



## Summary Report

# STUDY ON THE IMPACT OF THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD

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**SUMMARY REPORT OF THE STUDY  
ON THE IMPACT  
OF THE IMPLEMENTATION  
OF THE CONVENTION ON THE RIGHTS  
OF THE CHILD**

## **ACKNOWLEDGEMENTS**

The UNICEF Innocenti Research Centre (IRC) undertakes research on the implementation of the United Nations Convention on the Rights of the Child (CRC). The present study documents the process set in motion by the CRC across regions. It considers the changes the CRC has promoted, with particular emphasis on national legal and institutional reforms. These preliminary study findings are being presented to encourage cross-fertilization of experiences and the replication of good practices and to advance the cause of children's rights.

The study is being conducted with the support of the Government of Sweden.

Though still very much a work in progress, this initiative has benefited from a very rich exchange of ideas and reflections with a host of partners in countries where UNICEF-supported country programmes are underway, as well as through the UNICEF network of National Committees. There has been keen interest from governments, parliamentarians, independent human rights institutions, non governmental academics and experts, as well as from UNICEF staff. The IRC is grateful to all those who agreed to participate in interviews, responded to questionnaires, contributed with information and analysis and took part in expert consultations.

Participation in the study from the Chairperson and members of the United Nations Committee on the Rights of the Child has been invaluable. In every respect -- including study design, methodology and the content of the findings -- the Committee's work and perspective have been of critical relevance. They have helped to ground the study and the analysis, promising a 'life' for the findings, in the workings and deliberations of this Treaty Body.

There have been a wide range of non-governmental contributors to the study and although they are too numerous to mention, their views and experiences have added a unique dimension. In most cases, the organizations and individuals consulted have been 'frontliners' who work with children every day, grappling with some of the enormous challenges to implementing the Convention on the Rights of the Child. Save the Children deserves special mention in this respect and the study has incorporated the very important lessons that the Save Alliance has gathered over the past few years.

Within UNICEF, particular recognition needs to be given to field - based colleagues, from Representatives to Programme Officers, who have taken an interest in the study. Despite their daily programme demands, offices were prompt in completing questionnaires and shared relevant documentation and comments which were critical for the research. The study has benefited from consultation with many colleagues and their insights have been incorporated. The partnership and contribution of the Division of Policy and Planning in New York have also been important. From the outset, great care has been taken to ensure with the headquarters initiative on legislative reform and vice versa. Finally, the study has also benefited from the full participation of headquarters colleagues and experts, during consultations held in Florence.

*Layout:* Bernard & Co, Siena - Italy

*Front cover picture:* UNICEF/HQ99-0751/Roger LeMoyne.

Vietnam - Boys play volleyball at dusk in the Mekong Delta in the southern province of Dong Thap.

## The UNICEF Innocenti Research Centre

The UNICEF Innocenti Research Centre in Florence, Italy, was established in 1988 to strengthen the research capability of the United Nations Children's Fund (UNICEF) and to support its advocacy for children worldwide. The Centre helps to identify and research current and future areas of UNICEF's work. Its prime objectives are to improve international understanding of issues relating to children's rights and to help facilitate the full implementation of the United Nations Convention on the Rights of the Child in industrialized and developing countries. The Centre's publications are contributions to a global debate on child rights issues and include a wide range of opinions. For this reason, the Centre may produce publications that do not necessarily reflect UNICEF policies or approaches on some topics. These publications are produced by the Centre in order to stimulate further dialogue on child rights.

The Centre collaborates with its host institution in Florence, the Istituto degli Innocenti, in selected areas of work. Core funding for the Centre is provided by the Government of Italy, while financial support for specific projects is also provided by other governments, international institutions and private sources, including UNICEF National Committees.

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# CONTENTS

<b>ACKNOWLEDGEMENTS</b> .....	<b>ii</b>
<b>INTRODUCTION</b> .....	<b>vii</b>
- Background of the study .....	<b>vii</b>
- Methodology .....	<b>viii</b>
- Timetable and Progress to Date .....	<b>viii</b>
- This Issue of Attribution .....	<b>viii</b>
<b>THE GENERAL MEASURES OF IMPLEMENTATION</b> .....	<b>1</b>
- What Are the General Measures? .....	<b>1</b>
- The Principle of Indivisibility .....	<b>1</b>
<b>LAW REFORM</b> .....	<b>3</b>
<b>INDEPENDENT HUMAN RIGHTS INSTITUTIONS</b> .....	<b>9</b>
<b>NATIONAL COORDINATING MECHANISMS</b> .....	<b>15</b>
<b>SUMMARY AND CONCLUSIONS</b> .....	<b>19</b>
<b>APPENDICES</b> .....	<b>21</b>
- 1. List of countries in the Study .....	<b>21</b>
- 2. Independent Human Rights Institutions for Children - a Global Picture	<b>22</b>





# INTRODUCTION

2004 marks the fifteenth anniversary of the adoption and subsequent ratification of the United Nations Convention on the Rights of the Child (CRC). The CRC is currently closer to being universally accepted than any other international human rights treaty. The CRC is also unique in that it so fully embodies civil, economic, political, social and cultural rights.

Wide ratification and accession and the broad reach of the CRC provisions make it unique and important. However, this raises critical questions: is the impact of CRC real or rhetorical? How has it been implemented? Ultimately, what has been the effect of the CRC on the daily lives of children? How far has the enjoyment of their human rights been advanced? What has been its effect in terms of generating social change?

These are the questions behind the UNICEF Innocenti Research Center (IRC) Study on the Impact of the Implementation of the CRC (herein referred to as 'the study'). The study celebrates the achievements that have taken place since the adoption of the CRC, in regions the world over. At the same time, it is a study that acknowledges the many challenges that remain, in implementing a treaty with such a broad scope.

In no way does the study claim to be comprehensive. Rather, it supplements other efforts to examine and consider CRC implementation. The document is a distillation of a much larger data set which is still under review. It therefore concentrates on three of the four general measures of implementation of the CRC. The fourth general measure will be included in a much longer document to be issued by the end of 2004. A final paper in 2005 will cover all the general measures of implementation.

