, the government, and especially the village chiefs. And once you have the agreement of a chief, you have the agreement of the tribe.

A participatory process, involving many stakeholders and actors, was critical to social change. The process is not easy, and differs according to the rural and urban locations. Since half of Burkina Faso's citizens are Muslims, there are now efforts to involve Islamic leaders, as well as the Catholic Church.

## **8.2 Gender Equality and Anti-Discrimination Laws: Their Impact on Advancing Women's and Children's Rights**

*Dr. Rangita de Silva de Alwis, Senior Adviser, International Programs, Wellesley Center for Women, Wellesley College*

This presentation looked at new developments in gender laws, focusing on work-family obligations; informal labour; parental leave and gender quotas. The presentation highlighted the use of education to remove gender stereotypes and state legislation on childcare, illustrating how gender roles in the family were being recreated through legislative reform, thereby achieving gender parity at the workplace.

Conflict between work and family obligations is a major factor in impeding gender parity. In the public sphere, women suffered unequal access to employment and were still subject to a wage gap, earning less than their male counterparts for equal work. Ensuring gender equity in the workplace required a balance between work and family.

It is important to look at creative and innovative ways to make these laws real in the lives of women, men and children. Education is key in creating enabling environments, including education on human rights norms and on combating gender stereotypes.

There is a need to legislate for quality childcare, in order to create structures for the well-being of children that allow men and women to participate equally in the workforce. At the same time, legislation should steer clear of reinforcing traditional stereotypes.

Further challenges include defining the head of household – another construct that is slowly being dismantled around the world, but is not necessarily being recognized in the law. Laws and customs may reinforce that men are head of households in many cases, which can directly impact children's access to services. With more men seeking work outside the home, in cities away from their families, leaving women to be de facto heads of households, this is an important issue to address.

#### **SOME COUNTRY EXAMPLES OF LAW REFORM:**

Sweden was one of the first countries to alter men and women's traditional roles in the family, by passing progressive laws. The Gender Equality Law of Iceland makes it clear that the work family reconciliation is the stated goal of the Act. Finland's Act on Equality Women and Men 2004, recommends the development of working conditions such as flexible time. Gender Equality Laws in Slovenia and Ukraine highlight workplace equality is dependent on equity within the family. Laws in Tajikistan and Kyrgyz Republic, reflect the need for both sexes to be involved with family responsibilities. The newly drafted Gender Equity Law in Vietnam highlights equal role for men and women in the household.

In order to encourage participation of women at the workplace, Sweden, Norway and Spain have developed progressive laws. Moreover, several recent law reform initiatives in Croatia, Ukraine, Bulgaria and Vietnam, have included creative provisions to address gender stereotypes through education. The Barcelona European Council, Vietnam and Sweden have laws that mandate State responsibility for child care. The Gender Equality Law of South Africa outlaws customs that affect the security of the girl child.

Some radical and revolutionary methods are being implemented in attempts to transform the workplace. Many countries have revised their laws in an attempt to encourage fathers to participate more actively in the care of their children such as Norway and Iceland. In Norway, if the fathers do not take parental leave, they lose the leave.

Despite the availability of family leave, women are reluctant to take advantage of those opportunities in light of perceived risks to their career advancement. Acts in Sweden, Japan and Bosnia and Herzegovina make a special provision on this issue. In Spain, for example, gender equality laws outline that Spanish companies that achieve more balanced gender in executive positions will receive more favourable treatment when bidding for government contracts.

### 8.3 Eliminating Violence against Women and Children: Legislative Frameworks to Address Sexual Exploitation

*Mr. Paulo Henrique Ellery Lustosa da Costa, Federal Deputy, Brazil*

Brazil has a rich social network system. However, given the size of the country, many advances have not reached the entire country. There are about 5,500 municipalities in Brazil, with population in cities and towns varying from 2,000 to more than 10 million people, with vast differences in wealth and resources.

Given this scenario, how do children's rights enter the legislative process and how does the government participate in legislative reform?

The institutional framework has three components. One is the Human Rights Commission, which has a diverse representation and is supported by qualified consultants who support the debate. The commission deals not only with child rights, but also with rights of other groups such as the minority population. It is charged with law making, human rights compliance, and liaising with international organizations on human rights issues, among other functions. The Commission also supported the legislative dialogues for the World Congress III against Sexual Exploitation of Children and Adolescents (to be held in Brazil from 25-28 November 2008).

Another body in the framework is the *Frente Parlamentar pelos Direitos das Crianças e Adolescentes* (Parliamentary Front for the Rights of Children and Adolescents). This is a multiparty network of congress members dealing not only with legislative issues related to childhood and adolescence, but also with follow-up on national indicators, public policies and federal expenditure on policies aimed towards children and adolescents. It works together with local, national and international civil society organizations on these issues.

The third element in the framework is the House of Representatives, which has a consultative team, supported by *Frente Parlamentar* and the Human Rights Commission in developing projects and activities.

