

# UNICEF'S EXPERIENCE IN THE AREA OF LEGISLATIVE REFORM: A REVIEW OF SELECTED COUNTRIES

LEGISLATIVE REFORM INITIATIVE PAPER SERIES



WORKING PAPER

DIVISION OF  
POLICY AND PLANNING  
JANUARY 2007



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**JANUARY 2007**

**UNICEF's Experience in the Area of Legislative Reform: A Review of Selected Countries**  
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This paper is part of the Legislative Reform Initiative – Paper Series, (LRI - Paper series) spearheaded by the Global Policy Section of UNICEF. The aim of the Paper series is to explore and provide guidance on the role of legislation (including regulations which may have a direct or indirect bearing on children) in protecting and advancing children's right in a particular area. The Paper Series are intended to increase understanding of the human rights-approach to legislative reform.

This is a working document. It has been prepared to facilitate the exchange of knowledge and to stimulate discussion.

The text has not been edited to official publication standards and UNICEF accepts no responsibility for errors.

The designations in this publication do not imply an opinion on legal status of any country or territory, or of its authorities, or the delimitation of frontiers.

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# TABLE OF CONTENTS

Executive Summary .....	i
Resume Executif .....	iii
Resumen Ejecutivo .....	vi
1 Introduction.....	1
1.1 Legislative reform in programming.....	1
1.2 Methodology.....	2
2 Type and Scope of Legislative Reforms Supported by UNICEF.....	2
2.1 Type of Legislative Reforms .....	2
2.1.1 Content Of Laws Supported.....	2
2.1.2 Nature of laws.....	9
2.2 Scope of legislative reforms.....	11
2.2.1 Institutional reform .....	11
2.2.2 Accompanying social policies .....	12
2.2.3 Budget analysis and resource allocation.....	13
3 Organization and functioning of UNICEF’s offices and programmes with respect to legislative reform .....	14
3.1 Programmes dealing with legislative reform .....	14
3.1.1 Comprehensive programmes or projects on legislative reform or public policy..	14
3.1.2 Sectoral programmes .....	15
3.1.3 Role of the communication section.....	15
3.2 Funding .....	16
3.3 Staffing.....	16
3.3.1 Capacity within the office.....	16
3.3.2 Hiring consultants.....	17
3.4 Rationale for legislative reform .....	17
3.4.1 External factors .....	18
3.4.2 Internal factors .....	19
4 Processes of legislative reform supported by UNICEF .....	20
4.1 From law review to implementation.....	20
4.1.1 Law review.....	20
4.1.2 Advocacy for legislative reform .....	22
4.1.3 Implementation activities.....	23
4.2 Actors involved and participation mechanisms .....	25
4.2.1 Actors involved.....	25
4.2.2 Participation mechanisms .....	27
5 Main successes and challenges of UNICEF action.....	29
5.1 Strengths and successes .....	29
5.2 Challenges.....	31
5.2.1 Context.....	31
5.2.2 Internal constraints.....	33
6 Recommendations for UNICEF’s strategies at global, regional and national level to support legislative reforms.....	34



## **Executive Summary**

The objective of this report is to review UNICEF's experience in the area of legislative reform, with a view to sharing knowledge and informing future initiatives to support legislative reform for the implementation of the Convention on the Rights of the Child. The review sheds light on common strengths and challenges in country offices' experiences in the area of legislative reform.

This study of UNICEF's experience in the area of legislative reform is based on the account of selected country offices and relevant documentation. It is not meant to be an exhaustive review of UNICEF's experience but rather aims to assess main trends based on the analysis of selected examples.

The scope of UNICEF's activities in legislative reform goes beyond traditional areas of work in this field such as nutrition and child protection to extend to seemingly less obvious areas for legislative reform like education. Conversely, some other areas of legislation such as health, water and sanitation, and early childhood tend to enjoy less attention. These differences can be attributed to multiple factors, including the existence of precise provisions in the CRC guiding UNICEF's work and providing ground for advocacy, as well as the level of priority and guidance afforded by headquarters in legislative reform for each area. In the same line, based on the guidance of UNICEF's Programme Policy and Procedure Manual, the gender perspective keeps being in most cases taken into consideration in their advocacy efforts for legislative reform by country offices, be it when they support the adoption of a law dealing specifically with women and girls' issues or when they ensure that broader laws, especially those related to children's rights, are gender sensitive. With respect to the nature of the laws, UNICEF supports reform at all levels, from comprehensive child codes to specific laws and from local legislation to international agreements. UNICEF country offices do not limit their support to the elaboration and adoption of laws. They are also involved in ensuring their implementation, in particular through the promotion of institutional reform. Activities aimed at promoting adequate resource allocation and social policies often remain at an inception stage, due to lack of experience in these areas. Since UNICEF has made policy advocacy one of its priority areas for 2006-2009, this situation is likely to evolve.

Since legislative reform is a crosscutting area for UNICEF's activities, country offices have organized themselves in different fashions in this regard. Some programmes of cooperation have a specific project on legislative reform and public policies, some concentrate legislative reform activities under the child protection cluster; some integrate legislative reform into all their components, including sectoral ones, while others have a mix of these schemes. In all cases, the role of the communication section is critical. The option chosen is reflected in the organization of financial and human resources. When an entire project deals with legislative reform, it will most likely be funded under a separate budget post, while this is not the case when legislative reform is mainstreamed. Likewise, one staff or section may be appointed as the focal point for the whole office on legislative reform, or legislative reform may be explicitly part of each staff's function in the office.

UNICEF's involvement in legislative reform is determined by several inter-related causes, both external and internal. External factors lie mainly in the Committee on the Rights of the Child's

Concluding Observations, which often point to the need for legislative reform in specific areas or as a whole. Emerging issues, in particular child trafficking and the spread of HIV/AIDS, have also triggered efforts to adapt the legislative framework to the new situation. Internal factors include UNICEF's organizational policies such as the "protective environment" policy for example, country programme documents, as well as UN Country Team documents, especially the Common Country Assessment and the UN Development Assistance Framework (CCA/UNDAF).

UNICEF supports all stages of legislative reform processes, from law review to implementation. While law review used to be undertaken by an individual consultant, it has evolved in several country offices into participatory processes allowing for a holistic approach to legislative reform. Thus, throughout the years, UNICEF's advocacy efforts in favour of the reform have encompassed consultations workshops, and trainings. UNICEF also works on social communication efforts and offers technical assistance to its counterparts. Consultation processes in particular provide the opportunity to involve a wide range of stakeholders in order to build consensus on the need for legislative reform and the principles that should guide it. With a few exceptions, implementation activities are mainly centred on institutional reform.

UNICEF works with a wide array of partners to support legislative reform from ministries to parliamentarians, from religious leaders to journalists to children themselves, and supports a variety of participatory mechanisms. UNICEF's experience with child participation is reflected in creative efforts to involve children in the process, either as part of large gatherings such as children's parliaments or within smaller consultative groups. Other participatory mechanisms aim to ensure the quality of the outcome of the reform, through reference groups for instance, and help build consensus within the country, through advocacy with opinion leaders for example.

UNICEF's strengths are linked to its unique position within a country, which gives country offices access to a wide range of partners and enables them to help build alliances and consensus among them, its stability and political neutrality, its technical capacity and access to information as a global organization, its financial resources, as well as its special position as representing children's voice and promoting their participation. It however faces numerous constraints. External constraints relate mostly to the national context in which UNICEF works and comprise frequent government changes, rotation of ministry personnel and lack of expertise, lack of political will and/or resistance to change within the country due to strong traditional practices that hamper children's rights, limited resources as well as the marginalization of the civil society. Constraints internal to UNICEF include lack of training of staff, poor understanding of legal context in which it has to evolve, limited tools available on legislative reform, lack of resources, the difficulty to take strong positions on sensitive issues, the under-estimation of potential opposition as well as the low priority given to legislative reform within the country office.

The review concludes with a set of recommendations for UNICEF's work in legislative reform at country, regional and global level.

## Resumé Executif

Ce rapport a pour objet de passer en revue l'expérience de l'UNICEF en matière de réforme législative, afin d'en faire partager les acquis et de guider les initiatives futures destinées à soutenir les réformes législatives dans le cadre l'application de la Convention relative aux droits de l'enfant. Cette étude met en exergue les points forts et défis rencontrés par les bureaux de pays dans leurs expériences dans ce domaine.

L'analyse de l'expérience de l'UNICEF en matière de réforme législative est fondée sur les informations relayées par une sélection de bureaux de pays et divers documents disponibles. Il ne s'agit pas d'entreprendre un examen complet de l'expérience de l'UNICEF mais plutôt d'en mettre en lumière les principales tendances sur la base d'exemples choisis.

Les activités de l'UNICEF en matière de réforme législative vont au-delà des secteurs traditionnels, comme la nutrition et la protection de l'enfance, pour s'étendre à des domaines en apparence moins évidents, comme l'éducation. Inversement, d'autres domaines législatifs tels que la santé, l'eau et l'assainissement et la petite enfance, tendent à bénéficier d'une attention plus limitée. Ces différences peuvent être attribuées à de multiples facteurs, notamment la présence de stipulations précises dans la CDE guidant le travail de l'UNICEF et offrant une base pour les activités de plaidoyer, ainsi que le degré de priorité et d'orientation donné par le siège en matière de réforme législative dans chacun de ces secteurs. En outre, la perspective de genre continue d'être, sur la base des instructions du Manuel des politiques et procédures programmatiques, prise en considération par les bureaux de pays dans la majorité des cas, que ce soit lorsqu'ils appuient l'adoption d'une loi portant spécifiquement sur des questions intéressant les femmes et les filles ou lorsqu'ils s'assurent que des lois plus larges, en particulier les lois relatives aux droits de l'enfant, prennent en compte cette dimension. Eu égard à la nature des lois, l'UNICEF appuie les réformes à tous les niveaux, des codes complets de l'enfance aux lois spécifiques, et de la législation locale aux accords internationaux. Les bureaux de l'UNICEF ne se limitent pas à soutenir l'élaboration et l'adoption des lois. Ils sont aussi impliqués dans leur application, notamment par la promotion de réformes institutionnelles. Les activités visant à promouvoir l'allocation de ressources et la mise en œuvre de politiques sociales adéquates sont encore en germe, en raison d'un manque d'expérience dans ces domaines. L'UNICEF ayant fait des activités de mobilisation en matière de politique économique et sociale l'une de ses priorités pour 2006-2009, cet état de fait va probablement évoluer.

Les réformes législatives constituant un domaine transversal pour les activités de l'UNICEF, les bureaux de pays se sont organisés de diverses manières à cet égard. Certains programmes de coopération comprennent un projet spécifique sur les réformes législatives et les politiques publiques ; d'autres intègrent les réformes législatives dans toutes leurs composantes ; d'autres encore combinent ces différents schémas. Dans tous les cas, le rôle de la section des communications est essentiel. L'option choisie se reflète dans la répartition des ressources humaines et financières. Lorsqu'un projet spécifique ne concerne que la réforme législative, il figurera très probablement sous un poste budgétaire propre, tandis que ce ne sera pas le cas si la composante réforme législative est intégrée à tout le programme. De la même manière, soit un seul membre du personnel (ou section) est désigné comme point focal pour tout le bureau pour

les réformes législatives, soit celles-ci font explicitement partie des fonctions de chaque membre du bureau.

L'engagement de l'UNICEF en matière de réforme législative est déterminé par plusieurs facteurs interdépendants. Les facteurs externes sont principalement liés aux observations finales émises par le Comité des droits de l'enfant, qui souligne fréquemment la nécessité de conduire des réformes législatives que ce soit dans un domaine spécifique ou de manière générale. Des problèmes plus récents, en particulier la traite des enfants et la propagation du VIH/SIDA, ont aussi suscité des efforts d'adaptation du cadre législatif à la nouvelle situation. Les facteurs internes comprennent les politiques organisationnelles de l'UNICEF, comme celle de « l'environnement protecteur » par exemple, ainsi que les documents programmatiques de l'UNICEF et des équipes de l'ONU au niveau des pays.

L'UNICEF apporte son soutien à toutes les phases du processus de réforme législative, de la révision de la loi à sa mise en oeuvre. Tandis que par le passé, l'examen de la loi existante était réalisée par un consultant individuel, il s'agit maintenant de plus en plus d'un processus participatif permettant une approche holistique. Ainsi, depuis plusieurs années, les activités de plaidoyer de l'UNICEF en faveur des réformes législatives ont inclus des ateliers de consultation et de formation. L'UNICEF s'emploie aussi à promouvoir la communication sociale et offre son assistance technique à ses partenaires. Les processus de consultation sont l'occasion d'impliquer un grand nombre d'acteurs, afin de bâtir un consensus autour de la nécessité de la réforme et des principes qui doivent la guider. A quelques exceptions près, les activités de mise en oeuvre sont principalement centrées sur la réforme institutionnelle.

L'UNICEF travaille avec un large éventail de partenaires, des ministres aux parlementaires, des autorités religieuses aux journalistes et aux enfants, afin de promouvoir les réformes législatives, et apporte son soutien à différents mécanismes de participation. L'expérience de l'UNICEF en matière de participation des enfants s'illustre par la créativité des efforts d'inclusion des enfants dans les processus législatifs, que ce soit lors de grands rassemblements comme les parlements des enfants ou par des groupes consultatifs de taille plus limitée. D'autres mécanismes de participation ont pour but de s'assurer de la qualité de l'issue de la réforme, tels les groupes de référence par exemple, et de contribuer à bâtir un consensus dans le pays sur l'importance des réformes législatives en faveur de l'enfance, par la mobilisation de meneurs d'opinion entre autres.