This review could not be more timely, given the fifteenth anniversary of the adoption of the CRC and the current state of the world. It is a world full of promise, of new technology, communication, wealth and opportunity. But it is also a world full of injustice, exploitation, poverty and insecurity. We must seize every opportunity to reflect on what we are doing for children. This study offers such an opportunity.

## **Background to the study and objectives**

The project aims to promote the universal realization of children's rights by documenting, analyzing and reflecting on positive experiences with, as well as challenges to the implementation of, the CRC. It addresses areas where the potential of the treaty can be maximized, to advance the cause of children's rights and support UNICEF's agenda, as defined by its Medium Term Strategic Plan. Further, the study constitutes a contribution to the follow-up to the Declaration and Plan of Action of the General Assembly Special Session on Children (UNGASS) and its support to the Millennium Declaration and achievements of the "Millennium Development Goals" (MDG's). The Plan of Action adopted by the Special Session, highlights the importance of effective implementation of the CRC and calls for the development of national legislation, policies, action plans and other measures to promote and protect the rights of the child. Outcomes of the study will assist governments, the United Nations Committee on the Rights of the Child (herein referred as the Committee), UNICEF and other relevant actors at national, regional and international levels, in furthering this important agenda.

## Methodology

The study focuses on the general measures of implementation of the CRC, with a particular emphasis on legal and institutional reforms at the national level, aimed at ensuring the effective application and enforcement of the provisions of the CRC.

The experiences of 62 States Parties to the CRC have been reviewed for the study, with particular focus on countries<sup>1</sup> which have had two reports examined by the Committee. The present overview provides highlights of the reality in the countries reviewed and will be complemented by longer reports yielded by the study.

The study is informed by existing analyses and by the reporting process under the CRC. A desk review has been carried out of materials submitted to, or issued by the Committee. These include:

- Human rights core documents submitted by State Parties to human rights treaty bodies
- State Parties' initial and periodic reports
- Additional information submitted by State Parties
- State Parties' replies to 'issues' raised by the Committee before oral examination of reports
- Summary records of Committee meetings
- Concluding observations of the Committee
- NGO alternative reports submitted to the Committee
- UN Agencies' statements or briefings presented to the Committee

Materials prepared in the context of the 'End Decade Review of the World Summit for Children' and the process leading to the Special Session on Children have likewise been reviewed. Information has also been gathered from reports by other human rights treaty bodies, as well as relevant documents on children developed by UN agencies (e.g. UNICEF Country Offices' annual reports, Office of the High Commissioner for Human Rights country profiles).

Finally, the documentation is being supplemented by information received from UNICEF Country

Offices and National Committees in response to country-specific questionnaires and in the context of their direct involvement with CRC implementation. Resource materials and findings from other UNICEF studies on law reform also inform this CRC study.

## Timetable and Progress to Date

The study is to be conducted over three years, and finalized by the end of 2005. This brief overview addresses national experiences on three general aspects of implementation: the process of law reform; the establishment of independent human rights institutions for children; and the development of permanent governmental structures for coordinating implementation. The overall study will further review national strategies or agendas for children's rights, child related data and monitoring tools; it will consider the dimensions of resource allocation to children, education, training and awareness-raising to promote a culture of children's rights; and the involvement of the civil society, including children's participation in the process of implementation. Conclusions and recommendations will be drawn together at the end of this process.

## The Issue of Attribution

In an era of results-based management it is little wonder that there is high interest at the international and national levels in assessing the impact of the CRC. However, as with all studies that address the question of attribution, there are enormous challenges. In a complex, post-modernist world, a range of factors work independently and synergistically towards results. This study posits that while it is difficult to argue a direct and distinct cause-effect relationship with the implementation of the CRC, it is certainly reasonable to attribute partial causality. Moreover, it is possible to observe and comment on trends which are likely to be attributable to the CRC. This study is an attempt to reflect and analyze, but clearly more research needs to be done.

1 Argentina, Bangladesh, Belarus, Belgium, Bolivia, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Georgia, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Italy, Jamaica, Japan, Jordan, Lebanon, Libya, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Syria, Sweden, Togo, Tunisia, Ukraine, United Kingdom, Vietnam, Yemen.

# GENERAL MEASURES OF IMPLEMENTATION

## What Are They?

The study is focused on the “general measures of implementation” of the CRC, as identified by the Committee. The Committee’s guidelines for reporting address the “general measures of implementation” under a specific cluster of articles 4, 42 (the obligation to make the content of the CRC widely known to children and adults) and article

44, paragraph 6 (the obligation to make States Parties reports widely available within the State). The Committee has clarified the concept and its requirements on States Parties in a General Comment issued in 2003.

Upon ratification of the CRC, States undertake international obligations to ensure its implementation and the realization of human rights for all children under their jurisdiction. Article 4 of the CRC requires States Parties to take “all appropriate legislative, administrative and other measures” for the realization of the rights of the child. Ensuring that all domestic legislation is fully compatible with the CRC and that the CRC’s principles and provisions are effectively enforced, is a fundamental step. But much more is required beyond legislative measures, including the setting-up of institutions and coordinating mechanisms devoted to the protection of children’s rights, awareness raising and information campaigns, as well as training initiatives on the rights of the child and other activities, in government, parliament and the judiciary, at all levels. What’s more, all sectors of society have to be involved in making the rights of children a reality -- including children themselves.