#### *A timeline of legislative reform on child rights in Brazil:*

- 1979 – Código de Menores (Code of Minors) developed
- 1988 – Federal Constitution was formed
- 1990 – Estatuto da Criança e do Adolescente (Child and Adolescent Statute) established
- 1993 – Officer Training on Frente Parlamentar undertaken
- 1993 – Parliamentary Enquiry Commission on child prostitution set up

In 2003-2004, a Parliamentary Enquiry Commission on sexual exploitation of children and adolescents was set up. During the work of the commission, 800 cases were raised, of which 80 received special attention from the media and the committee, 34 resulted in prosecutions, and seven of those cases were tried. There were convictions in three of the cases; another 18 cases are in the pre-trial phase. Only three surveys have met the deadlines.

During 2007-2008, a Parliamentary Enquiry Commission (Senate) on Paedophilia on the Internet was established. This was the first time that Google allowed the secrecy of online albums to be breached. More than 2,000 albums including child and adolescent pornography were uncovered.

In addition, five bills related to the Parliamentary Enquiry Commission on Sexual Exploitation had been approved by the House of Representatives. One law has also been sanctioned by the President in 2005. Recently the House of Representatives signed an ILO Cooperation Agreement on child labour.

Every year Brazil hosts both a Children's Congress and an Adolescents' Congress. Of the various issues raised by children and adolescents, some have been adopted into laws. For example, a child lobbied for a law forbidding the use of certain types of transportation for children to go to school. That law has now been realized.

Brazil is looking forward to improving existing legislation, to make it more child friendly, following a child-sensitive approach, involving more children in the law making process. It needs to improve oversight, assessment capacity and budgeting. It continues to deal with the "prevention legislation dilemma" – i.e., once rights are violated the State has the capacity to condemn it and protect the victim; however the State needs laws that prevent violations of rights in the first place.

#### **8.4 Legislative Reform and Children's Right to Health in the Context of PAHO'S Technical Collaboration**

*Dr. Javier Vasquez, Human Rights Adviser, Pan American Health Organization/World Health Organization*

The Pan-American Health Organization (PAHO) uses human rights standards to promote the right to health. PAHO is also part of the Inter-American Commission for Human Rights (IACHR), and most of the approaches and strategies developed by PAHO are in conjunction with the IACHR.

Obstacles experienced by PAHO in promoting the right to health include lack of access to sexual and reproductive health, forced sterilization, lack of essential medicines, poor mental health treatment, and management of biological waste among others.

There is limited awareness of international human rights standards and norms among health professionals. It is a challenge to gather and clarify human rights norms that apply to health care. Most health care professionals are ignorant of such issues. Moreover, there is limited participation of civil society organizations, particularly in the area of human rights law. There is also a lack of national mechanisms to monitor the right to health of children and young people in the context of a transparent accountability of health institutions, centres and facilities.

Building a strategy concerning the human rights and health of children in an organization composed of member states, requires a highly political approach. In the past year, PAHO has adopted a regional strategy for improving adolescent and youth health (2008), based on the CRC and the Constitution of WHO. The strategy lists the conventions that apply to reform of plans and laws. An action point in the strategy says

that national health policies and legislation have to be in accordance with the CRC and other UN and regional human rights instruments. Another strategy includes capacity building of health and service providers with regard to issues such as confidentiality, privacy, informed consent, equal protection of the law and non-discrimination. The strategy attempts to focus on the right to health in the most holistic manner.

PAHO is also reviewing national policies and plans in twelve countries, using the provisions on the right to health of children, stipulated in the CRC; IACHR; and the Inter-American Court of Human Rights. This is another opportunity for PAHO and WHO to collaborate with governments to incorporate human rights provisions in their legislation.

PAHO's approach is to focus on the right to health as a whole, rather than only focusing on the health of children and adolescents. Right to health is linked to many other human rights. It is important for specialized agencies to work not in a vacuum, but with each other.

# 9

## **Panel 3: Legislative Framework: Enforcement and Implementation**

Ambassador Mushira Khattab, Member of the Committee on the Rights of the Child; was the moderator of Panel 3. The panel discussed the role of national human rights institutions, the judiciary and the legislature in enforcing and implementing legislative reform.

### **HIGHLIGHTS FROM THE PANEL**

- Special attention should be paid to the recommendations of the CRC and CEDAW Committees, which find a gap preventing implementation of the law.
- Many times it is not a question of resources but a matter of belief that the institution can work, which results in the establishment of National Human Rights Institutions.
- International laws can create a public space for debate in countries where domestic laws are not as developed.
- International laws give a new role and mandate to the UN, particularly the Security Council and treaty bodies such as CEDAW and CRC.