Les points forts de l'UNICEF tiennent à : son positionnement unique au sein d'un pays donné, qui donne aux bureaux de pays l'accès à un grand nombre de partenaires et leur permet de construire des alliances et de consolider le consensus ; sa stabilité et sa neutralité politique ; sa compétence technique et son accès à l'information en tant qu'organisation mondiale ; ses ressources financières ; et enfin, sa vocation à défendre les intérêts des enfants et à se faire l'écho de leur voix dans les débats. L'UNICEF est toutefois confronté à de multiples contraintes. Les contraintes externes sont avant tout à mettre en rapport avec le contexte national dans lequel l'UNICEF travaille et comprennent : des changements de gouvernement fréquents, la rotation du personnel ministériel et son manque d'expertise, l'insuffisance de volonté politique et/ou la résistance au changement en raison de pratiques traditionnelles qui entravent la réalisation des droits de l'enfant, des ressources limitées, ainsi que la marginalisation de la société civile. Les

contraintes internes à l'UNICEF incluent le manque de formation du personnel, une compréhension parfois limitée du contexte juridique dans lequel il travaille, le peu d'outils disponibles sur les réformes législatives, le manque de ressources, la difficulté de prendre des positions solides sur les questions sensibles, la sous-estimation de l'opposition potentielle, ainsi que tout simplement le fait que les réformes législatives ne constituent pas une priorité pour tous les bureaux de pays.

Le rapport conclut par une série de recommandations pour le travail de l'UNICEF en matière de réforme législative au niveau national, régional et global.

## Resumen Ejecutivo

El objetivo de este informe es analizar la experiencia de UNICEF en la esfera de la reforma legislativa, con miras a compartir conocimientos y ofrecer información para futuras iniciativas dedicadas a prestar apoyo a la reforma legislativa para la aplicación de la Convención sobre los Derechos del Niño. Este examen arroja luz sobre los puntos fuertes y los desafíos comunes que experimentan las oficinas de país en la esfera de la reforma legislativa.

Este estudio de la experiencia de UNICEF en la esfera de la reforma legislativa se basa en información procedente de oficinas de país seleccionadas y de la documentación pertinente. No pretende ser un examen exhaustivo de la experiencia de UNICEF, sino que más bien tiene por objetivo evaluar las principales tendencias sobre la base de un análisis de ejemplos seleccionados.

El alcance de las actividades de UNICEF en cuestiones de reforma legislativa va más allá de las esferas tradicionales de trabajo en este campo, como la nutrición y la protección de la infancia, y se extiende a esferas menos obvias para la reforma legislativa, como la educación. A la inversa, algunas otras esferas de legislación como la salud, el agua y saneamiento, y la primera infancia suelen recibir menos atención. Estas diferencias pueden atribuirse a diversos factores, entre ellos la existencia de disposiciones precisas en la Convención que rigen la labor de UNICEF y proporcionan las bases para la promoción, así como el nivel de prioridad y orientación que ofrece la sede en materia de reforma legislativa para cada esfera. En esa misma línea, sobre la base de la orientación del Manual de Políticas y Procedimientos en materia de Programas, las oficinas de país siguen teniendo en cuenta la perspectiva de género en la mayoría de los casos para sus actividades de promoción de la reforma legislativa, ya sea cuando apoyan la aprobación de una ley que trate específicamente sobre las cuestiones de la mujer y de las niñas, o cuando garantizan que otras leyes más amplias, especialmente las relacionadas con los derechos de la infancia, tengan en cuenta las cuestiones de género. Con respecto a la naturaleza de las leyes, UNICEF apoya la reforma a todos los niveles, desde la que se refiere a los códigos infantiles integrales hasta la que atañe a la legislación local o a los acuerdos internacionales. Las oficinas de país de UNICEF no limitan su apoyo a la elaboración y aprobación de leyes. También participan en el proceso destinado a garantizar su puesta en práctica, especialmente por medio de la promoción de la reforma institucional. Las actividades destinadas a promover una asignación adecuada de recursos y políticas sociales suelen quedarse en la etapa de iniciación, debido a la falta de experiencia en estas esferas. Ya que UNICEF considera la promoción de políticas como una de las esferas prioritarias para 2006-2009, es muy probable que esta situación evolucione.

Debido a que la reforma legislativa es una esfera intersectorial en las actividades de UNICEF, las oficinas de país se han organizado de manera muy diferente a este respecto. Algunos programas de cooperación tienen un proyecto específico sobre la reforma legislativa y las políticas públicas; otros se concentran en las actividades de reforma legislativa bajo el grupo de protección de la infancia; algunos integran la reforma legislativa en todos sus componentes, incluidos los sectoriales, mientras que otros combinan sistemas diferentes. En todos los casos, la función de la sección de comunicación es fundamental. La opción que se escoja se reflejará en la organización de los recursos financieros y humanos. Cuando se aborda la reforma legislativa mediante un proyecto total, éste recibirá por lo general fondos de un presupuesto separado, algo que no es el caso cuando la reforma legislativa se integra en otros sectores. Igualmente, hay veces en que se

puede designar a un empleado o sección como punto de enlace de toda la oficina en materia de reforma legislativa, o la reforma legislativa puede formar explícitamente parte de las funciones de cada empleado de la oficina.

La participación de UNICEF en la reforma legislativa se determina por medio de varios factores relacionados entre sí, tanto externos como internos. Los factores externos radican sobre todo en las observaciones finales del Comité de Derechos del Niño, que a menudo señalan la necesidad de una reforma legislativa en esferas específicas o en general. Nuevos temas, en especial la trata de niños y niñas y la propagación del VIH/SIDA, han desencadenado también actividades para adaptar el marco legislativo a la nueva situación. Los factores internos incluyen las políticas organizativas de UNICEF, como por ejemplo la política sobre el “entorno protector”, los documentos de los programas de país, así como los documentos del Equipo de las Naciones Unidas en el País, especialmente el Sistema de evaluación común para los países y el Marco de Asistencia de las Naciones Unidas para el Desarrollo.

UNICEF apoya todas las etapas del proceso de reforma legislativa, desde el examen de la ley hasta su aplicación. Aunque el examen de la ley solía estar a cargo de un consultor individual, en varias oficinas de país se ha transformado en un proceso participativo que ofrece un enfoque holístico a la reforma legislativa. Por tanto, a través de los años, las actividades de promoción de UNICEF en favor de la reforma han abarcado seminarios de consulta y talleres de capacitación. UNICEF trabaja también en actividades de comunicación social y ofrece asistencia técnica a sus contrapartes. Los procesos de consulta ofrecen en concreto la oportunidad de incorporar a una amplia gama de agentes interesados, a fin de establecer un consenso sobre la necesidad de la reforma y de los principios que deben orientarla. Con unas cuantas excepciones, las actividades de aplicación se centran sobre todo en la reforma institucional.

UNICEF trabaja con un amplio abanico de asociados en su apoyo a la reforma legislativa, desde ministerios hasta parlamentarios, desde dirigentes religiosos hasta periodistas o los propios niños, y patrocina una diversidad de mecanismos de participación. La experiencia de UNICEF en la participación de la infancia se refleja en sus actividades creativas para incorporar a los niños y niñas en el proceso, ya sea como parte de reuniones amplias, como es el caso de los parlamentos infantiles, o de grupos de consulta más reducidos. Otros mecanismos de participación tienen como objetivo asegurar la calidad de los resultados de la reforma, como por ejemplo por medio de grupos de consulta, y contribuir a establecer un consenso dentro del país, como por ejemplo por medio de actividades de promoción dirigidas a las personas que influyen en la opinión pública.

Los puntos fuertes de UNICEF están vinculados a su posición única dentro del país, que ofrece a las oficinas de país acceso a un conjunto amplio de aliados y les permite contribuir a fomentar alianzas y consensos entre ellos; a su estabilidad y neutralidad política; a su capacidad técnica y su acceso a la información como organización mundial; a sus recursos financieros; y a su posición especial como representante de las opiniones de la infancia y promotor de su participación. Sin embargo, se enfrenta a numerosos obstáculos. Los obstáculos externos se relacionan sobre todo con el contexto nacional en el que trabaja UNICEF y comprenden los frecuentes cambios gubernamentales, la rotación del personal de los ministerios y la falta de conocimientos técnicos, la falta de voluntad política y/o resistencia al cambio dentro del país debido a prácticas tradicionales muy enraizadas que obstaculizan los derechos de la infancia, la limitación de recursos y la marginación de la sociedad civil. Los obstáculos internos incluyen la

falta de capacitación del personal, una deficiente comprensión del contexto jurídico en el que tiene que evolucionar, la limitación de instrumentos disponibles sobre reforma legislativa, la falta de recursos, la dificultad de asumir posiciones firmes en cuestiones controversiales, la subestimación de la oposición potencial, así como la escasa prioridad que se da a la reforma legislativa dentro de la oficina de país.

El examen concluye con una serie de recomendaciones para la labor de UNICEF en el contexto la reforma legislativa a nivel nacional, regional y mundial.

# 1 Introduction

## 1.1 Legislative reform in programming

Legislative reform has been a component of UNICEF programmes and activities around the world for many years. The basis for such involvement is clear. The Convention on the Rights of the Child adopted in 1989 stipulates in its Article 4 that States should take all appropriate legislative, administrative and other measures for the implementation of the Convention. The same instrument gives UNICEF a special role in supporting governments for the realization of children's rights. In parallel, UNICEF's Mission Statement emphasizes that UNICEF is guided by the CRC and that it promotes the equal rights of women and girls. In that context, UNICEF adopted in 1998 the human rights based approach to programming as an institutional requirement, laying the emphasis on legal analysis as a key element. It requires that UNICEF know and understand how legislation, public policy and national institutions impact on the realization of children's and women's rights.<sup>1</sup>

Paradoxically however, UNICEF's work in this area has been mostly conducted on a case-by-case basis, depending on the situation of the country and the sensitivities and competences of UNICEF's staff. An innovative exception is the policy supported by the Regional Office for Latin America and the Caribbean to make legislative reform a systematic activity in all country offices of the region. This has resulted in synchronized and coordinated efforts throughout the region to harmonize national legislation with the CRC in the 1990s, leading to the adoption of children and adolescents' codes in several countries.<sup>2</sup> Yet, support to legislative reform did not figure as a core function of UNICEF at the organizational level. It was not until recently that the trend initiated by some country and regional offices was endorsed as an institutional priority in the Medium Term Strategic Plan for 2006-2009 under Focus Area 5 entitled "Policy advocacy and partnerships for children's rights".

In this context, the coming years will see a more systematic involvement of UNICEF at global, regional and country level in legislative reform for the implementation of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women. Hence the need to build tools in order to strengthen the capacity of all UNICEF staff to work on policy issues, of which legislative reform is a key element.

For the past two years, UNICEF's Global Policy Section in the Division of Policy and Planning has conducted the Legislative Reform Initiative, a project aimed at strengthening the capacity of both UNICEF and its partners to support comprehensive and holistic legislative reforms for the realization of children's and women's rights. One of the products of the project is a technical guidance for staff on UNICEF's involvement in legislative reform at country level.

In that perspective, the objective of the present report is to provide additional information and lessons learned on UNICEF's involvement in legislative reform processes. The study, however, does not attempt to analyze legislative reform processes per se.

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<sup>1</sup> UNICEF, Guidelines for Human Rights-Based Programming Approach, CF/EXD/1998-004

<sup>2</sup> E. García Méndez & Mary Beloff (ed.), *Infancia, ley y democracia en América Latina*, Temis, Depalma, 1998.

## **1.2 Methodology**

For the preparation of this assessment, a questionnaire was sent out to selected country offices, requesting information about their support to legislative reform processes. Most of the information presented here stems from responses to the questionnaire. The report is also based on existing documentation, in particular national studies elaborated as part of the Legislative Reform Initiative, Country Office Annual Reports and related documents such as Country Programme Documents and Mid-Term Reviews. It also takes into account information gathered during missions to Guatemala and Venezuela. The present study does not intend to give a full account of UNICEF's work in legislative reform. It should be reminded at the outset that the actual impact of UNICEF's work is difficult to assess, given that a wide range of factors contribute to making legislative reform successful or un-successful. Rather, the objective is to take stock of the richness of UNICEF's experience in this area, highlight trends, present good practices, and identify entry points and strategies for future work.

After examining the type and scope of reforms UNICEF is involved in (Part II), the report explores how and why country offices take leadership in supporting legislative reform processes (Part III). The report then analyzes the type of support UNICEF provides to these processes and gives an overview of the actors it works with (Part IV). The report then summarizes main successes and challenges (Part V). It concludes with a set of recommendations to UNICEF headquarters, and regional and country offices (Part VI).

## **2 Type and Scope of Legislative Reforms Supported by UNICEF**

### **2.1 Type of Legislative Reforms**

A review of UNICEF's experience in legislative reform shows that the organization's activities in this field are extensive. They cover a wide range of topics encompassing civil and criminal law and include less traditional areas often related to economic and social rights. The gender dimension constitutes an element of UNICEF's intervention, either through the promotion of a gender perspective in laws, or through support to the adoption of laws specifically dealing with issues related to women and girls. With respect to the nature of the laws supported, they comprise comprehensive codes, laws on specific topics and specific provisions within broader laws. Reforms take place at local, national, constitutional and international level.