### The General Measures of Implementation of the CRC

- The process of law reform: calls on States Parties to ensure compatibility of existing and new legislation and judicial practice with the CRC, in a number of ways, including: comprehensive reviews of legislation; the inclusion of children’s rights in the Constitution; the development of specific laws to reflect the CRC principles and provisions; by responding to “new” issues related to children’s rights; and by the considering effective remedies for children and their representatives if children’s rights are breached.
- Independent national institutions for children’s rights need to developed – such as children’s ombudsman offices, child rights commissioners and focal points within national human rights institutions;
- Comprehensive national agendas or strategies for implementation of the CRC are needed; their relationship to the follow-up process to the World Summit for Children and UN General Assembly Special Session on Children is critical;
- Children’s rights-focused permanent institutions and structures within Government are required to ensure coordination and pursue implementation;
- Allocation of resources to children “to the maximum extent of their availability is key in States Parties’ efforts to ensure the CRC implantation”;
- Systematic monitoring of the implementation of the CRC is needed, through effective child-related data collection, analysis, evaluation and dissemination;
- Education, training and awareness-raising on children’s rights need to be steadily promoted;
- The involvement of civil society, including children, is critical, if there is to be progress on implementation.

### The Principle of Indivisibility

The fact that this study focuses on the general measures of implementation, in no way detracts from the long- affirmed principle of the indivisibility of human rights. As the Committee has stressed in its Reporting Guidelines, equal importance needs to be attached to each and every right recognized by the CRC.

The general measures of implementation identified by the Committee are intended to promote full enjoyment by all children, of all rights recognized by the CRC. As with the CRC as a whole, the general measures are closely inter-related. Their implementation is mutually supportive, concomitant, and evolving. This study approaches the general measures both individually and collectively. In line with the principle of indivisibility, the researchers believe it is important to consider all of the general measures. At the same time, the research is founded

on a belief that there are various ways of implementing the Convention and that implementation does not have to be carried out in any particular order. In some countries, law reform led to a range of follow-on activity; in others, national strategies

were formulated, then resources were allocated, followed by law reform. Therefore, the separation of the general measures in this research is deliberate and is grounded in a full understanding of the indivisibility of the spirit and intent of the CRC.

# LAW REFORM

1. The process of law reform that followed the adoption of the CRC in 50 countries was reviewed<sup>2</sup> and **one of the most important findings** is that the CRC has been incorporated into the national legal framework of most of these countries.

- a. In some countries, the CRC was automatically integrated into the legal framework by existing constitutional principles.
- b. Some countries have promoted the incorporation of the CRC through constitutional reform.
- c. In other countries, it was incorporated into national law by legislation adopted specifically for that purpose.

2. **A second finding is that nearly a third of the countries studied, incorporated important provisions on the rights of the child into their constitutions.**<sup>3</sup> This trend has been most pronounced in Latin America and Central and Eastern Europe. In some cases, this occurred as part of the drafting of a new constitution, while in others, new provisions on the rights of the child were added to the constitution by an amendment. In other countries, such as Italy and Panama, provisions of the CRC (e.g., best interests of the child) have been incorporated into constitutional law by decisions of the Supreme Court or Constitutional Court.

2. Incorporation is nearly universal in Central and Eastern Europe and Latin America. In a number of countries, the incorporation of the CRC into the national legal system led to the adoption of important legal decisions concerning the rights of children. The Constitutional Courts of Belarus and of the Czech Republic, for example, have found parts of the family codes of those countries invalid, because they were incompatible with rights or principles recognized by the CRC.

Most of the countries studied so far, have made substantial changes in their legislation for the protection of children's rights. Different trends can be discerned:

- Some countries have enacted new 'comprehensive laws', or children's codes<sup>5</sup>
- In others, there has been a more gradual reform of different legislation concerning children
- Many countries have emphasized the adoption of decrees or regulations

- A few countries have focused on the design and implementation of programmes, rather than law reform.

These trends are not mutually exclusive. Law reform, the adoption of regulations and the devel-

## Article 28 of the Constitution of the Republic of South Africa<sup>4</sup>

- (1) Every child has the right
- a. to a name and a nationality from birth;
  - b. to family care or parental care, or to appropriate alternative care when removed from the family environment;
  - c. to basic nutrition, shelter, basic health care services and social services;
  - d. to be protected from maltreatment, neglect, abuse or degradation;
  - e. to be protected from exploitative labour practices;
  - f. not to be required or permitted to perform work or provide services that
    - i. are in appropriate for a person of that child's age; or
    - ii. place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
  - g. not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time and has the right to be
    - i. kept separately from detained persons over the age of 18 years; and
    - ii. treated in a manner, and kept in conditions, that take account of the child's age;
  - h. to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and
  - i. not to be used directly in armed conflict, and to be protected in times of armed conflict.

(2) A child's best interests are of paramount importance in every matter concerning the child.

(3) In this section "child" means a person under the age of 18 years.

opment and implementation of programmes are all essential components of a comprehensive approach to protecting the rights of children. Some countries initially relied heavily on regulations and decrees, and later shifted to the reform of legislation. Some began with gradual, piecemeal reforms of existing laws and later proceeded to adopt codes. Still others drafted and enacted codes first. They then proceeded to reform legislation inconsistent with the rights and principles contained in the codes and to adopt the regulations needed to facilitate the implementation of the new law (by public agencies and by the legal system).

Each of these approaches has its merits and none is sufficient in itself. The gradual reform of existing legislation tends to leave the general principles of the CRC and many of the rights recognized in it, out of the law reform process. In some countries, children's social and economic rights tend to be overlooked and in many, civil rights and freedoms such as the right of the child to privacy or freedom of thought, religion and association, are not specifically considered. Principles such as the obligation to respect the views of the child and the prohibition of discrimination tend to be recognized only in specific circumstances or contexts.

Reliance on decrees and regulations may be useful or necessary in certain circumstances -- for example when there are situations that need to be resolved urgently, or when the ordinary legislative processes are in crisis. But excessive reliance on them has disadvantages. One is that by circumventing the legislative process, the resulting norms lack the degree of legitimacy and public support that only adoption by an elected, representative legislature can produce. Another is that although regulations adopted by a Minister or Council of Ministers are binding on civil servants and public agencies, unless they are backed by legislation, they normally do not provide a basis on which children's rights can be claimed by private persons and enforced, if necessary, by the courts.