### **9.1 Promoting Women's Rights through Shari' a in Northern Nigeria**

*Mr. Vincent Del Buono, Former National Coordinator, Security, Justice and Growth Programme, DFID/British Council, Nigeria*

A project to promote women's rights through Shari'a (Islamic religious law) in Northern Nigeria, established in 2003 through a partnership between the Centre for Islamic Legal Studies at Ahmadu Bello University, Zaria and DFID's Security, Justice and Growth programme, was based on the strategy that in this case, the legal reform ideally should

not be accomplished by legislation, but through a re-statement of what Shari'a law required. While there are lessons to be learned from this project, these experiences are not advocated necessarily as a model for any other context as it was the particular socio-political/historical climate of northern Nigeria which made the strategy feasible at the time.

Factors influencing the project included the revival of Islamic fervour with the return of democracy in 1999. There was continuous social disintegration, including family breakdown in Northern Nigerian society because of increase in poverty resulting from de-industrialization and globalization. Around the same time, there was mobilization of world opinion against unfairness of the sentence of stoning to death of Amina Lawal, a Nigerian woman for adultery. In many parts of northern Nigeria, this criticism was considered to be anti-Islamic.

International commitments and the mandating of programmes to advance human rights and work with women's groups created a positive environment for the project. Speeches by Cherie Blair, Q.C. on "Women's rights are human rights" and "All rights are indivisible" in December 2003 in Abuja sent a powerful message. Moreover, in 2003-2004, consultations with women revealed that their most pressing legal problems dealt with personal and family law issues such as divorce, custody and inheritance, have been traditionally dealt with through Shari'a.

#### **CENTRALITY OF SHARI'A IN PERSONAL (FAMILY) LAW MATTERS**

Shari'a, in particular, the Maliki school, has been the applicable law in personal law (family law) matters since at least 1804 in Nigeria. The customary courts in the northern states are Shari'a Courts. The Federal Court of Appeal hears all appeals as to interpretations of Shari'a, while the Supreme Court of Nigeria is the apex court of Shari'a matters.

Given this background the project was based on the assumptions that,-

- given the high public support for Shari'a, any public discourse advancing women's and children rights had to be grounded in Shari'a;
- given a public mood (after the start of the war in Iraq) which perceived international organizations as pro-West and anti-Islam, any discourse advancing women's and children's rights based on international standards risked being a non-starter;
- observance of women's rights under Shari'a would be an improvement on current traditional practices; and
- the object of law reform was not just to change the law (that was an instrumental step) but to change the behaviour that is guided or regulated by the law.

The project methodology included documenting existing practices with regard to promoting women's and children's rights in Northern Nigeria. Consultations were undertaken with women's groups to identify their issues. Leading Islamic scholars were brought together to pronounce on what the Shari'a permitted and mandates in personal law matters. One-third of these scholars were women. Existing practices were evaluated to see whether or not they complied with most authoritative views of Shari'a. In March 2005, the Centre organized an important consultation to which the governors, senior judges from high courts and Shari'a courts, women's organizations and imams were invited, to examine the draft of the project report. which dealt with women's rights in the Islamic context; specifically practices related to the girl child, marriage and marital relations, divorce, custody, economic rights, inheritance, property ownership, access to

health and reproductive health services, political participation, access to justice including criminal justice .

The consultation endorsed the report and formulated a two year Plan of Action for taking the recommendations forward. Some 10,000 copies of the report and the Plan of Action were printed in English and Hausa and disseminated widely. The report and Plan of Action were presented formally to the governors and other opinion leaders throughout 2006. The report was also presented to the judiciary who adopted it as the most authoritative statement of Shari'a. In fact, the Federal Court of Appeal signalled that all Shari'a judges should be guided by it in deciding cases. The Plan of Action was meanwhile implemented by women's groups across the North.

BBC Trust had developed as part of its media capacity-building programme in Nigeria, a radio drama series titled "Gatanana Gatanan Ku" (meaning "story, story"). The drama series incorporated the report's recommendations and research into its scripts. The series was heard on BBC's Hausa Service by millions across West Africa. The radio boasted of high listener-ship of about 87 per cent of the population in Northern Nigeria. There is strong evidence that listening to the radio drama changed behaviour. 54 per cent of the population in Jigawa State (4.5 million total population) and thirty-three percent in Kano State (total population of 7 million) in Northern Nigeria said they listened to this radio programme. As a result, people mentioned that they had a better sense of what a harmonious family looks like and some had stopped sending their girl child out to hawk goods and instead sent them to school.

*Promoting Women's Rights through Shari'a in Northern Nigeria* is available at <http://www.dfid.gov.uk/pubs/files/promoting-women-sharia.pdf>

## **9.2 Using International Law to Leverage National Legislation: Lessons from the Field**

*Ms. Janet Benshoof, President, Global Justice Center, USA*

The Global Justice Center (GJC) is a human rights legal organization with a clear mission to ensure that equality rights are foundational to the building of a human rights-based global legal regime. Although new laws, new constitutions and new international treaties over the last twenty years have produced a sea change in legal equality guarantees, these remain largely un-enforced. This is true even for transitional "democracies" that have new Presidents, Parliaments, laws and constitutions (but, notably, the same old judges).