#### **2.1.1 Content Of Laws Supported**

##### *Areas in which law reform is supported*

UNICEF country offices promote legislative reform in a large number of areas. Although a large number of Country offices have supported legislative reform related to child protection issues, such as juvenile justice, trafficking and domestic violence, many have also supported legislative reform related to health, education, water and nutrition among others. The latter are often less

visible because they are performed by programme sectors that are not traditionally associated with legislative reform. Yet, the breadth of UNICEF experience suggests that legislative reform is progressively being integrated as an element for all programming areas at country level.

UNICEF's involvement can be divided into three main areas: child protection, family law, and sector laws.

### *Child protection*

Child protection from abuse, violence, neglect and exploitation has traditionally been a sector where UNICEF has devoted particular attention to legislation. In this area indeed, laws are the expression of standards necessary for social change. The MTSP for 2002-2005 repeatedly mentions laws as an essential component of UNICEF's activities in the area of child protection. Under this institutional priority, it states that UNICEF will focus on: "*Promoting, advocating and supporting the implementation of laws, policies and programmes that protect children from violence, abuse and neglect, exploitation and discrimination.*" Emphasis on laws and policies results from a strategic shift from interventions targeting a small number of children "in need of special protection" to an approach aimed at protecting all children from violence, abuse and exploitation by building a "protective environment"<sup>3</sup>. With the recognition that legislation – and its enforcement – represents a key element in this regard, UNICEF's involvement in legislative reform related to child protection has grown to be virtually systematic, covering multiple dimensions.

Juvenile justice constitutes one of the primary focuses of UNICEF's work at country level in legislative reform and appears to be quite comprehensive. UNICEF's intervention in this area concentrates not only on supporting the elaboration of laws in accordance with the principles spelled out in the CRC and the Beijing rules, but also on institutional reform and allocation of resources. With respect to the drafting of laws, UNICEF provides technical assistance and advocates for specific provisions such as raising the minimum age of criminal responsibility, and amending laws regulating criminal procedures for children. Also important is UNICEF's advocacy for alternative approaches to penal sanctions. In many countries, it also ensures that the law adequately protects children victims or witnesses by promoting the inclusion of provisions guaranteeing that testimony procedures give priority to the best interests of the child for example. With respect to institutional reform, UNICEF supports the establishment of child friendly courts, as well as the training of judges for the proper implementation of juvenile justice

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<sup>3</sup> A protective environment is one where everyone – from children and health workers to governments and the private sector – live up to their responsibilities to ensure that children are protected from abuse and exploitation. UNICEF identifies eight key aspects of a protective environment. Without any one of these elements, children are more vulnerable to abuse, violence, discrimination and violation of their rights.

1. Attitudes, traditions, customs, behaviour and practices
2. Governmental commitment to fulfilling protection rights
3. Open discussion and engagement with child protection issues
4. Protective legislation and enforcement
5. The capacity to protect among those around children
6. Children's life skills, knowledge and participation
7. Monitoring and reporting of child protection issues
8. Services for recovery and reintegration

standards. In some countries, UNICEF's intervention extends to making sure that proper resources are allocated for a good functioning of the juvenile justice system.

UNICEF's comprehensive involvement in legislative reform in juvenile justice can be explained by several factors. One reason is simply that juvenile justice constitutes by definition a legal issue, therefore an area where legislative reform is a necessary entry point for changes. The CRC's article on the administration of juvenile justice reflects this reality: "*States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions...*" (Article 40.3). Another factor rests in the fact that juvenile justice is by excellence a child specific domain, where UNICEF represents a major and uncontested actor at country level, and governments are likely to seek its assistance. Yet another explanation lies in the wealth of international standards in this field. CRC provisions on juvenile justice are very detailed compared to provisions on other issues. In addition, States had unanimously adopted Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules") even before the adoption of the CRC, and approved shortly thereafter Guidelines on the Prevention of Juvenile Delinquency ("Riyadh Rules") and Guidelines on the Protection of Juveniles Deprived of their Liberty. Not only have all these international instruments provided extensive guidance for the past two decades on how juvenile justice systems ought to be, but they also correspond to obligations and commitments States have subscribed to. In other words, they represent critical tools that facilitate UNICEF country offices' task both for technical assistance and advocacy.

Trafficking is also an area where many Country offices have undertaken activities related to legislative reform. The soaring dimension of child trafficking has recently emerged as a key concern for many country offices and prompted efforts to adapt the law to the new situation. Generally speaking, UNICEF has supported anti-trafficking legislation through technical assistance for the elaboration or reform of comprehensive codes or specific laws, as well as training for, and advocacy with, law enforcement officials. Depending on the root causes of trafficking and its manifestations, UNICEF may adopt a different strategy in each country. In some countries, its efforts may focus on defending a law on marriage by abduction. In others, it may concentrate on advocating for the modification of the labour code. While several actors, including UN agencies, work in this area at country, regional and global level, their approach tends to focus on stopping trafficking through strengthened criminal legislation and better law enforcement. UNICEF's position however consists first and foremost in ensuring that children are considered as victims – not as criminals infringing immigration or labour laws – and are entitled to ensuing assistance. Since trafficking is often, though not exclusively, an international phenomenon, UNICEF's international presence makes a significant asset to foster inter-country agreements – be they bilateral or multilateral, like in West Africa where it has supported an agreement on trafficking between nine countries. These successes bring to light the key leadership of regional offices and the importance of good coordination among country offices.

In the area of economic exploitation, UNICEF supports the reform of labour laws in order to protect children from exploitation and ensure appropriate working conditions to adolescents. Labour issues may be included in a child protection code or consist in amendments to existing labour laws for adults. Yet, this is an area where laws can be of little use to fight exploitation if no accompanying social policies and institutional reforms are put in place. In many countries, UNICEF has combined law reform with programmes to prevent and address child labour. The

challenge is to move from project interventions to policy advocacy to put in place nation-wide systems for addressing child labour.

Other areas where UNICEF is involved in legislative reform include adoption laws, de-institutionalization and protection children deprived of parental care, domestic violence, feminine genital mutilation and early marriage.

The increasing number of children made orphans or particularly vulnerable as a result of the HIV/AIDS pandemic has led UNICEF to get involved in legislative reform aimed at taking stock of the current situation and protecting the rights of these children. While UNICEF country offices act to adapt the legislative framework in countries where high prevalence rates impose urgent policy solutions, legislative reform is not yet fully perceived at global level as a key element of a protective environment for children affected by HIV/AIDS. For example, the recently launched campaign “Unite for children, Unite against AIDS” does not mention legislative reform as a tool to mitigate the impact of HIV/AIDS, especially for orphans. The MTSP for 2006-2009 does not refer to legislative reform under the section on HIV/AIDS and children.

#### *Family law*

Family law is a very broad and complex field, yet virtually every aspect of it affects children, directly or indirectly. Family law provisions can be included in a comprehensive children’s code, in a civil code or in a specific Act. UNICEF is often involved in the revision and/or adoption of children’s code and may provide technical assistance for specific Acts or child related provisions in the civil code. Yet, such involvement does not appear to be systematic. Because family law is intrinsic to a particular culture, history and tradition, universal international instruments tend to leave this area to the appreciation of States. The CRC sets out general principles with respect to family law, but its provisions tend to be less detailed than in other areas, such as juvenile justice for instance where very specific and concrete requirements are stipulated. Consequently, it is more difficult for UNICEF to get precise guidance beyond main principles for its work in this area in the CRC, which affects both the technical assistance it offers and its advocacy efforts.

#### *Sector laws*

Legislative reform is often perceived as a matter related to child protection or family law. However, the realization of all the provisions of the CRC is affected by the legislative framework in a given country. Legislative reform can therefore be integrated into UNICEF programmes in many areas such as health, nutrition, and education among others. While these seem to be less traditional areas for UNICEF’s work in legislative reform, some country offices have actually used legislative reform as a tool to advance children’s rights in those sectors.

Interestingly, nutrition is the sector where UNICEF has been involved very early on in legislative reform at country level, building on strong advocacy campaigns at global level in the areas of breastfeeding and salt iodization in particular.

In order to protect, promote and support breastfeeding UNICEF has provided considerable advocacy and technical support for many years for the adoption of national regulations to implement the International Code of Marketing of Breastmilk Substitutes, as well as for

maternity protection legislation that promotes and supports the rights of breastfeeding mothers. Such involvement is linked to the institutional commitment to the issue and the leadership provided at headquarters' level, in follow-up to the Innocenti Declaration. As in other areas, the existence of an internationally recognized instrument providing guidance on the issue represents a significant asset for its visibility and for gathering support.

In line with UNICEF's organizational goal to eliminate iodine deficiency, country offices have supported the adoption of legislation promoting universal salt iodization and prohibiting the commercialization and/or importation of non-iodized salt. Such efforts have taken place in all regions where UNICEF is present and have been generally successful. In CEE/CIS for example, the Regional Office made salt iodization a regional priority in 2001. The strategy specifically included a focus on legislative reform, thus leading to the systematization of the promotion of laws addressing this issue throughout the region and an analysis of the lack of enforcement.<sup>4</sup> In addition to the existence of a clear UNICEF policy on salt iodization, the extensiveness of legislative reform in this area can be attributed to the straightforward and "apolitical" nature of the topic, and the large number of undisputed studies showing the effects of iodine deficiency for children's health and development. While some economic interests are at stake, there is general consensus in most countries that salt iodization is essential to the health of the population. This is also an area where UNICEF has been a recognized leader for many years, thus its involvement and technical expertise are not questioned. As an expression of the UNICEF's role in this area, country offices often have specialized staff working on nutrition issues.

In the area of health, UNICEF's involvement in legislative reform remains less systematic. UNICEF's action keeps being mostly perceived as oriented towards the delivery of goods and services and the need for legislative reform appears less obvious. However, several country offices have used legislative reform to promote the universal right to health. Some have focused on promoting the adoption of laws making immunization mandatory for example. Others have advocated for legislative and institutional measures for the reform of the health sector, such as in Egypt where UNICEF has contributed to the promotion of universal health insurance.

With respect to education, legislation has long been recognized as an essential element of sustainable education policies. It establishes principles such as the compulsory nature of education, fixes the age range at which children are supposed to be in school during the day, organizes the school system, and sets the existence – or not – of school fees. UNICEF has been quite active in this regard in many countries. Yet, while laws are often in place, ensuring that children go to school and receive quality education often goes beyond the legislative framework and calls for pro-active public policies.

In the area of water and sanitation, while UNICEF is a recognized leader, its action does not generally focus on legislation. It has participated in the reform of water laws aimed at improving the organization of water supply in a few countries, but this involvement does not appear to be systematic. Its action rather seems concentrated on the provision of material supplies and data gathering. Other agencies are working on legislative reform in this area. For instance, a joint

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<sup>4</sup> UNICEF Regional Office for CEE/CIS, *Eliminating Iodine Deficiency in Central Eastern Europe, Commonwealth Independent States and the Baltics*, A progress report on activities in 2003, February 2004.

project of WHO and FAO on “Water laws and standards” compiles examples of such laws in a database.

In the area of early childhood, only sporadic examples show UNICEF’s involvement in promoting comprehensive laws. This is due to the fact that early childhood is at the conjunction of several areas; therefore efforts in this field may be related to laws on education, health and nutrition for instance.

It appears that UNICEF’s action in legislative reform tackles a very wide range of issues. Through this support, UNICEF also contributes to ensuring the inclusion of a gender perspective.

### *The inclusion of a gender perspective in legislative reform*

UNICEF’s Mission statement mentions that “*UNICEF aims, through its country programmes, to promote the equal rights of women and girls.*” The Programme Policy and Procedure Manual clearly recognizes that CEDAW is, together with the CRC, a guiding instrument for UNICEF’s mandate. It calls on UNICEF offices to be mindful of the articles of the CRC and CEDAW and of the guiding principles of these and other human rights treaties in programming, and specifically refers to UNICEF’s work in legislative reform requiring that both CRC and CEDAW be taken into account.

Concretely, UNICEF country offices have taken into account women’s rights mainly in two ways: 1) By supporting legislative reforms specifically aimed at promoting and protecting women’s rights; 2) By ensuring that a gender perspective was included in laws and implementation activities. Yet, while most UNICEF country offices reviewed have included a gender perspective, some face constraints in promoting women’s rights in legislative reform and/or have paid little attention to the issue.

#### *Support to laws addressing issues faced specifically by women and girls*

In many countries, UNICEF is supporting the elaboration and implementation of laws specifically addressing women’s rights. Legislative reform usually consists in a general law or policy aimed at promoting gender equality, or tackles a specific issue faced by women.

UNICEF has promoted in several countries legislative reform aimed at promoting women’s rights through a general law or implementation mechanism. These efforts range from support to the drafting of a law, to budget allocations to implementation measures. In Nepal for example, UNICEF has supported the drafting of the Gender Equality Bill, which contains provisions related to the equal right to parental inheritance at birth. It has also supported the elaboration of a guide for gender mainstreaming. In the Philippines, UNICEF has provided support to local governments to enact local codes on gender equality and use budget set-aside for gender equality. In Nicaragua, UNICEF has been involved in the drafting and promotion of the draft “*ley de igualdad de derechos de las mujeres*” by providing advice to members of parliament as part of an inter-agency group. In Mauritania, UNICEF has contributed to the elaboration of a national policy on the promotion of women. Activities in this area are often channeled through the UN system as a whole with inter-agency groups on gender for example, thus making it easier to join forces to influence legislation and policies.