On the other hand, adopting codes without trying to identify and modify conflicting provisions of ordinary legislation and without the adoption of regulations that provide public servants with guidance as to how the law should be applied in practice, can sow confusion and undermine the effectiveness of a new code. Adopting laws without the creation of the corresponding programmes is an empty gesture, which may breed cynicism and lack of respect for law and the government. Similarly, the creation of new programmes can have a major impact on effective enjoyment of the right to health, education or social services. However, the creation of programmes without a legal framework has disadvantages too: the continued existence of the programme remains wholly dependent on the priorities of the government of the day and may compromise the process of implementation in a way that respects the principal provisions of the CRC. Excessive reliance on decrees, regulations or programmes, without law reform, implies reliance on a

single branch of government. A more balanced approach involving law reform, regulations and programmes involves the entire state in the effort: the legislature, the executive and the courts.

Another important feature of the CRC concerns the reservations entered by State Parties upon ratification, as well as the meaningful process of withdrawal of reservations. On the one hand, it is important to note that unlike other human rights treaties, in this instance, reservations were used as a means of applying higher standards to children than those set forth by the CRC – for example, prohibiting the recruitment of children under 18 into armed conflicts and forbidding any case of adoption perceived as bringing financial benefits. At the same time, there has been an evolving trend towards review and withdrawal. So far, 7 countries have fully withdrawn their reservations and 4 have done so in part. Many more States Parties have informed the Committee that they are reviewing, or intend to review their reservations in the future.

As is widely recognized and confirmed by this study, the *process* of law reform constitutes a catalyst for profound cultural changes concerning the role of children in the family and in society. Although it is not possible here to accurately summarize the scope of law reform that has taken place over a period of fifteen years, it is possible to give an overview of the range of areas in which important advances have been made in adopting new laws to protect the rights of children.

### **General principles and civil rights and freedoms**

Some of the countries whose legislation has been reviewed for this study have incorporated the general principles contained in the CRC<sup>6</sup> into their national law in terms similar to those of the CRC and have incorporated a list of the fundamental rights of children. As a rule, this has happened only as part of the process of adopting a code or comprehensive law. One exception is South Africa, which included an article on the rights of children in its new Constitution but has not yet adopted a comprehensive law. Another exception is Rwanda, which in 2001 adopted a law containing general principles, a list of the rights of children and a number of criminal offences involving the abuse or exploitation of children.<sup>7</sup> Much of the new legislation concerning the family incorporates the best interests principle and recognizes the right of children to be heard and have their views taken into account in a range of proceedings. Many countries also have adopted new legislation eliminating discrimination on grounds of birth or gender with regard to the right to nationality and some have adopted new legislation protecting the child's right to identity.<sup>8</sup> However, legislation of this kind, while important, only brings part of the national law into conformity with the principles contained in the CRC. As a rule, only a constitutional provision, children's code or comprehensive law manages to ensure that general principles are mainstreamed



through the national law as a whole and that the whole range of rights set forth in the CRC are duly recognized in national law.

### Family law

Most of the countries studied have made significant changes in legislation concerning the family. Nearly all the countries in Asia, Central and Eastern Europe and Latin America, have adopted new legislation in this area. Egypt, Libya, Morocco and Tunisia have enacted significant reforms. One important characteristic of such law reform is an increased recognition of the right of the child to be raised in a family environment. Some changes also recognize the right of families to state support and assistance, in fulfilling their child-rearing responsibilities. Some laws have adopted new and broader definitions of the responsibilities of parents towards their children.

There is evidence in new legislation of systemic reform vis-à-vis the care of children deprived of their families, or separated from them. For example, much new legislation recognizes the principle that institutionalization should be a last resort and some new legislation allows for temporary separation of children from their parents to protect the child. Adoption has received special consideration: legislation on adoption has been modified or replaced by new laws in most of the countries of Central and Eastern Europe, as well as South Korea, Sri Lanka, Viet Nam, South Africa, Argentina and the United Kingdom.

In general, the children's codes adopted in Latin America and the Caribbean address issues concerning the family in detail.<sup>9</sup> Most countries in Central and Eastern Europe have also made extensive changes to their legislation concerning the family and alternative care. Similarly, important changes in the law also have been made by the children or family codes adopted by Ethiopia, Nigeria, Libya, Morocco, Tunisia and by legislation adopted by South Africa, India, Japan, South Korea, Sri Lanka, the Philippines and Viet Nam.

### Health

Health has been given major attention in the process of law reform. All codes adopted in Latin America contain provisions on the right of the child to health and many also include provisions concerning the right of mothers to prenatal health care and other maternity benefits. In other parts of the world, there

#### **The duties of parents according to Art.27 of the Nicaraguan Code of 2003**

Family relationships are based on respect, solidarity and the absolute equality of rights and duties of mothers and fathers. Mothers and fathers have the duty to care for the upkeep of the home and all aspects of raising thorough shared efforts, with equal rights and responsibilities.

is a myriad of new legislation concerning a child's right to health, including in Nigeria, Rwanda and South Africa; India, Nepal, the Philippines and Viet Nam, Egypt, Libya, Jordan, Belarus, Poland, Georgia, Romania, Russia and Sweden. But there is great variation in these new laws. In India, for example, new federal legislation has been limited to issues surrounding breast-feeding, while the Children's Act adopted by the state of Goa covers the immunization of new-born children and pregnant women, screening of new-born children and the provision of reproductive health education to girls.

### Education

Most of the countries reviewed in this study have undertaken some law reform concerning the right to education. All codes adopted in Latin America contain provisions on education, and even in countries that have not adopted codes, such as Argentina and Panama, new legislation has been adopted. Other countries covered by this study have also given priority to education. New laws on education have been introduced in Bangladesh, Lebanon, Jordan, Morocco, Pakistan, Sudan, Syria, Tunisia, Belarus, the Czech Republic, Poland, Slovenia and Russia. In Africa and Asia, Burkina Faso, Nigeria, Rwanda, South Africa, Togo, Sri Lanka and Viet Nam have enacted or amended laws on education in the light of the CRC. Many of these new laws raise the school-leaving age.<sup>10</sup> Others are designed to bring national law and practice into harmony with other provisions of the Convention - for example, by recognizing the right to be educated in the language of national minorities, by calling on educators to respect the freedom of opinion of students, by prohibiting the use of physical punishment, or the expulsion of pregnant students -- or by incorporating activities designed to promote democracy, tolerance and gender equity into educational programmes.