New international laws embodying international humanitarian and human rights norms increasingly define equality in ways that call for gender parity in power structures, not just for women to be free from being abused or denied rights such as voting. International treaties, such as CEDAW, CRC, and the Rome Statute of the ICC, and various Security Council Resolutions, such as SCR 1325 and SCR 1820, provide the legal tools to jump start a change in the paradigm of "women's human rights," from one in which law is viewed as a means to address abuses to women to one in which enforcing equality guarantees includes mandating structural changes that dismantle entrenched patriarchal decision-making bodies, the biggest obstacle to enforcing equality rights at the national and international level. This includes advocating for such

remedies as compulsory gender parity in the judicial branch, particularly for Supreme or Constitutional Courts. “Power not pity” is how GJC views enforcing equality guarantees. International law imperatives both reflect and create global norms. Revolutionary changes in equality guarantees under international law, along with advances in other human rights norms, must change how we define a “democracy”. Any government in which men remain “the governors” and women “the governed” is not a democracy.

GJC partners with democracy leaders, judges, and policymakers in conflict areas and transitional democracies in order to provide these key agents of change with the legal tools necessary to develop a rule of law regime that comports with international human rights guarantees and that has equality as its cornerstone. This legal advocacy must start not when a country is “in transition,” but earlier – before the finalization of peace agreements, as these increasingly shape future decision-making processes and serve in effect as “pre-constitutions.”

We are in the midst of a globalization of law, not the least of which is the transformation of human rights norms into international law mandates. Twenty years ago we had neither all of the treaty oversight bodies, such as the UN Committees governing CRC and CEDAW, nor developed regional human rights courts, such as the European Court of Human Rights, the Inter-American Court of Human Rights and the nascent African Court for Human and Peoples’ Rights. The advent of the permanent International Criminal Court (ICC) and the cooperation agreement between the United Nations and the ICC is another milestone and provides an impetus — for parties to the Rome Statute, an obligation - to reform criminal laws domestically.

The very purpose of this UNICEF Conference, implementing human rights in national legislation, demonstrates how far we have come in the shared presumption that human rights treaties must be universally implemented and enforced so that they actually benefit those people on whose behalf they were drafted. Further, there is a shared consensus that transnational models and precedents for implementing international laws such as CEDAW, which has been ratified by 186 countries, and CRC, which has been ratified by 193 countries, are both useful and appropriate.

We are here today because in order for these international legal rights to be translated into genuine changes for the people whose lives are affected, there needs to be domestic and regional enforcement -- the ultimate proof of “buy in” of international human rights law. National legislation and an informed judiciary are at the heart of developing a human rights-based global legal regime. But how do these forms of national implementation — both by courts and by legislation -- fit in with changes in international law?

Critical to this examination of the growing influence of international law is the changing legal role of the Security Council, a phenomenon that is often overlooked when crafting national legislation. As the most powerful international entity in the world, the Security Council has become a pivotal player in the shaping of international humanitarian law and, to a lesser extent, human rights law. Security Council reports and resolutions make clear that ensuring compliance with international humanitarian law is central to the Security Council’s mandate to maintain peace and security. The Security Council increasingly functions as the gatekeeper to ensuring enforcement of international law for crimes of concern to the global community, including criminal accountability for the use of child soldiers.

Given these radical changes, it would be wrong to state today that the Security Council is solely a “political” and not a legal body. In fact, the greatest advances in international law for women and children have resulted directly from Security Council actions, namely the resolutions in 1993 and 1994 that established the ad hoc criminal tribunals for Rwanda and the former Yugoslavia with clear directives for the inclusion of gender crimes. These tribunals exist solely because of the Security Council. They have established historic precedents in international humanitarian law for ensuring women’s right to redress for rape as a weapon of war and criminal accountability for perpetrators violating prohibitions on child soldiers. Remember, it is all of you who can take credit for these advances; the Security Council did not think of these tribunals on its own -- intense lobbying by women’s groups, human rights groups and U.N. agencies were key to how these tribunals furthered the rights of women and children. This includes the requirement that women judges be appointed and that gender crimes and the use of child soldiers be given particular attention. International jurisprudence on these crimes provide the precedents for changing domestic penal systems.

All these international legal advances, including Security Council Resolutions, apply to the programs and actions of all UN entities -- including UNICEF. As a result, agencies and oversight committees must change their perception of how they are required to function in order to fulfil Charter mandates. When the Committee on the Rights on the Child monitors the CRC Optional Protocol on Children in Armed Conflict, it has a legal obligation to take all possible steps to ensure that countries in violation of child soldier laws are referred for criminal prosecution. Further, CRC must be made real to judges at the national level as a tool to change not only local laws, but also the cultural norms that perpetuate actions against children or the lack of judicial recourse for crimes against children.