In some countries, UNICEF has supported legislative reform in specific areas of importance for the realization of the rights of women and girls. Legislation addressing domestic violence often makes a link between violence against women and violence against children. The latter is a field where UNICEF has helped advance legislative reform in many countries. Harmful traditional practices have also been a focus of UNICEF's work for many years. Female genital mutilation and early marriage in particular have entailed significant work at the legislative level in Benin, Egypt, Ethiopia and Jordan for example. In Ethiopia, UNICEF has supported the establishment of a Girls' Forum in 2004, which laid the foundation for legislative intervention against sexual abuse of school girls, female genital mutilation, early marriage, marriage by abduction, and harmful traditional practices in general. Here again, UNICEF's involvement can be attributed to an explicit prohibition of such practices in the CRC, and a strong organizational policy in this matter at global level echoed by a public opinion movement that has helped create consensus, at least at a political level, on these issues.

UNICEF also takes into account the gender perspective in areas related to sexual abuse, exploitation, and trafficking, in particular for law enforcement measures. Country offices have reported that activities included support to the national police for the establishment of child and gender protection units, the training of police officers, and effective case management and investigation procedures.

#### *Within laws not specifically related to gender issues*

UNICEF also promotes a gender-perspective in legislative reform by advocating for women's rights within the framework of broader laws. A main area of work for UNICEF in this regard is the inclusion of gender sensitive provisions and the elimination of gender discrimination in family law. Juvenile justice reform can also provide the opportunity for advocating for the inclusion of a gender perspective. In the Philippines for example, UNICEF helped ensure that the bill on juvenile justice contained gender-sensitive provisions, stating that female children in conflict with the law shall be given special attention as to their needs, be placed separately from male children in conflict with the law, and handled by female doctors and law enforcement officials. The law also makes gender training compulsory for personnel working with children in conflict with the law.

#### *Constraints in taking a gender perspective to legislative reform*

In some countries, UNICEF faces obstacles in promoting a gender-perspective to legislative reform due to the political context and/or religious beliefs. The country office in Jordan reported that it had to adopt a subtle approach to gender issues, sometimes linking women's rights to children's rights, at other times advocating for equal rights for women and girls under international law and in the Islamic Sharia context.

While having undertaken activities for the promotion of women's rights, the country office in Zimbabwe pointed to the incomplete domestication of CEDAW and the need to improve women's participation in decision-making. In Nicaragua, UNICEF is active in promoting a bill

on gender equality, but it has been under discussion for the past three years due to opposition from conservative religious leaders.

This overview shows that UNICEF has been involved in reform focusing on many different issues and made efforts to strengthen the gender perspective. This diversity can also be found in the nature of the laws supported by UNICEF.

### **2.1.2 Nature of laws**

Reform of legislation can be promoted in different areas, but it can also take different forms. UNICEF has supported legislative reform for the realization of children's rights through special provisions in general texts or through the adoption of specific children's codes or acts. It has promoted reform at national level and/or at local level depending on the degree to which the political structure of a State is decentralized. When issues at stake are cross-border such as trafficking and require a coordinated legislative framework, UNICEF is able to promote an international solution through multilateral agreements.

#### *Comprehensive law*

Many countries have adopted or are in the process of adopting comprehensive laws on children's rights that take a holistic approach reflecting the provisions of the CRC. UNICEF is most often involved in those processes for several reasons. First of all, a child specific law touches upon several areas that fall within UNICEF's mandate and makes UNICEF a natural voice in the debate. It is also easier for UNICEF country offices to concentrate their efforts on one well-defined and highly visible law.

However, the extent of UNICEF's involvement varies. Due to management decisions and staff's background, some country offices have more sensitivity to legislative reform. The openness of the government to include external actors in the process affects the role of UNICEF at country level. More importantly, some processes may be very lengthy. As a result, country offices may have difficulties committing resources to legislative reform on the long term when governments change rapidly and new draft laws are presented every year, requiring constant advocacy efforts.

Furthermore, focusing on a comprehensive law presents the risk that the law be rejected for one specific reason, affecting other areas contained in the same law— "all or nothing" dilemma.

#### *Laws related to specific child rights issues*

In some instances, legislative reform only addresses a particular topic related to children's rights. Such laws are often adopted for topics like education, juvenile justice, and birth registration. UNICEF may be the initiator of the legislative reform, having pointed to a specific problem that needs to be tackled, or may provide technical assistance based on its experience.

#### *Child rights provisions in broader laws*

Sometimes, child specific provisions may be necessary in broader laws to ensure conformity with the CRC. For instance, labour laws may contain provisions regulating the employment of adolescents. Criminal procedure codes may include provisions related to vulnerable witnesses.

Depending on the situation in the country and their identification of a problem, UNICEF country offices often support “targeted” legislative reforms through advocacy and technical assistance.

### *Constitutional reform*

The recognition of children’s rights in the constitution is the best guarantee that they are among the highest legislative norms in the country. Constitutions inspire laws, institutions and importantly, jurisprudence. A number of countries have either incorporated the CRC and CEDAW in their constitutions by explicitly mentioning them, or have included constitutional provisions recognizing children’s and women’s rights, in a more or less comprehensive way. Several UNICEF country offices are or have been involved in constitutional reforms. Such involvement often – but not exclusively – happens when a major constitutional reform is underway. It is then used as an entry point to advocate for the inclusion of children’s and women’s rights and for ensuring that all provisions of the constitution are in conformity with the CRC and CEDAW. Major changes of regime or creation of new States provide such opportunities. For example, UNICEF has provided substantial technical assistance for the drafting of the constitution of East-Timor – resulting in the incorporation of a section on child protection reaffirming international human rights instruments – as well as more recently for the Iraqi constitution.

### *Local legislative reform*

In a federal or decentralized State, many of the issues tackled by the CRC and CEDAW may actually fall under the competence of states, provinces or districts. In that case, advocacy for legislative reform should take into account the structure of the state. In many federal States, UNICEF works on legislative reform at the state level, such as in Mexico or the Philippines for example. UNICEF’s strategy is then to start promoting legislative reform in a couple of states and progressively replicate the experience to others, using laws already adopted, and the process for their adoption, as a model. The strategy can also be used to advocate for legislative reform at the central level in a bottom-up approach.

### *International agreements*

In some areas, the effectiveness of legislative reform is significantly diminished if not coordinated with neighboring countries. This is particularly true in the area of trafficking, where international criminal networks operate and many issues arise from the fact that victims may find themselves in a country of which they are not nationals. In order to ensure their protection, the legislative framework must take into account the international dimension of the issue and several international instruments such as the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography and the Protocol to the Convention on Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children expressly mention the importance of international cooperation. In line with these instruments, UNICEF has been very active in recent years in promoting regional, sub-regional and bilateral agreements. These include a memorandum of understanding signed by six States in the sub-Mekong sub-region in 2004, a multilateral agreement on trafficking among nine countries in West Africa in 2005, as well as a bilateral agreement between Benin and Nigeria in 2005, for example. Using UNICEF’s presence in countries concerned and at regional level, country offices are able to collaborate among themselves and concomitantly work within their own countries to advocate for such agreements. This work has also benefited from support from

UNICEF's Innocenti Research Centre, which documented reform efforts and disseminated lessons learned and policy implications.

There are thus many entry points to legislative reform. Depending on the issue, political context, and structure of the State, different options are available to ensure that the legislative framework reflects the provisions of CRC and CEDAW. While for any reason, it may be difficult in a given country to adopt a comprehensive law on children's rights, advocacy can also aim at strengthening legislation by amending existing laws. Yet, this is not enough. Legislative reform cannot be limited to the elaboration and adoption of laws; it has to result in positive changes in people's lives. For that, accompanying measures are needed and they should be understood as full components of the legislative reform process. UNICEF's experience shows that most country offices included in the study have taken into account, though to various extents, implementation measures in their legislative reform activities.

## **2.2 Scope of legislative reforms**

Legislative reform does not stop with the elaboration of the law. To the contrary, it involves a set of measures to ensure that the law will be effective in protecting children's and women's rights. Most UNICEF country offices involved in legislative reform have promoted institutional reform, and to a lesser extent, accompanying social policies and budget analysis and resource allocation. It has to be borne in mind that there is no given sequence in programming. In other words, working to support accompanying measures does not necessarily come after the law has been elaborated and adopted. Rather, all these activities happen simultaneously and are mutually reinforcing.

### **2.2.1 Institutional reform**

Institutional reform is an essential element of legislative reform. If relevant institutions are not set up or reformed to back the implementation of laws, these laws end up having little or no effect.

In many cases, the law itself provides for the establishment of a new institution. The new institution may be an independent human rights institution, in charge of monitoring and supporting the realization of human rights in the country. In line with a global trend towards the creation of independent human rights institutions and the recommendations of the CRC Committee, many UNICEF country offices have advocated for the establishment of such institutions to monitor children's rights at national and local level. Guiding country offices in their advocacy efforts, an Innocenti Digest published in 2001 lays out the principles guiding the mandate and functioning of these institutions.<sup>5</sup>

UNICEF also promotes institutional reform in specific areas. UNICEF's country office in Egypt for instance has supported the establishment of child protection committees at the local level for the protection of children at risk of exploitation, abuse, neglect, and violence in the Governorate

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<sup>5</sup> G. Lansdown, *Independent Institutions Protecting Children's Rights*, Innocenti Digest, no. 8, June 2001

of Alexandria under the umbrella of the local government and in partnership with international organizations, NGO and civil society actors. This mechanism adopts a child-family approach focusing on both the child and his or her family, holds the State accountable for the protection of children, especially those at risk, builds on and promotes a common vision and strategy between local authorities and NGOs, and takes a proactive approach to monitoring the situation of children rather than wait for children to ask for help. Consequently, the institutional mechanism has benefited from the commitment and resources of local authorities, mobilized all groups of society and encouraged community participation, resulting in vibrant and flexible implementation.

In the field of juvenile justice, the judicial system must be adequately equipped to deal with children. In Bandung, Indonesia, UNICEF supported the establishment of a special court room and detention room for children. As a result of these institutional changes, judges are more lenient towards children in conflict with the law. Judicial reform can also take place in countries with a strong component of customary law thus ensuring that customary law is applied in a system abiding by the rule of law.

In the area of birth registration, the establishment of registrars that are easily accessible is a primary condition for the effectiveness of laws providing for universal birth registration. In Venezuela, UNICEF has advocated for the adoption of laws that significantly facilitate birth registration formalities and make it mandatory for hospitals with maternity sections to create birth registration units conforming to a set of standards. UNICEF has then been working with hospitals, local and central authorities to set up such units, and monitor and evaluate their functioning, resulting in a significant increase in registration at birth.

These are but a few examples of how UNICEF approaches institutional reform as going hand in hand with law reform. It is interesting to note that successful efforts integrate institutional reform in laws, rather than envisaging the reform or establishment of institutions as a “second” phase.

### **2.2.2 Accompanying social policies**

To be effective, laws need to be accompanied by adequate social policies. As part of the human rights based approach to programming, the synergy between the development of public policy, the legislative process and the national development choices that affect children, women and families should be fully understood.<sup>6</sup>

Some country offices that are involved in social policy work link it to legislative reform. Laws may be perceived as supporting social policies, or vice-versa. In Angola for example, a new social welfare policy adopted in 2004 includes the protection of orphans and vulnerable children as a priority. Within this context, a special legislative proposal was submitted to the Council of Ministers to increase state support to fostering families and families made vulnerable by HIV/AIDS.

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<sup>6</sup> PPM, Paragraph 10

However, examples of actions taken by country offices to link law and social policy are still rare and performed on an *ad hoc* basis. It has to be acknowledged that there is so far little research and guidance available on how these two dimensions of public policies can be used together on a systematic basis. The synergies between these policy tools will most likely get greater attention in the near future with the Focus Area 5 of the MTSP (2006-2009).

### **2.2.3 Budget analysis and resource allocation**

Importantly, legislative reform and its accompanying measures such as institutional reform and social policies require adequate allocation of resources. Lack of resources is probably one of the main obstacles to the implementation of laws and represents a main argument used by opponents against the passage of new laws.

However, a review of UNICEF experience in selected countries point to the fact that very few offices undertake advocacy activities to ensure adequate allocation of resources. This is often due to a lack of capacity to do so in the office as well as a general lack of UNICEF's involvement in public finance issues.