### **Protection of children against all forms of violence, including abuse and neglect**

Countries have strengthened legislation protecting

#### **The school as a democratic community**

In Italy, a Charter on the rights of secondary school students adopted by Presidential Decree on 29 May 1998, states that:

The school is a community of dialogue, research and social experience, informed by democratic values and aimed at the growth of the individual in all his or her dimensions. Here, each person, with equal dignity and in a diversity of roles, works to guarantee a training in citizenship, the realization of the right to study, the development of each child's potential and the overcoming of situations of disadvantage in accordance with the principles prescribed by the Constitution and by the Convention on the Rights of the Child.

children against neglect, abuse and other forms of violence. In some countries, the emphasis has been on increasing the sentences for such violations of the rights of children. In others, law reform has introduced obligatory reporting of suspected abuse and new forms of protection for victims.

Where domestic violence is concerned, many countries have adopted legislation that protects both women and children.<sup>11</sup> The South African Domestic Violence Act of 1998, for example, obliges police officers to provide prompt assistance in reported cases of domestic violence including physical, sexual, emotional, verbal or psychological abuse of a partner or a child. The legislation enables child victims to apply for protection orders and allows suspected perpetrators to be arrested without a warrant. This trend has been particularly strong in the Americas, thanks in part to the adoption of a regional treaty on violence against women in 1994.<sup>12</sup> In some cases<sup>13</sup>, there has been criminalization of the use of violence by any member of the family against another member of the family and sanctions have been included regarding the potential psychological damage caused – particularly to children – by witnessing such violence.

The protection of children from corporal punishment, within or outside the family, has also progressed. For example: in 2000, Germany reformed its Civil Code, recognizing children's right to a non-violent upbringing and prohibiting corporal punishment, psychological injuries and other humiliating measures. In Iceland, the 2003 Children's Act established parents' obligation to protect the child against any physical or mental violence and other forms of degrading or humiliating behaviour. In 2004, Ukraine (in a new family code) and Romania (in the law on Protection and Promotion of the Rights of the Child) became the latest to fully prohibit corporal punishment.

#### **Art.28 of the Romanian Law on the Protection and Promotion of the Rights of the Child**

1. The child has the right to be shown respect for his or her personality and individuality and may not be subjected to physical punishments or degrading treatments.
2. Disciplinary measures concerning the child can only be taken in accordance with the child's dignity and under no circumstances, are physical punishments allowed. Nor is punishment which might affect the child's physical and mental development or emotional status.

Several African and Asian countries have adopted or strengthened legislation criminalizing harmful traditional practices such as child marriage, son preference, abortions based on foetal sex screening and female genital mutilation.<sup>14</sup> In Africa, this trend has been encouraged by the adoption and entry into force of the African Charter on the Rights and Welfare of the Child. In this, provisions concerning such practices are stronger than the CRC's.

#### **Protection against sexual exploitation**

In many countries around the world, an increased awareness of the sexual exploitation of children has led to an important enhancement of legislation. Globally, new laws on the protection of children have been introduced, amended or supplemented since 1989. Some law reform has focused on closing gaps in earlier legislation, by broadening the definition of sexual offences and offering special protection for adolescent children.<sup>15</sup> Reform has also led to increasing sentences for offences against children. Some countries have also amended their laws to broaden the jurisdiction of their courts over offences committed abroad, such as sex tourism involving pedophilia or trafficking of children. In other cases, law reform has been designed to protect child victims, in various ways. These include: allowing children to testify through video links, enabling the testimony of professionals who have interviewed the victim prior to trial, or allowing protection orders, as an alternative to removal of the victim from his or her home. Most countries in Asia, Latin America and Western Europe have adopted some new legislation on the protection of victims.

In this area, it is certainly also important to note that half of the countries reviewed have also adhered to the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography.<sup>16</sup>

#### **Child Labour**

Many of the countries covered by this study made changes in legislation concerning child labour.<sup>17</sup> Many raised the minimum age for employment – from 8 to 13 years of age in Lebanon, for example, from 12 to 14 in Sri Lanka, and from 13 to 15 in South Korea. Some also raised to 18 the minimum age for dangerous or unhealthy work.<sup>18</sup> Other inno-

#### **The rights of working children**

The Childhood and Adolescence Code enacted by Paraguay in 2001 states, in Article 53:

The State provides the working adolescent with the following guarantees:

- a) the right to safe and healthy working conditions;
- b) the right to personal freedom, respect and dignity;
- c) a periodic medical exam
- d) to have access to and to attend school according to a schedule that reflects local conditions and the interests of the adolescent
- e) special working hours
- f) to organize or participate in labour organizations
- g) in the case of the adolescent with special needs, to protected work, in accordance with national and international standards
- h) to receive training through special vocational counseling and training programmes.



vations include legislation protecting the rights of working children, by, among other things, recognizing their entitlement to certain benefits, such as health care or training.

### Juvenile Justice

Juvenile justice is complex and is generally perceived as particularly sensitive. Law reform in this area has been slower than in others and in many countries where legal changes have been introduced, they have addressed only a few relevant aspects. Extensive reforms have been made in Tunisia and Morocco, as well as most of the countries of Latin America. In other countries, including Nigeria, India and Pakistan, legislation has been adopted at the federal or central level, but legislative and other action is required at the state or provincial level for implementation. Changes have been introduced in areas relating to the recognition of the right to legal assistance, the prohibition of corporal punishment and the death penalty, the definition of criteria for detention prior to trial, the creation of specialized courts, the establishment of procedures for non-judicial resolution of certain cases and modification of sentencing criteria to limit the use of custodial sentences.