Subsequent to this conference, the Global Justice Centre began examining a case in point: using the CRC to challenge the absence of rape and sexual violence laws for children in Sierra Leone. Sierra Leone ratified the CRC in 1990, and ratified the two Optional Protocols to the Convention, the Sale of Children, Child Prostitution and Child Pornography and the Involvement of Children in Armed Conflict, in 2001 and 2002 respectively. Sierra Leone is also a signatory to the African Charter on the Rights and Welfare of the Child. Despite these international law guarantees, the domestic law of Sierra Leone on rape continues to exclude children, and rape, defined as “... unlawful carnal knowledge of a woman against her will”<sup>1</sup> has been interpreted by the courts to only cover adult female persons over 18 years of age. This excludes children from being covered by rape law protection. For child victims of sexual violence or rape, the relevant statute, the Cruelty to Children Act [1926], regards these crimes not as rape but as ‘*abuse of girls*’ and/or ‘*indecent assault*’, with lesser punishment compared to rape. While a conviction for rape is punishable with life imprisonment, the maximum punishment for such violence to children is 15 years imprisonment with hard labour<sup>1</sup> and is silent with respect to carnal knowledge or sexual violence against boys.

A key lesson here is that although Sierra Leone enacted the Child Rights Act in 2007 to comply with international standards, it failed to follow through with such compliance and the CRC and other international instruments binding Sierra Leone to protect children remain unenforced.

The use of children in armed conflict is an issue of vital concern to the global community and has been addressed by numerous treaties and international laws. The practice was explicitly stated as a war crime in the ICC statute, and recognized as such in the

Optional Protocol on Children in Armed Conflict (which was ratified by 128 countries). Further, the Security Council has adopted six resolutions on this issue, establishing an ongoing working group on child soldiers chaired by France. The Security Council's resolutions on humanitarian law issues impose additional legal obligations, even on the Security Council itself. For example, Security Council Resolutions 1325 and 1820 on women's rights impose a mandatory legal obligation to comply with international law and ensure criminal accountability for gender crimes in conflict. In order to comply with such law, a referral to the International Criminal Court is necessary. These mandates apply not only to member states but also to the United Nations and Security Council. Therefore, upon presentation with evidence of systematic gender crimes, such as against ethnic women in Burma, a review under Chapter VII should be triggered.

Significantly, the first ICC trial, charging Thomas Lubanga Dyilo, the former leader of the Union of Congolese Patriots (UPC) militia and Bosco Ntaganda, the chief of military operations for the UPC (still at large) of the DRC, is for the conscription of child soldiers. The Special Court of Sierra Leon has also convicted eight out of the nine accused persons who were indicted by the court for the conscription of child soldiers. This reiterates the fact that the use of children in armed combat is a war crime and will be prosecuted at the international level.

### **Moving International law to the local level -A CASE STUDY FROM IRAQ**

The case study is about the experience of the Global Justice Center working with local women's groups in Iraq, mainly Women's Alliance for a Democratic Iraq (WAFDI), to successfully advance the use of international criminal and treaty law by Iraqi domestic judges. In 2004, the Global Justice Center began working with a new nonpartisan Iraqi women's group which is religiously and ethnically diverse. This group includes Sunni, Shiite, Jewish, Christian and Kurdish women from outside Iraq and in diaspora. WAFDI, along with other Iraq based women's groups, was seeking expert advice on which international laws were (at least on paper) binding in Iraq and how they could use them to advance equality guarantees in the new Iraq constitution. A coalition of women successfully obtained a 30% quota for women in the legislature but failed to get explicitly guaranteed equality rights (CEDAW). Next, this coalition, which included women lawyers and the first woman judge in Iraq, continued working with the GJC to further international law on gender crimes in the trials prosecuting Saddam era crimes such as rape. The Iraqi parliament, in 2005, passed a war crime statute, modelled after the International Criminal Court statute, which included all the ICC progressive definitions of gender crimes. Some of the Iraqi tribunal judges additionally requested that the GJC provide international law training on prosecuting gender crimes and further explain if or how Iraq's ratification of CEDAW and the ICCPR would apply to the law governing the Iraq War Crimes Tribunal trials.

None of the other human rights groups or the various law schools approached in the United States by the GJC for help with this judicial training would support this effort. One reason given by a Harvard law professor after the GJC requested institutional assistance on this training was that they could not help because instruction on international gender law vis-à-vis war crimes for the Iraqi judges would be "neo-colonialist" in nature and that Iraqi judges were not ready to make any rulings even in the war crimes trials counter to Shari'a law.