Budget analysis constitutes a new area of involvement for UNICEF at country level. Only a few countries have experience in this regard. While budgets are essential for the implementation of laws, one has to bear in mind that budgets themselves are laws – budgetary laws – that can be influenced for the realization of children's rights.<sup>7</sup>

In Ecuador, UNICEF has been heavily involved in budgetary issues and has issued a budget analysis from a child rights perspective that influenced the budgetary law. The country office supported a study by a team of international and national consultants on the economic situation and its implications for children with a focus on the national budget. The results were presented to key political figures and social spending increased by 15.5%. UNICEF was also given access to the government's database and has been able to analyse the impact of budgetary decisions on children's well-being and issue a periodical bulletin aimed at legislators, civil society and the media.<sup>8</sup>

Costing of laws aims to evaluate whether the piece of legislation is sustainable, provide information on how the implementation of the policy can be planned and budgeted, and estimate the direct costs on stakeholders.<sup>9</sup> UNICEF country offices rarely promote and support an analysis of the costs of a new proposed law. However, this is often key to gather evidence based arguments in favour of the new law and prove its efficiency from a cost-benefit perspective. The country office in Lesotho for example has made efforts to ensure the costing of the Child Protection and Welfare Bill drafted in 2004. In this country, UNICEF has supported the training of 35 people from key sectors including various Ministries on methodologies to cost the Bill. Based on the recommendations of the trainers and the decision of the core technical team on the way forward, the actual costing exercise can be undertaken. In addition to building national

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<sup>7</sup> For extensive information on budget and legislative reform, see Radhika Gore, *Influencing Budgets for Children's Rights*, Working Paper, UNICEF DPP/Global Policy, June 2004

<sup>8</sup> Ibid. p. 37

<sup>9</sup> Ibid, p. 16

capacity in this area, the objective is to gather support from all the Ministries, as their representatives on the team cost the respective sections of the Bill that concern them.

In some countries however, authorities are reluctant to involve UNICEF in budgetary issues. In one instance, UNICEF was prevented from participating in budgetary debates. In another case, UNICEF's recommendations for allocating adequate resources for the implementation of juvenile justice legislation were not accepted by the government.

It follows from the foregoing that UNICEF is involved in many types of legislative reform, both in terms of the issues covered and the nature of the law. Yet, how are UNICEF country offices organized to integrate legislative reform as part of their activities? The organization of UNICEF's offices and programmes is an important factor determining the scope and nature of its involvement in legislative reform.

### **3 Organization and functioning of UNICEF's offices and programmes with respect to legislative reform**

Legislative reform requires a long term commitment where results are not easily palpable and obstacles can be numerous. Sustained efforts can remain unrewarding for several years, making it difficult for a country office to dedicate time and human and financial resources on the long run.

#### **3.1 Programmes dealing with legislative reform**

Since legislative reform is both a cross-cutting issue and a sectoral issue requiring technical skills, UNICEF country offices have organized themselves in different ways for legislative reform related activities. The way the country office has organized its work depends on the perception of the role of legislative reform in the country programme and obviously affects UNICEF's support in this area. Usually, the organization of the office stems from the Country Programme Document and Management Plan. It is therefore while these documents are being drafted that a reflection within the office on the role of legislative reform in UNICEF's cooperation should take place. An overview of the activities of selected country offices through questionnaires, annual reports and programme documents, shows that legislative reform can either be a comprehensive programme or project or tackled as an element of programmes by sectors such as health, education and protection.

##### **3.1.1 Comprehensive programmes or projects on legislative reform or public policy**

###### *Policy and planning*

Some country offices devote an entire programme or project to legislative reform, usually as part of the policy component of the country programme. In Angola for example, there is a project on legal reform and policy development. In Armenia, "policy development and advocacy" is one of the three components of the country programme and focuses on the development of legal

frameworks and national plans in three areas: health, child development and education, and child protection. In Botswana, the policy and legal analysis project is included in the legislation and social services programme. Likewise, UNICEF-Lesotho has a social policy and planning programme within which it assists the government in the area of legislative reform. As stated in the 2002 MPO, “the Social Policy and Planning Programme aims at supporting the Government of Lesotho in its efforts to adopt new and amended legislative instruments (...). [It] will coordinate the other three thematic programmes and provide technical and intellectual support to legal and policy development activities in health, education, nutrition, youth development and child protection sector.”

### *Child protection*

In many country offices, legislative reform is a component of the child protection programme. Because UNICEF has worked on legislative reform in the area of child protection for many years and the protective environment strategy has a focus on legislation, it is often incorporated as a sub-project.

While legislative reform is a key component of programming in child protection, legislative reform goes beyond child protection issues as shown above. The danger with a child protection approach is to limit legislative reform to a specific area, and not sufficiently take into account the importance of social policies.

#### **3.1.2 Sectoral programmes**

In some country offices, legislative reform is incorporated into specific programmes as a cross cutting issue. In Zimbabwe legislative reform is incorporated in all sections, including but not limited to social policy and child protection. Likewise, in OECS, legislative reform is part of integrated early childhood development, adolescent participation and child protection. In one country, under the country programme document, each project is supposed to have a legislative reform component, yet the country office has had a limited involvement in legislative reform in practice. This is most likely due to a lack of human resources and may change with the recent creation of a post of social policy officer. Interestingly, after its MTR, another country office reviewed its country programme and included a reference to legislative reform and public policies in all of its components. However, it does not appear from the Country Office Annual Report that major changes have taken place yet.

These examples suggest legislative reform efforts are best sustained when their mainstreaming is accompanied by the designation of one “lead” section or person that has the technical skills to support the process. The Legislative Reform Initiative may change this situation by making legislative reform tools and training materials available to all officers.

#### **3.1.3 Role of the communication section**

In most country offices, the communication section plays a key role in advocacy efforts for legislative reform. Its precise role varies from one office to another. In Benin for instance, advocacy for legislative reform is a joint effort between the child protection and communication

sections. In Namibia, UNICEF has a programme on “Special Protection and Disparity Reduction”, which aims, among other goals to ensure conformity of Namibian legislation on women and children with CRC and CEDAW. Within this programme, the stated goal of the project entitled “Research and Communication” is to ensure that 80% of all pending legislation is in conformity with CRC and CEDAW, and increase awareness and obligation towards fulfilment of children’s and women’s rights. Sometimes, legislative reform primarily falls under the responsibility of the communication programme. This is the case in Namibia and the Philippines.

This indicates that legislative reform is not only perceived by country offices as a technical field in which UNICEF’s role lies primarily in its technical expertise. It is also an element of the public debate in the country, which requires UNICEF to inform citizens about its stakes in order to enable them to have an enlightened opinion, gather support for the reform, and avoid politicization.

This analysis demonstrates that there are many different ways by which UNICEF country offices are organized to support legislative reform. The organization of the office also has an impact on the funding of projects related to legislative reform.

## **3.2 Funding**

Most often, when there is a specific project or programme dealing with legislative reform, that project or programme has a separate budget post for its activities. As a result, budget is already allocated to legislative reform activities and cannot be used for other purposes. However, this is not the case when legislative reform is dealt with by sectoral programmes. In this case, other priorities compete with legislative reform for the budget of the section. Since legislative reform remains a long term and costly exercise, which effects are less measurable and attributable, resources may tend to be used for activities with a more immediate and visible impact.

## **3.3 Staffing**

Because legislative reform is both a very specific and cross-cutting activity and depending on the organization of the country programme in this regard, country offices have adopted various ways to manage human resources in this area.

### **3.3.1 Capacity within the office**

#### *Focal point*

Most often, a focal point is designated to deal with issues related to legislative reform. Depending on the structure of the country programme, the focal point may be an officer in charge of a whole programme or project related to legislative reform, or a staff member with a special expertise in this area.

When a programme or project is entirely focused on legislative reform, the manager of the project is the focal point for the entire office. In many cases, when legislative reform falls under the child protection programme, the child protection officer is responsible for legislative reform. Sometimes, when one staff member has a legal background that person is in charge of advising the rest of the office on issues related to legislative reform, in addition to his/her usual functions.

It should also be borne in mind that the Representative plays a key advocacy role in supporting legislative reform, given her/his access to high level officials within the country and role as spokesperson for UNICEF in the media.

### *Every staff's function*

Along with the focal point, in country offices where legislative reform is integrated into all of the activities of the office, it is considered to be part of every staff's functions. This is the case in the Philippines where legislative reform is the responsibility of each section with support from communication as well as advocacy by the Representative. In Botswana, the officer for the policy and legal analysis project acts as focal point on legislative reform, but all programme officers are responsible for integrating legislative reform in their respective areas. In Jordan, Mauritania, Morocco and OECS, legislative reform is part of every staff's function. While it is important to make legislative reform a responsibility of each and every staff in the office, mechanisms should ensure that staff actually integrate this dimension into their activities.

### **3.3.2 Hiring consultants**

In addition to the project or programme officer, many country offices hire consultants or TFTs, either to support legislative reform in general, or to provide technical expertise on a particular aspect of the project. As noted by one consultant who prepared a national study on legislative reform in Morocco, UNICEF staff cannot have an expertise in all areas and resorting to consultants also reinforces national capacities in terms of research and analysis.<sup>10</sup>

Yet, hiring consultants should not be perceived as a substitute for participatory processes involving various sectors of the society. Too often indeed, country offices hire consultants who prepare a new law from their desk, without consulting with partners and building capacity within the country, resulting in lack of ownership of the final product by those who are in charge of implementing it.

## **3.4 Rationale for legislative reform**

While legislative reform has been included in the Programme Policy and Procedure Manual for several years, it is only since mid-2004 that the PPPM considers it as one of UNICEF's core activities at country level. Yet, UNICEF country programmes have a five-year cycle and many programmes started before that date. UNICEF's involvement in legislative reform at country level finds its origin both in external factors such as the recommendations of the CRC and

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<sup>10</sup> UNICEF-Maroc, *Initiative de la Réforme Législative, Etude Nationale*, Septembre 2004

CEDAW Committees or an emerging issue, and internal factors such as UN Country Team and UNICEF documents. Needless to say, all these factors are interrelated, as Committees' recommendations influence situation analyses, and are influenced by UNICEF's observations made in pre-sessional meetings of the Committee in Geneva.

### **3.4.1 External factors**

#### *CRC and CEDAW Committees*

The CRC and CEDAW Committees, when reviewing State Parties' reports, issue sets of recommendations on the implementation of their respective treaties. A desk review has shown that many recommendations are related to legislative reform.<sup>11</sup> The same review finds that the recommendations often focus on implementation measures rather than on law reform itself. UNICEF's PPPM specifically requires country offices to take into account the recommendations of the CRC and CEDAW Committees in the elaboration of the situation analysis (SITAN) and the common country assessment (CCA).

Virtually all country offices surveyed mention the recommendations of the Committees, in particular the CRC Committee, as the starting point for legislative reform. Following the issuance of the Concluding Observations of the CRC Committee, UNICEF country offices usually organize dialogues with policy-makers and briefings to the press, and disseminate the recommendations through various communication tools.

The participation of government officials in the dialogue with the Committee facilitates their involvement in ensuring the implementation of the recommendations.

While UNICEF country offices seem to have a less systematic approach to promoting the Concluding Comments of the CEDAW Committee and to its reporting process in general, some examples show that there is significant potential in this area, which could be further explored. Very concretely, in Nepal, UNICEF supported the participation of a key government official and the representative of a leading NGO to the CEDAW hearing. One of the direct outcomes has been the drafting of a Gender Equality Bill, which will replace discriminatory provisions in the 1963 Civil Code, in particular by establishing, among other things, equal right to parental inheritance at birth.

#### *Emerging issues*

In some cases, a new issue may call for an adaptation of the legislative framework. Country offices identified two sets of emerging issues as a cause for legislative reform. One is the increasing number of orphans and children made vulnerable by HIV/AIDS. In particularly affected countries, the pandemic has significantly modified social structures, and left wide numbers of children without parental care and protection. This unprecedented situation has triggered efforts to reform the legislation, institutions and social policies in order to mitigate the

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<sup>11</sup> Verena Sich, *Compilation of the Concluding Observations adopted by the Committee on the Rights of the Child containing recommendations regarding legislative reform – Research Overview*, UNICEF DPP/GPS, July 2004

impact of HIV/AIDS on children. For example, the revision of inheritance laws with a women's right perspective is essential to ensure that children and their mothers are not destitute when the father/husband dies. In several countries, in Africa especially, UNICEF has supported legislative reform in order to protect orphans and children made vulnerable by HIV/AIDS. In Angola, it has supported the elaboration of a social welfare policy and a legislative proposal in this area. In Kenya, UNICEF supported a study resulting in a comprehensive legislative agenda for orphans and vulnerable children, outlining key gaps and making recommendations on amendments. This agenda is being used as the basis for development of the national OVC policy.

Another new – or newly recognized – phenomenon that has triggered UNICEF's involvement in legislative reform is the abuse and exploitation of children. Several country offices from different regions of the world mention an increasing concern in this area. At global level, efforts are underway to elaborate guidelines for the protection of child victims of trafficking, underlining the importance of an appropriate legislative framework in this regard.

These external factors are usually reflected in either UNCT documents or UNICEF documents or both.

### **3.4.2 Internal factors**

#### *UN Country Team documents (CCA/UNDAF)*

It is noticeable that while virtually all country offices surveyed mention SITAN as key in their involvement in legislative reform, a smaller number identifies CCAs as playing a significant role. A review of some CCAs suggests indeed that legislative reform is not always at the forefront of the work of the UN Country Team. This may evolve as the UN moves forward with the implementation of "Action 2", a recommendation within the Secretary-General's agenda for UN reform for the UN to support to efforts of Member States in establishing and strengthening national human rights promotion and protection systems.