Also, it is important to stress the steps taken by States Parties to review and withdraw reservations entered into the CRC and pertaining to juvenile justice -- in particular, the withdrawal by Tunisia and the United Kingdom.

### Children and armed conflict and child asylum seekers and refugees

In this area, an important development has taken place with the drafting and entry into force of the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict.<sup>19</sup> Of the countries reviewed in this study, 34 ratified the Optional Protocol and 5 of them recently submitted reports to the Committee on its implementation.

The majority of countries covered by this study have not reported changes in legislation concerning children affected by armed conflict, child asylum seekers and refugees. Central and Eastern Europe are an exception to this. The codes adopted by a few Latin American countries, such as Colombia, Ecuador and Guatemala, also contain general provisions on children in armed conflict, child asylum seekers and in some cases returnees and displaced persons. A comprehensive law adopted by the Philippines contains a unique and relatively detailed article on the rights of children affected by armed conflict.

During the first phase of this study, an effort has been made to systematize available information on laws that have been adopted since 1989, to ensure

compliance with the obligations set forth in the CRC. In this process, an assessment has been made of the extent to which these laws appear to incorporate CRC principles and provisions. Whether or not these laws actually improve the situation of children and, if so, to what extent, is another question -- and ultimately the most important one. There are isolated examples of law reform whose positive impact on the lives of children has been documented. The provision on the rights of children included in the 1994 Constitution of South Africa, for example, led to a 1996 decision of the Supreme Court declaring the corporal punishment of juvenile offenders, illegal. Whipping had been the sentence most frequently imposed on convicted juveniles with 35,000 cases per year. In Paraguay, between 4,000 and 5,000 children were adopted by foreigners during the first half of the 1990s, many of them in dubious circumstances. Inter-country adoptions were suspended by a decision of the Supreme Court in 1995 and new legislation giving priority to national adoption was adopted in 1997. Since then, all children declared adoptable have been adopted nationally. New legislation passed by the Russian Federation in 1997, doubled the percentage of adolescents accused of an offence who were referred to the social welfare authorities, instead of being prosecuted.

#### Philippine legislation on the protection of children during armed conflict

**Section 22. Children as Zones of Peace.** Children are hereby declared as Zones of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflicts in order to promote the goal of children as zones of peace. To attain this objective, the following policies shall be observed:

- (a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhumane or degrading treatment;
- (b) Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers or spies;
- (c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;
- (d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;
- (e) Public infrastructure such as schools, hospitals and rural-health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots; and
- (f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

These are of course isolated examples. It is important to invest the time and effort necessary to study the actual impact of law reform more systematically, not only with a view to determining how effective it has been, but also to identify what lessons can be learned

as to the interplay between law reform and the other general measures of implementation. As noted earlier, they are interdependent and their expression and effectiveness is country-specific. Clearly, further research needs to be developed in this area.

## Notes

- 2 Burkina Faso, Ethiopia, Nigeria, Rwanda, South Africa and Togo; Fiji, India, Japan, the Philippines, South Korea, Sri Lanka, and Viet Nam. Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama and Paraguay; Bangladesh, Egypt, Jordan, Lebanon, Libya, Morocco, Pakistan, the Sudan, Syria and Yemen; Belarus, the Czech Republic, Georgia, Poland, Romania, the Russian Federation, Slovenia and the Ukraine, and France, Sweden and the United Kingdom.
- 3 Burkina Faso, Ethiopia, South Africa, India, Colombia, Chile, Belarus, Poland, Slovenia, Romania and the Ukraine.
- 4 The South Africa Constitution was adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly Act 108 of 1996.
- 5 There is no agreed definition as to when a law can be considered 'comprehensive'. For the purpose of this study, a comprehensive law means a law that covers many or most of the rights and principles contained in the CRC.
- 6 General principles of the CRC are protection from non discrimination, best interests of the child, survival and development of the child and respect for the views of the child.
- 7 Law No.27/2001 of 28 April 2001. The law also contains a few articles on the responsibilities of children, but does not contain chapters on areas such as the child and the family, alternative care, child labour or juvenile justice.
- 8 For example, Chile, Costa Rica and have adopted legislation simplifying procedures for determining the paternity of children born out of wedlock, and France and Tunisia have enacted laws recognizing the right of adopted children to information about their birth parents.
- 9 One of the most recent codes, for example, contains 88 articles covers matters such as the rights and duties of parents, grounds for removal of children from parental custody, maintenance, marriage, the travel of children and guardianship. The Childhood and Adolescence Code, Paraguay, Law No.1680, 2001, Book III, the Family, Art.70-157
- 10 The school leaving age was raised Burkina Faso (to 16 years of age), Jordan (to 17 years), Sudan (from 6 years of compulsory education to 8 years), Syria (from 6 years of compulsory education to 9 years) Togo (to 15 years) and Yemen (from 6 years of compulsory education to 9 years). Lebanon adopted legislation making school attendance obligatory for the first time (until age 12).
- 11 Some such legislation also protects other especially vulnerable groups, such as the elderly and persons with handicaps, and some even protects any person regardless of age or gender who is a victim of violence within the household.
- 12 The Interamerican Convention on the Prevention, Punishment and Eradication of Violence Against Women.
- 13 Cyprus 1994 law on prevention of family violence and protection of victims.
- 14 Such legislation has been adopted by Burkina Faso, Ethiopia, Togo, South Africa, Jordan, Nepal, Sri Lanka, South Korea, and Viet Nam.
- 15 A study of the need for law reform in this area by the Law Commission of South Africa, cites several examples of gaps in the law, including definitions of rape and incest that require penetration of the vagina by a penis, a definition of sodomy that requires the victim and perpetrator to be males and legal provisions that make an adolescent boy who has intercourse with an older girl guilty of offence even if the girl took the initiative. Sexual Offences Against Children, Issue Paper No. 10, Project 108, Pretoria, 31 May 1997, available at [www.law.wits.ac.za/salc/issue/ip10.html](http://www.law.wits.ac.za/salc/issue/ip10.html) In contrast, the definition of 'grave sexual assault' in the Goa Children's Act 2003 includes vaginal, oral and anal intercourse, including penetration with an object; forcing minors to have sex with one another, deliberate injury to a sexual organ and making children pose for photographic photos or films. Section 2 (y)(i).
- 16 The Optional Protocol entered into force on 18 January 2002, and the following countries reviewed by this study have ratified it: Argentina, Bangladesh, Belarus, Belgium, Bolivia, Canada, Chile, Costa Rica, Denmark, Egypt, Finland, France, Guatemala, Honduras, Iceland, Italy, Mexico, Morocco, Norway, Panama, Paraguay, Philippines, Portugal, Romania, Rwanda, Spain, Tunisia and Vietnam.
- 17 Including Nepal, the Philippines, South Korea, Sri Lanka, Viet Nam, Lebanon, Egypt, Pakistan, the Sudan, Syria and Tunisia.
- 18 These include Nepal, South Korea, Viet Nam, Tunisia, Ethiopia, South Africa, Jamaica, Bolivia, Colombia, Ecuador, Honduras and Nicaragua.
- 19 The Optional Protocol entered into force on 12 February 2002 and the following countries reviewed by this study have ratified it: Argentina, Bangladesh, Belgium, Burkina Faso, Canada, Chile, Costa Rica, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Guatemala, Honduras, Iceland, Italy, Jamaica, Mexico, Morocco, New Zealand, Panama, Paraguay, Philippines, Portugal, Romania, Russian Federation, Rwanda, Spain, Sri Lanka, Sweden, Tunisia, United Kingdom and Vietnam.