In November 2007, the GJC, with a coalition of some 85 Iraqi women's groups, proceeded to put together their own judicial training of the 55 Iraqi tribunal judges

(including 2 women judges) in Jordan. Pro bono legal/judicial experts with experience working at the Sierra Leone, Rwanda, and Cambodia Tribunals were recruited, and additional experts came from Colombia and Bosnia. Critical to the success of this judicial training was that the GJC positioned Iraqi women leaders sitting side by side with the judges to be part of the legal discussion. GJC experts advocated ways the Tribunal judges could advance both international law and the gender crimes precedents produced by other war crimes tribunals.

The result of this project is that for the first time in history a high court in the Middle East applied international legal rights for women, confirmed that ratified human rights treaties were binding as part of domestic law, and, further held, in the Anfal trial, that rape of Kurdish women is genocide and torture thus entitling the Kurdish women victims to reparations.

During the various judicial trainings Shari'a law was not mentioned. These efforts led by local advocates, along with Iraqi judges and international legal experts, resulted in precedents for women which although have not yet trickled down to changes in the local Iraq penal code are a historic first step.

### **9.3 Enforcement and Implementation: The Legislature and its Role**

*Ms. Margaret Mensah-Williams, Vice President of the National Council, Namibia and Vice President of Coordinating Committee of Women Parliamentarians, IPU*

The adoption of a law is a start in the right direction, though not a change in itself. Without political will, resources, and understanding among the people, laws serve no purpose. There is a need to look at legislation not from an adult perspective, but through the lens of the child in order to be closer to children's expectations. Enforcement and implementation of laws need appropriate allocation of resources with attention to priorities. Further, there needs to be gender-sensitization of budgets.

The presence of women in parliaments contributes to greater sensitization towards women's and children's issues, including in legislation monitoring and implementation. An oversight function of the parliament is crucial. It could entail interaction with at-risk children to determine and find remedies, through legislation to overcome root causes. An example from Namibia illustrated how children's parliaments could provide an important avenue for direct child participation in legislative reform. This also helped to mainstream budgetary implementation with regard to women's and children's rights.

Africa was often portrayed negatively in terms of women's representation, in spite of the fact that, for example, two thirds of Namibia's members of Parliament are women, as are 50 per cent of Rwanda's parliamentarians. Attention should be focused upon the rich and powerful culture of Africa that can be utilized to positive ends. Looking forward, there is a strategic need to understand peer relationships among children, to recognize their need for strong, empathetic role models, who treat children as equal partners.

## 9.4 National Human Rights Institutions: Enforcement and implementation

*Ms. Shirin Aumeeruddy-Cziffra, Ombudsperson for Children, Mauritius*

The presentation stressed the need for countries to have independent national human rights institutions dedicated to children's rights. Today human rights ombudspersons existed in Europe, Asia, and Latin America. In Mauritius, the ombudsperson ensures that the private and public sectors give due consideration to the rights of children. This is undertaken by independent and unilateral investigation, which may be launched either at the discretion of the ombudsperson or could result from complaints, news reports, and other sources.

In many cases, the police and the judiciary ultimately establish a case of child abuse or crime. Ideally, in cases where children are at risk of abuse, the child should be placed in a foster family rather than in an institution. But many children are placed in Institutions and are in fact abandoned for all intents and purposes. Many of these children could have been adopted but the country lacks a good structure and law to facilitate adoptions. However, the Constitution of Mauritius contains provisions for ensuring only civil and political rights, and not economic, social and cultural rights of children.

It is within the mandate of the ombudsperson's office to ensure compliance with applicable international treaties, especially CRC and CEDAW. The Commonwealth country status of Mauritius stipulated that international treaties must be domesticated prior to assuming the status of national laws and their subsequent enforcement by national courts. A tertiary responsibility of the ombudsperson requires maintaining dialogue with the legislators when child rights laws are under consideration. The aim is to ensure that the bill contains all provisions outlined by pertinent Conventions, while also ensuring training and empowerment of the legislators. As UNICEF is no longer active in Mauritius, the ombudsperson's office partners with UNDP in the development of child-friendly policies.

General Assembly resolution 48/134 of 1993, known as the Paris Principle, relates to the status and functioning of national institutions for protection and promotion of human rights. Through this, the important advisory role of the ombudsperson as well as its capacity for information dissemination on human rights was reaffirmed. Ombudspersons need to identify the cause of a problem (absence or no implementation of the law) before making any recommendations to anyone, including the government. There is also a need for them to create a constant pressure at the ministerial level in order to stimulate political will. Media and NGOs also represent efficient partners to channel information, pressure authorities and push the agenda forward in favour of the rights of women and children.

Mauritius has ratified all Conventions related to human rights including the rights of women and children; however, it still has to "domesticate" CRC, CEDAW and other international treaties related to human rights. When dealing in matters of child rights, the CRC alone may not be adequate; some child rights infractions may fall under the Convention against Torture, for example. These are important considerations that the ombudsperson has to keep in mind. The status of national human rights institutions – as

independent institutions between government and NGOs – place them best to create impact on child rights legislation.