In Lesotho, the UNDAF explains that while civil and political rights are guaranteed by the constitution, social, economic and cultural rights are only recognized as policy principles and are not enforceable by any court. According to the same document, "*the serious problem that arises is that these policies are not translated into law, and so do not offer the same level of protection to those whose economic, social or cultural rights are not legalized*". Strategies proposed by the UNDAF include: support for the development of new legislation; promoting a rights based approach to poverty eradication; monitoring follow-ups to UN human rights conventions and declarations, especially with regards to the rights of the child and advancement of women; need for a permanent national human rights commission; and strengthening and monitoring of the administration of justice and legal systems. The UNDAF designates UNICEF as the lead agency on this issue, which suggests that UNICEF successfully advocated for the inclusion of legislative reform in the document. Generally speaking, given the important role played by UNICEF in the elaboration of common UN documents, it shares the responsibility to advocate for the inclusion of legislative reform in these documents.

## *UNICEF country programme documents*

Most country offices surveyed indicate that the need for legislative reform was highlighted in the situation analysis and reflected in programme documents.

In Mexico the 2000 Country Note describes the programme on Child Rights in Public Policy as three complementary and interactive projects designed to gather and disseminate knowledge about child rights and promote their application as part of the legislative, judicial and administrative reforms. The stated goal of the legislative, judicial and administrative reform project is to promote the adjustment of federal and state standards and procedures to the provisions of the CRC and CEDAW, with special attention to juvenile justice. As part of the MTR conducted in 2004, the Office and its counterparts agreed to concentrate and strengthen their efforts in influencing public policy and public opinion towards the universal fulfillment of child rights through four strategies, among which is included support of legislative and institutional reform processes.

In another case, after its MTR, the Kenya Country Office reviewed its country programme and included a reference to legislative reform and public policies in all of its components, thus mainstreaming legislative reform as a key element of all UNICEF activities in the country.

## *UNICEF's organizational policies*

As mentioned above, the weight UNICEF as an organization places on legislative reform in some areas can be determinant in the ensuing focus given by country offices to legislative reform in those same areas at country level. One example is the work on breastfeeding and the code on breastmilk substitutes, as well as the accompanying support provide by headquarters in this field, which has been instrumental for UNICEF's involvement at country level.

## **4 Processes of legislative reform supported by UNICEF**

### **4.1 From law review to implementation**

UNICEF supports all aspects of the process: law review, advocacy and implementation activities.

#### **4.1.1 Law review**

The first step in the legislative reform process is usually law review. Law review consists in analyzing the current legislative framework from a child rights perspective, with a view to determining the extent to which international legislation is in conformity with international human rights standards and identifying gaps and contradictions. More than a technical phase, law review is important to start building consensus in the country and mobilize stakeholders on the need for legislative reform. Agreeing on gaps is a crucial step towards agreeing on solutions.

Law review also provides the opportunity to elaborate strategies for the reform. Yet, the same way situation analyses are performed on a continuous basis, law review is a process that requires permanent attention, as circumstances keep changing and new needs emerge.

When no law review takes place, major shortfalls may remain in the legislation and the implementation of the CRC as a whole can be impaired. In Mauritania for example, the national study on legislative reform states that no law review has taken place to identify the conformity of the legislation and Islamic law with the CRC. As a result the Government has made a general reservation to the CRC, and each ministry or department has undertaken legislative reform separately. Consequently, problems are solved on a case-by-case basis.<sup>12</sup>

However, UNICEF often –yet not always – supports law review processes at country level. Nonetheless, the nature of these processes can vary significantly. Law review can be undertaken as a desk review of existing legislation, carried out by a consultant. UNICEF has often chosen this solution in the past, typically hiring a well-recognized law professor in the country to conduct a study of the legislation in force. However, such a process most likely results in lack of ownership of the product by main actors, who perceive it as an academic piece that does not necessarily reflect practical concerns.

Law review can also be conducted in a participatory and holistic manner, involving consultations with a wide range of stakeholders.

In the OECS, UNICEF supported an in-depth examination of social service delivery systems that support the court process. The study highlighted the need for the transformation of family law to increase its responsiveness and relevance to the changing social, economic and cultural situation of the OECS. An intensive consultative process across the nine participating States was then held to shape the content and direction of law reform.

In Botswana, UNICEF has undertaken law review in a very participatory manner. A first review of the 1981 Children's Act took place in 2000-2001 supported by UNICEF. However, the recommendations that resulted from the review did not represent people's aspirations and lacked a focus on children's rights. Therefore, in 2003, UNICEF supported another law review, following an agreement with the government to undertake a holistic and comprehensive review of the Children's Act, based on human rights concepts and principles, and following a human rights based process. Two reference groups were set up: a Technical Multi-sectoral Reference Group and a Children's Reference Group. The composition of both groups reflected gender, experience and sector diversities. Goals and principles of the groups were spelled out from the beginning and were human rights based. Activities included meetings and retreats, discussions and focus group discussions for children. These activities involved interactions with a wide range of actors such as ministries, lawyers, judges, social workers and parliamentarians. Recommendations were finally presented to the Principal Secretary in the Ministry of Government. Yet, the Government was slow to implement the plan due to resistances. The Reference Groups were disbanded before proposals were turned into implemented norms – too

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<sup>12</sup> A. El Yessa, *La mise en oeuvre de la CDE en Mauritanie: Contraintes et perspectives*, July 2004, p.32.

early, and the momentum created was lost. Still, the use of reference groups helped ensure that child rights were at the centre of the reform and create national ownership for the reform.<sup>13</sup>

Law review builds on, and feeds, UNICEF's advocacy efforts for legislative reform.

#### **4.1.2 Advocacy for legislative reform**

Advocacy often constitutes the core of UNICEF's support for legislative reform. It can encompass a wide range of activities aiming to raise awareness among government officials, parliamentarians, law professionals, law enforcement officials, but also the society in general.

Virtually all country offices surveyed support the same type of activities, in particular consultations workshops, trainings, and social communication efforts, and offer technical assistance.

Consultation processes involve a wide range of stakeholders in order to build consensus around the need for legislative reform and the principles that should guide it. In Nigeria for example, UNICEF has supported a National Stakeholders' Meeting where civil society organizations, comprising the academia, professional bodies, faith-based organizations, women's associations, child parliamentarians, youths and government officials agreed to intensify advocacy efforts for the passage of the Child Rights Act by State Houses of Assembly. Participants issued a call for child rights and welfare concerns to be addressed in the manifestos of political parties, to be widely publicized by the mass media, and for the private sector to sponsor the activities of the Nigerian Movement for Children.

In Lesotho, UNICEF has supported a consultative process to ensure multisectoral inputs involving all key sectors at every stage of the review and drafting process of the Child Protection and Welfare Bill under the leadership of the Lesotho Law Reform Commission from 2001 to 2004. It has held regular stakeholder consensus building workshops at critical stages of the process to ensure sectoral buy in. It has also supported a two day seminar with all stakeholders to finalize the drafting of the Bill.

In some countries, legislative reform is faced with strong resistance. In those cases, UNICEF's action requires a more elaborate strategy, which often implies making difficult choices.

Uruguay is a good example of such a situation. At the end of 2001, the House of Representatives approved a Children's Code, which had been in discussion for over eight years. The bill was not fully in line with the CRC; it was taking the Convention as a core reference but distorted it in the legislation on specific issues. UNICEF's advocacy vis-à-vis the Vice President of the Republic – who is also the president of the Senate, awareness-building among journalists interested in these issues, government authorities, the drafting committee, Parliament, academia, and NGOs, as well as private conversations with Senators from all political parties, enabled to prevent the adoption

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<sup>13</sup> For a full account of the law review process in Botswana, see Report of the Multisectoral Reference Group and the Children's Reference Group assisted by G. Kamchedzera, *The CRC, Legislative Reform and Customary Law: A Botswana Case Study*, February 2004.

of the bill by the Senate, hence gaining time to further discuss it. During 2003, UNICEF developed a firm strategy aimed at getting the new code approved by the Parliament's two chambers, only if it was in line with the CRC. At the end of 2003, the Senate announced that it would approve the bill with some changes, which meant an even greater departure from the CRC. UNICEF reinforced its advocacy activities. The discussion on the new code was postponed until 2004 and a new parliamentary commission was formed to discuss the final contents of the law. The law finally adopted in 2004 was the one that had been approved by the House of Representatives in 2001. However, the ruling party expressed a will to present changes to the new Parliament.<sup>14</sup>

In the Philippines, the passage of the Juvenile Justice Bill was made difficult by a lack of political will. Consequently, the UNICEF country office elaborated an advocacy campaign strategy. It found that many NGOs and church groups were advocating for the passage of the bill, yet few actually coordinate their efforts. UNICEF brought together all major NGOs, government agencies, police and social development agencies to work in unison for advocating passage in the Congress. As a result, a national juvenile justice network made up of over 50 organizations has collaborated to keep public awareness on this issue at a very high level to influence passage of the legislation, which was adopted in April 2006.

All these experiences suggest that UNICEF's advocacy role goes beyond an institutional positioning in favour of the law. Rather, it often consists in bringing together various actors so that a consensus can emerge in support of legislative reform. The challenge is to ensure that this consensus persists after the approval of the law.

### **4.1.3 Implementation activities**

As stated previously, advocating for the adoption of new legislation may bring about limited changes if legislation is not implemented. Therefore, UNICEF's efforts also focus on implementation, which comprises the dissemination of the law, training of those in charge of enforcing it, and proper budget allocations and social policies. Implementation activities are not necessarily planned once the law is adopted. Instead, sensitization starts while the law is being elaborated. The consensus built among various actors around advocacy for the adoption of the law actually creates a critical basis for ensuring the adequate implementation of the law, as virtually the same actors are involved.

In Guatemala for example, the adoption of the Child and Adolescent Protection Act took several years and was faced with major opposition in the Parliament under the pressure of various influential groups. Due to these resistances, UNICEF supported the creation of a movement for children's rights, gathering actors supportive of the law. The difficulties faced by the network increased solidarity among its members and with UNICEF, and established a habit of "working together." As a result, when the law was adopted, the movement for children's rights persisted and focused its attention on the implementation of the law by holding the government accountable and organizing various activities such as trainings and conferences.

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<sup>14</sup> For more information, see Uruguay Country Office Annual Reports, 2002, 2003 and 2004.

In order to build capacity for legislative reform, UNICEF promotes a wide range of activities for the implementation of laws, including the strengthening of institutions, trainings, partnerships with universities, dissemination of the laws, support to accompanying social policies and monitoring of implementation.

In several countries UNICEF supports the establishment of special brigades for children and the training of policemen. In Indonesia, the country office supported a comprehensive training programme for police officers on juvenile justice as well as a reference book for the police. In Mauritania, UNICEF supported the creation of a minor brigade and trained policemen while in Namibia, it supported a training for police officers on laws applicable to the women and children protection unit, effective case management, monitoring and evaluation. In Nepal, it provided support to the police to review and revise the investigation procedures for crimes against women and children with special reference to trafficking and sexual violence.

In some countries, UNICEF promotes the inclusion of child rights courses in magistrates' schools and universities. This is the case in Cameroon and Algeria for example, where children's rights are part of the judges' regular training. In Nigeria, UNICEF has worked with the Nigerian Universities Commission to mainstream child rights issues into the curriculum of universities.

UNICEF also works with Courts to provide for child sensitive procedures. In the Philippines for example, UNICEF collaborated with the Supreme Court for the issuance of rules of procedure that protect women and children. It also promoted paralegal support to child victims. In Nepal, it helped create community based para-legal committees, which deal with a wide range of children's and women's rights issues such as reporting domestic violence, helping with birth registration, and reporting child marriage and trafficking cases. In Lesotho, the country office supported the training of 100 professionals in child friendly courts, restorative justice and intermediary training.

UNICEF is also very active in disseminating the content of the law to the population. In Lesotho, it has worked with Principal Secretaries, teachers, journalists and catholic clergy members to sensitize them on the Child Protection and Welfare Act.

Constant monitoring is a key aspect of implementation and enables to identify gaps requiring further reform. In the Philippines for instance, UNICEF is promoting checklists to test the implementation of local codes on children by identifying for instance whether they are funded and monitored, and implementation results are reported regularly. In Mexico, UNICEF has provided assistance for the design of an operational model for the monitoring committee of the local law for the protection of children and adolescent's rights in Chiapas.

As suggested in this section, UNICEF works with a wide range of partners in the legislative process. Those range from government officials to NGOs and journalists, and from judges to children themselves. A closer look at these different actors follows.

## 4.2 Actors involved and participation mechanisms

Many actors are involved in the legislative reform process. Everywhere UNICEF attempts to establish partnerships with them and supports participation mechanisms.

### 4.2.1 Actors involved

Involving all sectors of the society and government in a strategic manner is key to ensure the adoption of the law and its implementation. Following is an overview of the various actors UNICEF has been working with. Concrete examples of UNICEF's collaboration with them have been mentioned above.

#### *Ministries*

Ministries are usually the main actors behind the drafting of the law. In many countries, the power to propose new laws often falls de facto under the competence of the executive i.e. the government. Ministries are also on the frontline for the execution of the laws, and the implementation of social policies. Traditionally, child rights issues in general are dealt with by the ministry of family or social affairs or its equivalent. Yet partnerships can go beyond this ministry depending on the area covered by the legislative reform.