# INDEPENDENT NATIONAL CHILDREN'S RIGHTS INSTITUTIONS

There has been a rapid proliferation of independent national institutions for children's rights – such as children's ombudsman offices and commissioners for children – over the last 15 years. This is at least partly a reflection of States Party commitment to achieving effective implementation of the CRC.

The importance of having independent national human rights institutions to protect everyone's human rights, with appropriate mandates and powers set out in legislation, has been highlighted for more than a decade, including at the 1993 World Conference on Human Rights. Many human rights commissions and ombudsman offices with a general human rights mandate have been established in countries across regions.<sup>20</sup> Also in 1993, the General Assembly endorsed a set of "Principles Relating to the Status of National Institutions", known as the Paris Principles, through which it identified the distinct requirements for these bodies.<sup>21</sup>

With the almost universal ratification of the CRC and the consideration of children as rights-holders, there has been a growing acceptance that at national level, special attention must be paid to the promotion and safeguarding of children's rights, including through the design of special independent institutions or special focal points within national human rights institutions. In this spirit, heads of state and government agreed at the Special Session on Children to implement a Plan of Action "through consideration of such measures as... establishing or strengthening national bodies such as, *inter alia*, independent ombudspersons for children, where appropriate, or other institutions for the promotion and protection of the rights of the child"<sup>22</sup> Recognising this important process and guided by its experience in monitoring the situation of children across nations, the Committee on the Rights of the Child observed in 2002 that, "Every State needs an independent human rights institution with responsibility for promoting and protecting children's rights."<sup>23</sup>

The first model of a Children's Ombudsman was developed by a non-governmental organization – Radda Barnen (Save the Children Sweden) – and promoted during the International Year of the Child (1979). In 1981, Norway became the first country to establish through legislation, an Ombudsman for Children. Costa Rica followed in 1987. Now, with

more than 60 individual independent human rights institutions for children existing in at least 38 States around the world, the development can best be considered in the context of the global movement to implement the CRC.

Together with an increasing number of national independent institutions for children's rights, the past years have been marked by the enhancement of their mutual cooperation. Since 1997, a European Network of Ombudspersons for Children has been established and there are informal networks in Latin America and in the Pacific region. At the global level, a similar process is taking shape. In fact, in 2002, at the time of the Special Session on Children, representatives of independent children's rights institutions from more than 30 States held their first global meeting. They decided to develop a global network which is supported by UNICEF's Innocenti Research Centre. Having long worked in this area, in 2001 the Centre had published an Innocenti Digest on *Independent Institutions Protecting Children's Rights*.<sup>24</sup>

The Secretary General's 2001 report *We, the Children* noted that "During the 1990s, ombudspersons were established in at least 40 countries and have gained a particular relevance as spokespersons for children, advocating for the best interests of the child as a primary consideration in all decisions affecting them... More assessments are needed of the work carried out by such independent institutions, to shed light on the difference they can make to children's lives and to inform the establishment of new ones..."<sup>25</sup>

This current study is a contribution to that process of assessment. In many States, these institutions have become highly visible and popular and they can point to many examples of actions favouring the rights of children to which they have contributed substantially. Some have also pioneered innovative ways of working directly with children and young people on advocacy of their rights. While it can be argued that some 'results' might have occurred, it is unlikely that they would have been so visible so quickly, without the active presence of these independent institutions for children.

This is no longer a fragile and tentative movement.

Now it can only gain from rigorous evaluation – by children and young people among others– to inform the strengthening of existing institutions and the continuing development of new ones.

### **The global spread of institutions**

Since the adoption of the CRC, the spread of independent children’s rights institutions has been most rapid in Europe, where they exist in at least 27 States. A majority (19) of these States have established separate children’s ombudsman offices or commissioners. In some cases, they have been developed at the sub-national level: for example, the distinct institutions for the Flemish and French communities in Belgium, in each of the *lander* of Austria and in England, Wales, Scotland and Northern Ireland within the UK. Two institutions, in Luxembourg and Denmark, have a Committee structure.

In Latin America, there are at least five States with an identified children’s ombudsman or a focal point on children’s rights within national human rights institutions. In Africa, the first separate children’s ombudsman office was established in Mauritius in 2003 and there is a specialist commissioner for children’s rights within South Africa’s Human Rights Commission. There are institutions in Canada and New Zealand while in Australia, children’s commissioners have been established in New South Wales, Queensland and Tasmania, as well as a focal point within the federal Human Rights and Equal Opportunity Commission. The Commission on Human Rights of the Philippines is the first national institution in Asia to have developed a “child rights center”. Independent institutions established to promote children’s rights have a variety of names – Children’s Ombudsman, Children’s Rights Commissioner, *Defenseur des Enfants*, *Defensor del Menor*, *Defensor de los Derechos de la Ninez* – and their legislative powers and roles vary widely.