## **9.5 Enforcement and Implementation: The Judiciary and its Role**

*Ms. Nahida Mehboob Ellahi, Deputy Attorney General, Pakistan Supreme Court*

The presenter shared her thoughts on the Pakistani legislative situation over the past 20 years. In contrast to legal developments after 1982's martial law, the 1973 constitution was not discriminatory and was a true reflection of human rights vis-à-vis United Nations Conventions. The constitution included provisions for the rights of the child as well as for representation of women.

With martial law came the indefinite suspension of the constitution and the enactment of so-called “blood money” laws, and discriminatory laws which considered women to be legally half a man. The presenter noted that she was the fourth woman to join the legal profession in Pakistan and that several challenges faced her as a practitioner. For instance, as a woman lawyer she was not expected to raise sex-related matters in public. Gradually women practitioners had now become more respected in the society and within the profession.

The definition of children was unclear in the original penal code, which considered all those who were not adults as children. The definition of an adult as per the “Hudood law” (enacted in 1979 but superseded by the Women's Protection Bill in 2006) was determined to be 16 years for a girl and 18 years for a boy. By this definition, a girl could be charged for crime or offence as an adult at an earlier age than a boy.

Child marriage in Pakistan was prohibited in 1929 by British Law as part of pre-Independence India. There were punishments stipulated for adults marrying a child; however, these marriages were still considered legal and a girl child could not initiate divorce, although her husband could.

In cases where children are forced into labour by family poverty, such incidents are seldom reported, as the child's income is necessary for the family's survival. Issues of labour law enforcement came to light during a 1990 Pakistani Supreme Court ruling in favour of a family with children, who were held in bonded labour by a brick kiln owner.

Trafficking of children (often to the Middle East for use as camel jockeys) saw regulation in 2002 with the introduction of legislation on the prevention of trafficking. In 1988, a new law established abduction of children by a parent as a criminal offence.

In 2003, a bilateral agreement between the UK and Pakistan was signed on child custody matters. In 2008, this agreement was invoked in a case in which a father absconded with his child to Pakistan. The ruling resulted in the UK-based mother recovering the child. A similar case took into consideration the wishes of the child concerned in formulating a custody arrangement between a Pakistan-based father and a Scotland-based mother. Bilateral agreements such as these were facilitated by ratification of the CRC and CEDAW.

Ms Elizabeth Gibbons, Associate Director, Division of Policy and Practice, UNICEF, concluded the Conference by presenting detailing the contents of the newly launched Handbook on Legislative Reform: Realising Children's Rights.

The Handbook is designed to support the implementation of CRC and CEDAW by influencing legal measures, social policy and institutional change to promote equality among men, women and children. It is structured in two volumes. Volume I was made available at the Conference.

Volume I comprises the following five chapters:

1. Comprehensive and Holistic Reform on Behalf of Children's Rights
2. Assessing Compliance of National Legislation with International Human Rights Norms and Standards
3. Constitutional Reforms in favour of Children
4. Legislative Reform for the Protection of the Rights of Child Victims of Trafficking
5. Realising Children's Rights to Adequate Nutrition through National Legislative Reform

Volume II of the Handbook will be produced later and will include series of other chapters related to gender-based violence and female genital mutilation.

In conclusion, the Conference highlighted the strategies to make legislative reform effective at the national level. These include undertaking participatory field research in human rights; developing international legal norms and experiences in law and public education; investing in education on human rights within and outside of law making bodies; ensuring effectiveness of the court system; undertaking human rights advocacy in a structured way, and building upon linkages between the Conventions.

#### **RECOMMENDATIONS EMERGING FROM THE TWO-DAY CONFERENCE**

The highlights and recommendations from the expert consultation were merged with the lessons learned from the panel discussion, to produce the following key recommendations in conclusion to the Conference:

Legislation and legislative systems are essential to providing a foundation for the realization of rights of children and women. To that end, a range of partners at national, regional and international levels must come together to exchange experiences, good practices and lessons learned and collaborate such that:

The executive and legislative branches of government collaborate with each other and partner at all levels towards the ratification of human rights treaties both regional and international, the review and withdrawal of reservations contrary to such treaties, and the revision of domestic legislation in line with those treaties.

National action plans and national strategies on legislative reform incorporate a human rights perspective and consider the totality of human rights, including civil, cultural, economic, political and social rights, and the intersection between women's and children's rights.

Concluding Observations and recommendations of human rights treaty bodies become routine sources of guidance and orientation for legislative reform, and are shared formally with parliaments.

All those who design, implement, enforce and monitor legislative systems in all their aspects have the capacity to do so in a manner that conforms to national, regional, and international human rights provisions, including greater awareness of human rights provisions and principles and the Concluding Observations and Recommendations of human rights Treaty Bodies and other relevant human rights jurisprudence. Human rights norms are taken into account in judicial decision making.