On juvenile justice, the ministry of justice is a natural counterpart. For sectoral reforms, country offices naturally work with the ministries of health, education and labour, and others as relevant. When international agreements are involved, UNICEF works with ministries of foreign affairs. The ministry of local development is also an important counterpart in several countries. In Nepal for example, UNICEF partnered with that ministry on birth registration. In the Philippines where UNICEF promotes local codes on children, it also works with the ministry of local government.

However, none of the countries surveyed mentions the ministry of finance as a counterpart. This suggests that the allocation of resources, when tackled, is dealt with at a sectoral level rather than in a holistic manner, by trying to influence the national budget at its inception. UNICEF Mexico has made efforts to get involved in the budgetary debate, but had to renounce due to reluctance on the part of authorities.

#### *Parliamentarians*

In many countries, yet not all, UNICEF collaborates with parliamentarians on legislative reform. Parliamentarians are fundamental actors in the legislative reform process since they are the ones who approve – and can propose and amend – the law. Alliance with them is thus highly strategic. In Mexico for instance, UNICEF cooperated with deputies and senators of the four main political parties to present a constitutional reform initiative to establish a juvenile justice system. At headquarters, UNICEF works actively with the Inter-Parliamentary Union, an international organization of Parliaments, in particular through the joint publication of handbooks, such as “*Child Protection: A Handbook for Parliamentarians*”.

#### *Law enforcement officials*

UNICEF works closely with judges and the police, in particular for law enforcement respectful of children's rights. It involves them in the legislative review and reform processes, and supports

training for the implementation of the law. As examined above, UNICEF is particularly active in several countries for the establishment and training of special brigades for minors.

#### *Lawyers and Bar associations*

In several countries, UNICEF develops partnerships with lawyers and bar associations. In the OECS for instance, the country office has organized debates with bar associations to support the legislative reform process.

#### *Traditional and religious leaders*

Traditional and religious leaders are extremely influential and can help mobilize the public opinion in favour of legislative reform, both for the approval of the law and for its implementation. While civil society organizations may be perceived as lacking legitimacy, traditional and religious leaders do not face such criticism, and consequently have more weight. Conversely, their opposition to the reform can lead the process to a failure.

The experience in Guatemala provides a good example of the strategic importance of religious leaders. As mentioned earlier, the legislative reform process there encountered major resistance from different parts of the society. The Churches in particular were initially very active in preventing the draft code from being adopted because they believed some of its provisions were destroying the family. Precisely because the Churches were opposed to the reform and have a great influence in the country, UNICEF and others deemed it absolutely necessary to involve them and convince them of the need for a law. The Anglican Church, which was in favour of the law, was used by UNICEF and other partners as a mediator to approach the Catholic and Evangelical Churches and organize regular meetings. The Jewish community was also involved. After 3 months of discussions, they were all convinced of the importance of the law, and agreed that it was strengthening the family. The group was named the “Consensus Table” and proved instrumental in securing eventually the adoption of the law. It still exists today and focuses its advocacy on implementation and further reform.

Many country offices, especially in Africa, cooperate closely with traditional leaders. In Botswana for example, a country with a plural system – common law and customary law, *kgotla gatherings* are the customary meetings of a tribe or a portion of it to discuss matters of tribal or communal concern in accordance with customary law. They played an important role in the law review process, including through discussions with the Children’s reference group.

#### *Media*

Many country offices mention their use of the media to promote legislative reform, thereby reflecting the key role mentioned above of the communication section in this field. The exact role of the media is difficult to assess, since UNICEF use it more generally to ensure the visibility of children’s rights. It is often within this broader framework that the promotion of legislative reform takes place.

#### *Other UN agencies*

UNICEF country offices often collaborate with other UN agencies on legislative reform, but that cooperation does not seem to be systematic and UN agencies involved vary significantly from one country to the next. UNDP is often quoted as a partner. On specific issues, UNICEF works

with relevant UN agencies, such as ILO for child labour, UNESCO in the area of education, UNIFEM and UNFPA on gender issues, WHO on reform related to health, etc. Interestingly, OHCHR is rarely cited as a partner on legislative reform in the countries reviewed.

The lack of systematic coordination may be explained by the fact that some agencies do not have offices in all countries where UNICEF is active. It can also be attributed to the lack of involvement of other agencies in legislative reform due to their own agenda or to the fact that UNICEF does not always reach out to them for its work on legislative reform.

#### *Civil society organizations*

Civil society organizations are of course essential partners in legislative reform. As suggested in the section on processes, UNICEF contributes to forming coalitions in favour of the law. One example is the network on juvenile justice in the Philippines mentioned above.

Some country offices however acknowledge that the role of the civil society has remained limited due mainly to the lack of a participatory culture in the country. This is the case in Egypt, where the power is heavily concentrated with the central government. Likewise in Algeria, the country office indicates that the process was not very participatory and the civil society not involved.

#### *Children*

While it may seem that legislative reform is a complex process that should be left to technicians, children can play an important role when properly involved through adequate mechanisms. From a human rights based approach, it is essential that children participate in all processes that affect their lives, in order to ensure that the law and its implementation address the issues they face in an effective way and to train children as active citizens of the society to take part in public debate. Mechanisms through which children participate in legislative reform are examined in the next section.

### **4.2.2 Participation mechanisms**

There are many ways through which the genuine participation of all stakeholders can be achieved. Some of them have been analysed above with respect to UNICEF's support to legislative reform processes. Yet, the sustainability of a wide participation and social mobilization is best ensured when institutionalized or permanent mechanisms are in place. This is especially important for children's participation.

#### *Child participation mechanisms*

Child participation requires a specific strategy to ensure that it is genuine and actually guides the elaboration and implementation of the law and accompanying policies. Some participatory mechanisms are child specific while others involve children along with adults.

Many countries around the world have set up, with UNICEF support, children's parliaments, where child delegates discuss their priorities for the country and make legislative proposals.

Some countries have supported structures involving a smaller number of children, but functioning on a regular basis and fully integrated into the legislative reform process. One such example is Lesotho. The Lesotho Law Reform Commission, supported by UNICEF, included a Junior Committee. The Junior Committee planned its own campaign, aimed at putting the voices of children on the agenda of the child law reform process. The Committee organized several activities during school holidays, such as writing skills training workshop, radio drama, awareness raising on child rights, life skills training and orientation in the Committee members' schools. The children on this Committee also participated in other national initiatives that were ongoing around the same time such as the PRSP.<sup>15</sup>

Child participation can also be achieved by including children, along with adults, in participatory structures. In Indonesia for example, as part of a UNICEF strategy to develop a model for restorative justice in Bandung, children were included as full participants in a team responsible for conducting an assessment on juvenile justice. The ten member team included a law professor, an NGO lawyer, an anthropologist, a sociologist, a police officer, a judge, a probation officer, an NGO representative, a representative from the provincial child protection body, a journalist, and four children. The participatory research led to a set of recommendations that helped design the restorative justice model. The model is in turn being implemented at community level in collaboration with local law enforcers, community leaders, teachers, parents and children.

In Botswana, a Children's Reference Group was created as part of the legislative review process. Initial activities involved creating a consensus on principles and capacity building on international law, and domestic law, judicial decisions, policy documents and other relevant information. The Children's Reference Group then conducted an assessment and analysis for the situation of children's rights in the country and expressed its aspirations as to what the law must not fail to address. Children then participated in focus group discussions, interviews with high level government officials, and community interactions, as well as discussions with institutionalized children. In addition, retreats and meetings were organized. They drew a plan for the way forward that was presented to key actors.<sup>16</sup>

### *Other participation mechanisms*

Other systematic participation mechanisms for legislative reform exist in several countries. They aim on the one hand to ensure the quality of the product, and other hand to help build consensus and communicate within the country on the importance of legislative reforms for children.

The example of Botswana and the Multi-Sectoral Reference Group has already been mentioned.<sup>17</sup>

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<sup>15</sup> Itulmeleng Kiman (Chairperson, Child Law Reform Project, Lesotho Law Reform Commission), *The Children's Law Reform Process in Lesotho*, Maseru, September 2005

<sup>16</sup> For more information, see Report of the Multisectoral Reference Group and the Children's Reference Group assisted by G. Kamchedzera, *The CRC, Legislative Reform and Customary Law: A Botswana Case Study*, February 2004.

<sup>17</sup> Page 42.

In Ecuador, UNICEF has supported the creation of a group of opinion leaders that influence policy making for the implementation of laws by providing a channel of communication between the civil society and the government. This group is composed of influential and charismatic personalities, such as former politicians, artists, and singers, who are trusted by the public due to their perceived objectivity and lack of vested interest. Importantly, these personalities have access to the media as well as to the congress and the executive branch. They are regularly in contact with UNICEF and act as informal spokespersons, drawing the attention of the public to child rights issues and advocating for change.

It follows from the foregoing that UNICEF actively seeks out partnerships with many stakeholders and often supports the creation of participation mechanisms. Yet, depending on the country, the depth of participatory processes varies. It appears however that the most successful activities supported by UNICEF are those involving a wide range of partners.

## **5 Main successes and challenges of UNICEF action**

This section attempts to outline general conclusions as to UNICEF's strengths in the area of legislative reform and the obstacles country offices most often face, drawing on examples presented throughout this document.

### **5.1 Strengths and successes**

Measuring success in the area of legislative reform proves difficult, since the adoption of the law is but one element of the process and implementation can always be strengthened. Furthermore, the actual influence of UNICEF is hard to assess as legislative reform involves a wide range of partners and results from the conjunction of several factors. However, a review of UNICEF's experience shows that some activities supported by the organization are particularly successful.

- *Child rights advocacy*

It is important to remember that UNICEF's special role at country level as a child rights advocate is critical to ensure its credibility with the government and other partners. If UNICEF takes a strong stand for legislative reform as a necessary step to advance children's rights, it is more likely that it will be able to lead efforts and build consensus on key principles.

- *Promotion of participatory processes*

Overall, UNICEF country offices demonstrate extensive experience in effectively supporting participatory legislative reform processes. UNICEF's success in this area can be attributed to several factors. First, as the participation of all stakeholders constitutes an organizational policy and requirement as an essential component of a human rights based approach to programming, UNICEF country offices have developed a thorough expertise and exchanged experiences in crafting original mechanisms for meaningful participation, suited to the local context. UNICEF's image as a trusted partner and neutral actor by a wide range of stakeholders has enabled the organization to create spaces for discussions that advance ownership of the reform by participants, influence its outcome, and raise awareness and build capacities within the

population. The success of these efforts depends on the readiness of the Government and Parliament to hear proposals and comments from the broader society. In some instances, political motivations may affect the impact of these processes. However, even if results may at times be disappointing on the moment, creating a culture of participation has long term effects, which may not be immediately fully visible.

- *Ability to build consensus*

Further to its role in promoting participatory processes, UNICEF's unique position in helping to build consensus within a given country is critical. In many instances, by mobilizing actors and promoting dialogue among them, UNICEF has been able to trigger the building of a national movement in favour of legislative reform for the fulfillment of children's rights. For that, UNICEF benefits from its special status within a country. As an international organization with the mission to promote children's rights, it is generally perceived as unbiased, independent from any political party and having no particular interest other than the well-being of children. Further to that, and because it is independent, UNICEF represents a form of "permanence" in the country. While governments change, and ministry officials rotate, UNICEF remains a standing force that can act on the long term. In countries marked by constant political instability, UNICEF embodies stability and continuity. Moreover, its position as an international organization working at the field level gives UNICEF access to the whole range of stakeholders, while many of these actors may not be in a position to have a direct access to one other. Concretely, UNICEF works simultaneously with high level government officials, parliamentarians, journalists, law enforcement officials, civil society organizations, community groups and children, among others. These multi-dimensional partnerships are critical to foster consensus at the national level and give UNICEF the ability to bring around the same table actors who may not hold a dialogue otherwise.

- *Budgetary issues and resource allocation*

As noted above, UNICEF is in some instances involved in budgetary issues and resource allocation in a limited number of countries. This aspect is not yet fully understood as inherent to the legislative reform process. However, when it has tackled this issue, UNICEF has often been successful in putting children on the budgetary agenda and promoting participatory budgeting.

- *Technical assistance*

In many countries, UNICEF contributes to legislative reform through technical assistance. UNICEF's strength in this area lies in the competence and experience of staff working in country offices, the assistance of regional offices and headquarters, UNICEF's ability to hire international or national consultants when needed to support the process, and its access to information in other countries that can provide guidance. Often times indeed, a country office supporting legislative reform will request – formally or informally – support from other UNICEF country offices and regional offices, asking for examples of good practices and good laws. The size of the organization is thus an asset in the exchange of information.

- *Research and studies*

In many countries, UNICEF supports research and studies that inform legislative processes. UNICEF's capacity in this area stems from its financial resources with which it can commission research to high level consultants. UNICEF's ability to work with various partners who can

participate in, and contribute to, studies and research is also a strong asset in this regard. Furthermore, the political neutrality of the organization helps build trust in the findings of the research. Several country offices have supported law review through an analysis of the current national legislation or have undertaken studies on a particular issue, like juvenile justice for example. As part of the Legislative Reform Initiative, thirteen UNICEF country offices conducted national studies on legislative reform. These studies have contributed to the exchange of good practices among country offices, served as a basis for more in-depth studies and tools at global level, and contributed to creating momentum on legislative reform in participating countries. The new MTSP requires an evidence-based approach to advocacy. In that perspective, the role of UNICEF in supporting and conducting research and analysis is likely to further increase.