Human rights standards for children – including those of CRC, CEDAW, ILO Convention 138, ILO Convention 182, CRPD and regional human rights instruments, where they apply – are incorporated into law through a national consultation and a children's act or code is considered where not already in place.

Before and after enactment, all new national legislation and amendments to the legislative system are assessed for impact on children and women, and the periodic review of legislation and monitoring of its compliance with human rights norms is built into the lawmaking process.

Human rights norms are taken into account in judicial decision making.

Independent national human rights institutions, including children's institutions, are established by statute with adequate powers and resources in accordance with the Paris Principles; and a specialized division for monitoring the rights of children and women is set up.

Appropriate allocation of resources, institutional reform to ensure effective implementation and enforcement of national legislation are an integral part of legislative reform initiatives.

All processes of legislative review and reform are conducted in a transparent, inclusive and participatory manner (i.e., women's organizations, media, civil society, private sector, academic institutions, professional groups and traditional leaders and chiefs).

Participation of children and adolescents from diverse backgrounds in all phases of the process, including drafting of laws and monitoring, implementation and enforcement is integral to legislative reform initiatives.

## Annex 3

### AGENDA OF THE PANEL DISCUSSION (19 NOVEMBER 2008)

- 8.30 – 9.00 Registration
- 9.00 – 9.15 **Welcome**  
*Elizabeth Gibbons*  
Associate Director, Division of Policy and Practice, UNICEF
- Opening Remarks and Launch,**  
***Handbook on Legislative Reform: Realising Children’s Rights, Volume 1***  
*Ann M. Veneman*  
Executive Director, UNICEF
- 9.15 – 9.30 **Keynote Address**  
*Anders B. Johnsson*  
Secretary General, Inter-Parliamentary Union
- Overall Moderator: *Beatrice Duncan*, Child Protection Expert, Ghana
- 9.30 – 11.30 **Panel 1**  
**Promising Approaches towards Achieving Children’s Rights**  
Chair: *Marta Santos Pais*  
Director, UNICEF Innocenti Research Centre
1. **Integrating the human rights-based approach to legislative reform**  
*Rangita de Silva de Alwis*, Senior Adviser, International Programs, Wellesley Centers for Women, Wellesley College
  2. **Constitutional reform and children’s rights**  
*Dessima Williams*, Chair, National Inter-Agency Group of Development Organizations, Grenada
  3. **Translating the Convention on the Rights of the Child: Egypt’s experience**  
*Ambassador Moushira Khattab*, Secretary General of the National Council for Childhood and Motherhood, Egypt
  4. **Implementing children’s rights**  
*Susan Roosevelt Weld*, Policy Director of Georgetown University Law – Asia
- 11.30 – 11.45 Coffee Break
- 11.45 – 1.45 **Panel 2**  
**Advancing the Human Rights Relationship between Women and Children through Legislative Reform**  
Chair: *Christina M. Storm*  
Founder and Chief Executive Officer, Lawyers Without Borders

1. **Legislative reform and traditional practices: Gender-based discrimination**  
*Mélégué Traoré*, Member of Parliament and Former Speaker of Parliament, Burkina Faso
2. **Gender equality and anti-discrimination laws: Their impact on advancing women's and children's rights**  
*Rangita de Silva de Alwis*, Senior Adviser, International Programs, Wellesley Centers for Women, Wellesley College
3. **Eliminating violence against women and children: Legislative frameworks to address sexual exploitation**  
*Paulo Henrique Ellery Lustosa da Costa*, Federal Deputy, Brazil
4. **Legislative reform and children's right to health: The links with women's rights**  
*Javier Vásquez*, Human Rights Adviser, Pan American Health Organization/World Health Organization

1.45 – 2.45 Break

2.45 – 4.45

**Panel 3**

**Legislative Frameworks: Enforcement and Implementation**

Chair: *Ambassador Moushira Khattab*, Member of the Committee on the Rights of the Child

1. **Institutional framework: Enforcement and implementation**  
*Vincent Del Buono*, Former National Co-ordinator, Security, Justice and Growth Programme, DFID/British Council, Nigeria  
&  
*Janet Benshoof*, President, Global Justice Center, USA
2. **Enforcement and implementation: The legislature and its role**  
*Margaret Mensah-Williams*, Vice President of the National Council, Namibia and Vice-President of Coordinating Committee of Women Parliamentarians, Inter- Parliamentary Union
3. **National human rights institutions: Enforcement and implementation**  
*Shirin Aumeeruddy-Cziffra*, Ombudsperson for Children, Mauritius
4. **Enforcement and implementation: The judiciary and its role**  
*Nahida Mehboob Ellahi*, Deputy Attorney General, Pakistan Supreme Court

4.45 – 5.00 Coffee Break

5.00 – 5.30

**Conclusion and Discussion of Recommendations**

*Elizabeth Gibbons*  
Associate Director, Policy and Practice, UNICEF