- *Capacity-building*

Successful activities noted by country offices often include trainings and other capacity building activities. UNICEF supports trainings tailored for all actors in most country offices. This originates from the concept that genuine participation needs to be informed. Moreover, it is crucial for the implementation of the law that law enforcement officials be trained. In some cases, country offices have successfully applied training to new areas, little explored by UNICEF in general, such as the costing of law in Lesotho for instance. Capacity-building is also strengthened through participatory mechanisms and processes. Because this is an area where UNICEF has an extensive experience, it could be further used to tackle policy issues at country level.

- *Child participation*

In accordance with the right of children to express their views in all matters affecting them, several UNICEF country offices have supported mechanisms to secure child participation in legislative reform processes. UNICEF, acting as children's spokesperson, is well-positioned to promote such participation and ensure that children's voices count. Yet, child participation in legislative processes appears anecdotal and remains to be systematized. For many, legislative reform is too complex a process to involve children. However, UNICEF's experience shows that creative child friendly mechanisms can be successful in guaranteeing meaningful participation.

## **5.2 Challenges**

UNICEF faces numerous constraints in its work on legislative reform. Some of them relate to the context of the country UNICEF works in. Some are internal to UNICEF.

### **5.2.1 Context**

The political, social and cultural context of the country where UNICEF has activities significantly affects legislative reform processes. Following is a list of obstacles most commonly encountered by country offices.

- *Political instability*

Political instability is a main obstacle to legislative reform. Legislative reform is typically a process that spans over several years and may particularly suffer from government and parliament changes. Instability implies that progress always seem transitory and uncertain and might be questioned a few months ahead should the government change. Consequently, it is difficult for UNICEF to build a long term constructive partnership with the government. At each political change, new advocacy efforts are needed to raise awareness on the need for legislative reform and ensure that reforms initiated will not be left aside. Instability also means that governments are first and foremost preoccupied by maintaining themselves, and may not put children's rights as a priority of their agenda, especially if aspects of the reform are controversial. This is especially true for juvenile justice.

- *Structure of the State and political system*

The structure of the State and its political system can in some instances make UNICEF's support to legislative reform challenging. Decentralization means that advocacy activities must be undertaken not only at national level but also at state, provincial and district levels.

- *Frequent changes in personnel*

A related issue is the frequent changes in ministries' personnel. As with political instability, when UNICEF counterparts rotate, there is a need to constantly explain and train new staff, which causes delays and drains resources.

- *Counterparts' lack of expertise*

Many country offices deplore partners' lack of expertise in legislative reform and children's rights as a major challenge, requiring the organization of awareness raising activities and technical trainings. Combined with frequent changes of personnel in the administration, building capacity becomes a constant burden, giving the impression of going each time back to square one.

- *Long process*

Legislative reform is usually a very long – and never ending – process. Just getting a law adopted may well take ten years. While the process is very long, it does have turning points where UNICEF's involvement is essential to ensure effectiveness and guarantee conformity with the CRC. Yet this may present a dilemma for country offices. When year after year the adoption of a law is planned but never brought to an end in spite of continuous efforts, it is difficult for the country office to repeatedly justify the commitment of its resources to legislative reform when there are other burning issues in the country. The risk however is for UNICEF to distance itself from the process, and be taken by surprise when a major step in the process is about to happen.

- *Lack of political will*

Many country offices face a lack of political will to move forward the child rights legislative agenda. It can consist in an explicit opposition to the reform. Yet very often its manifestations are very slow processes, lack of attention by relevant officials, and overall passivity and inertia, making it difficult each time to reach the next stage of the process.

- *Resistance to change*

Many country offices face major resistances when promoting legislative reform for children. Children's rights are often subject to misperceptions, fed by the media and other actors, causing significant delays in the process and even at times bringing it to a failure.

- *Lack of financial resources*

One main argument used by governments to oppose legislative reform is the lack of resources to implement the law. Several legislative reform efforts supported by UNICEF have required intense advocacy on this issue, hence emerging efforts to cost laws as a way of demonstrating their cost-effectiveness.

- *Marginalisation of civil society*

In some countries, the civil society is weak and not well organized. This is often due to a lack of participatory tradition and a heavily centralized government. However, it hinders the legislative reform process, as UNICEF cannot rely upon strong partners and get much needed expertise from the society. In these countries, UNICEF may by the same token be marginalized by the government on issues related to legislative reform, seen as "State affairs". Some country offices have noted that their contribution to legislative reform was limited because they were simply not informed by the government or parliament that a legislative reform process was underway.

## **5.2.2 Internal constraints**

Some constraints are internal to UNICEF's strategies or UNICEF as an organization.

- *Human resources and lack of training*

Several country offices point to the lack of human resources, and lack of skilled staff as an obstacle to their involvement in legislative reform. Country offices get involved in legislative reform because they recognize its importance, yet they do not always have the capacity to support it to the extent that would be necessary. Moreover, not all regional offices have a policy adviser or child protection officer who is specializing in this area and could assist them in their task.

- *Lack of tools*

In the same line, several country offices have identified the lack of tools in the area of legislative reform as a limiting factor. It is hoped that the Legislative Reform Initiative will remedy this situation.

- *Financial resources*

Many country offices mention the lack of financial resources as an obstacle to their work in the area of legislative reform. Given the long-term efforts required and the complexity to measure success, mobilizing resources for legislative reform, in particular from donors, is challenging. Often times indeed, donors support a specific project, which timeline may be two to three years, five at most, with specific results. Legislative reform however may require a longer involvement and accountability mechanisms difficult to put in place. The new focus area of the 2006-2009 MTSP should entail that more resources will be devoted to policy issues.

- *Establish more extensive partnerships*

Some country offices acknowledge that they could have built more alliances with a wider range of partners, including bilateral donors for example. They could also have worked more with communities at grassroots level. In other words, human rights based approach to legislative reform is seen as a process that can be continuously strengthened.

- *Under-estimation of potential opposition*

Some country offices recognize that they underestimated the opposition to legislative reform. This raises two issues. First, it may lead to underestimate the breadth of UNICEF's involvement in the process both in terms of resources required and in terms of timing. Second, it prevents UNICEF from approaching and involving all stakeholders, especially those who may most oppose the law.

- *UNICEF positioning*

Some country offices expressed their regret that UNICEF had not taken a stronger stand to defend legislative reform at some critical moments. Such a position requires striking a delicate balance between taking a stand on legislative reform, the need to ensure the good flow of cooperation with the same government for other projects and UNICEF's ability to work in the country in general.

- *Lack of priority given to legislative reform*

Last but not least, some country offices have not made legislative reform a priority to their activities; therefore their involvement has remained limited.

## **6 Recommendations for UNICEF's strategies at global, regional and national level to support legislative reforms**

### *Overall strategy*

- Country offices should ensure that legislative reform activities are explicitly mentioned in key documents, both UN Country Team documents (CCA/UNDAF) and UNICEF's own documents, especially CPD and MPO. This would ensure that legislative reform is established as a priority for the office and activities to that end are monitored and evaluated.
- When getting involved in legislative reform, country offices should elaborate an overall strategy. This strategy should be based on a comprehensive assessment of the situation with respect to legislative reform, identifying without underestimating possible obstacles and entry points. It should mention the key actors UNICEF intends to partner with – not only “friends” of the process, but also its potential opponents. The strategy should also define the main stages of the process and the objectives UNICEF wants to achieve for each of them.

- The country office should not limit legislative reform to the area of child protection, but take into account all sectors of UNICEF's action. Emerging issues should be afforded particular attention. On the issue of HIV/AIDS for instance, UNICEF is seemingly faced with a dilemma: promoting a separate body of children affected by HIV/AIDS would have the discriminatory effect it precisely tries to combat. However, it is possible to address the broader legal framework to ensure that the rights of children affected by HIV/AIDS are protected. Issues such as inheritance and tutorship for example apply to all, but in the context of HIV/AIDS, reform may be particularly urgent to guarantee that orphans are not destitute.

### *Law review*

- The Concluding Comments of the CEDAW Committee could be used in conjunction with the Concluding Observations of the Committee on the Rights of the Child to build on their complementarities and further promote gender sensitivity in legislative reform efforts.
- Like all stages of the legislative reform, law review should be a broad participatory process involving a wide range of stakeholders, even if the office chooses to hire a consultant with special expertise in legislative reform to lead the process.
- The strategy for the implementation of the law should be elaborated from the beginning, during the law review process. The most important factor in the implementation of the law lies in the empowerment of actors and their ownership of the new law. For example, a judge who has been involved in law review and in the drafting of a new law is more likely to take it into account in his/her judicial decisions. The same goes with other law enforcement officials, social workers, etc.

### *Advocacy*

- Generally speaking, UNICEF should keep focusing on social change by analyzing the root causes of the opposition to legislative reform and addressing them throughout the process. In this regard, communication strategies are essential for the acceptance of legislative reform in the public, and for holding the government accountable.
- Country offices, regional offices and headquarters can promote the ratification of international treaties relevant to children's and woman's rights.
- By the same token, country and regional offices can promote the elaboration and implementation of regional treaties on children's rights, be they bilateral agreements, multilateral agreements or regional human rights treaties, such as the African Charter for example.

### *Partnerships and consensus building*

- UNICEF should keep building on its role as consensus builder. As noted above, this is an area where it has a comparative advantage and is well positioned to bring different parties

to the same table. It should work to support the creation of national coalitions or movements in favour of children's rights, bringing together the wider range of actors possible. This is essential in the success of legislative reform processes.

- UNICEF should continue its capacity building activities at national level, and ensure that whether or not they are directly related to legislative reform, that dimension is presented as a key tool for the realization of children's rights.
- Traditional and religious leaders should be seen as important actors in the process as they have a strong influence in most countries, both at the government level and in the public. It is often a challenge to convince them that children's rights reinforce traditional values. However, involving them is critical.
- Effective child participation in legislative reform should be ensured on a systematic basis. Mechanisms for such participation should be further explored, building on good practices by some country offices and drawing lessons from past experience. Information available in this regard should be broadly shared.
- Alliances with other UN agencies should be promoted in the area of legislative reform. While UNICEF is part of the UN country team, a limited number of country offices seem to have strong alliances with sister agencies in this field. Yet, when they do build partnerships, they prove to be highly beneficial. Furthermore, other agencies are involved in work related to legislative reform and UNICEF could significantly benefit from their expertise.
- Regional offices can also operate as consensus builders by convening meetings gathering partners in the same region in order to create momentum for legislative reform. UNICEF's experience has shown that such meetings can be key in convincing partners of the importance of legislative reform. It also enables them to share experiences with neighboring countries.

### *Implementation*

- UNICEF should not overlook the importance of adequate allocation of resources. This is key both for the adoption of the law and its implementation, in particular for the funding of social policies. While it may seem like a daunting task, country offices that have worked in this area have generally been successful and are now considered as partners by the government and consulted on budgetary issues and resource allocations.
- UNICEF's action at country level in the area of legislative reform should not only focus on child rights issues but also include involvement in broader debates that affect children. This will enable UNICEF to be consulted in a broader range of policy issues. It is also a strategic opportunity for UNICEF to overcome resistances related to children's rights by linking specific child related issues to broader ones. This implies for instance that if there is some opposition in the country to the adoption of a children's code, efforts could focus

on modifying relevant provisions in existing laws. It also means that UNICEF should collaborate with ministries and other partners that are not only focused on child rights issues, such as the Ministry of finance.

### *Resource management in the office*

- Legislative reform should be identified as a key area of work of the whole office, and each staff should be responsible for promoting legislative reform in his/her area. For that, the country programme should clearly state how legislative reform will be integrated in all activities.
- Resources should be specifically assigned to legislative reform activities, bearing in mind that the process will most likely be very long and require resources on the long term.
- It appears that it is critical to ensure that legislative reform is part of the workplan of all sections, with, if needed due to the need for specific competences, one section or staff acting as adviser to support other sections. Otherwise, legislative reform may remain low on the agenda of the various technical sections of the office. However, the dissemination of products under the Legislative Reform Initiative should provide every officer with the tools he/she needs to participate and/or lead legislative reform processes.

### *Capacity-building and knowledge sharing within UNICEF*

- Regional and country offices should take full advantage of the documents and tools issued by the Innocenti Research Centre in its project on the Implementation of the Convention on the Rights of the Child.
- UNICEF Headquarters should keep producing or supporting the production of documents and tools on legislative reform and disseminate them to UNICEF staff based in headquarters, a regional office or a country office.
- As part of the Legislative Reform Initiative, training modules should be elaborated and tested, and made accessible to all staff. This could also be included in the training process for the new focus area 5 of the next MTSP.
- UNICEF headquarters could build a database of good practices in the area of legislative reform, containing examples of laws adopted in specific areas, as well as successful programming practices. The database could then be shared through the intranet or a special bulletin to focal points in order to inform efforts underway in country offices.
- Regional offices play a key role in the exchange of information on legislative reform within the region. They could in particular create databases of laws adopted in order to provide models for other UNICEF offices in the region. They should systematically document and disseminate good practices of UNICEF involvement. Regional offices can

facilitate inter-country visits, so that UNICEF staff and their partners can learn from other successful experiences within the region.

- Regional offices should also be equipped to offer technical assistance in general, both by advising on the process and substance of legislative reform, and by being able to mobilize resource persons to support a country office on a short term basis.



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