### **Separate or “integrated” human rights institutions for children**

There has been debate in a number of States and also within the UN, on whether to promote a stand-alone children’s rights institution, a children’s ombudsman or commissioner, or to build the promotion of children’s rights into existing or new general human rights commissions or general ombudsman offices. Perhaps inevitably, existing institutions tend to defend the structure they have and there has been no evaluation as yet comparing the effectiveness in defending children’s rights, of institutions established separately and those with an “integrated” focal point. Such evaluations are certainly needed, to inform the continuing rapid development of independent institutions.

To date, there are more separate children’s rights institutions than institutions subsumed under a more general human rights office. This probably

arises from the concern, expressed by the Committee and by other independent commentators, that traditionally children’s rights have not been given distinct and appropriate attention within a “general” institution. At the same time, there have been other expressed concerns that separation may lead to marginalization, rather than mainstreaming within the overall promotion of human rights.

The Committee has maintained neutrality on this issue, as reflected in its 2002 General Comment on “The role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child”. The Committee’s “principal concern is that the institution, whatever its form, should be able, independently and effectively, to monitor, promote and protect children’s rights”. Furthermore, the Committee highlights the importance of ensuring that promotion of children’s rights is “mainstreamed” – “and that all human rights institutions existing in a country work closely together to this end”.

The Committee’s General Comment accepts that where resources are scarce, “consideration must be given to ensuring that the available resources are used most effectively for the promotion and protection of everyone’s human rights, including children’s and in this context, development of a broad-based [institution] that includes a specific focus on children, is likely to constitute the best approach”. Emphasis is further placed on ensuring that within a broad-based institution there is “either an identifiable commissioner specifically responsible for children’s rights, or a specific section or division responsible for children’s rights”.<sup>26</sup>

### **Legislation establishing institutions**

The fundamental purpose of national independent institutions is to promote and safeguard the rights of children. Most acts establishing them, anchor their work directly on the CRC, requiring that the institution monitor compliance with the CRC and other relevant international instruments on children. Such institutions are also supposed to promote awareness of children’s rights throughout society.

It is their legislative base and powers which give these national independent institutions their authority and legitimacy, adding transparency and visibility to their mandate. Legislation also clarifies their distinct role vis-à-vis other mechanisms and institutions, including child-related parliamentary committees, judicial bodies on children and NGOs. Most states have a number of NGOs promoting children’s rights and many have NGO coalitions on children’s rights, usually established to promote implementation of the CRC and to support the Committee, in the context of the reporting process under the CRC. The role of NGOs and parliamentary and other mechanisms is complementary to



that of independent statutory children's rights institutions.

Legislation is in particular required to secure independence - of actions and resources. Independence is inevitably a relative concept, but it gains a critical relevance if these institutions are to be given the legitimacy, resources and powers to promote the realization of children's rights, act as a watchdog on public authorities' actions and the assessment of their impact on children, voice children's concerns and recommend needed changes in law, policy and practice. No institution funded through government or parliament is wholly independent and on occasion, children's rights NGOs or coalitions have asserted that, because their establishment and funding is entirely independent of government, they have a greater independence than the children's ombudsman.

Statutes establishing institutions vary in length and detail. The older "separate" institutions – Norway's and Sweden's Children's Ombudsman for example – have a very short Act establishing the general functions, duties and method of appointment, complemented by more detailed "instructions". More recently, mostly separate institutions have been established with much more detailed legislation, building on the minimum standards required by the Paris Principles and adding powers and duties specifically related to the promotion and safeguarding of children's rights.<sup>27</sup> This may well reflect the influence of the Committee through its examination of States' reports and consistent recommendations, including its detailed General Comment of 2002. Networking among institutions in Europe has also led to the development of more detailed Standards for legislation, building on the Paris Principles: these too, are influencing the development of new institutions.<sup>28</sup>

National human rights institutions and general ombudsman offices which include a section or focal point on children's rights, seldom have separate legislation defining this function. But there are some recent exceptions – for example in Greece, the 2003 law establishing the national ombudsman, acknowledges that the Ombudsman "also has the mission of defending and promoting the rights of children" and that one of the five Deputy Ombudsmen shall be Deputy Ombudsman for Children. The law includes throughout, particular powers and duties relating to safeguarding and promoting children's rights.

An analysis of the concluding observations adopted by the Committee following examination of States Parties reports, indicates that it consistently advocates the establishment of independent institutions to States which do not already have one, framed by the Paris Principles and its own General Comment. Where an institution has been established, the Committee often recommends that it should be appropriately resourced, and establish direct contacts with children. Further recommendations

include the establishment of a child-friendly complaints procedure and, where necessary, stronger legislation as well as more safeguards to ensure institutional independence.

### **Working directly with children**

In the spirit of the CRC and its call for respect for the views of the child (article 12), some institutions have made serious and innovative attempts to involve children directly in their activities. These attempts include establishing advisory boards of children, having contact with children through interactive websites and e-mail, consultative arrangements with groups of school students and so on. An innovative feature of legislation establishing some of the more recent offices, is a requirement to prepare "child-friendly" versions of reports. Recently, children in the UK have been directly involved in the process of selecting children's commissioners in Wales, Northern Ireland and Scotland and in the design and furnishing of their offices.

As the European Network of Ombudspersons for Children has recognized in the preface to its Standards:

"... Institutions that are designed only with adults in mind, are most unlikely to serve children effectively."

The Committee has underlined that institutions have a key role to play in promoting respect for the views of children in all matters affecting them, by government and throughout society. But this general principle needs to apply also "to the establishment, organization and activities of national human rights institutions. Institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted..."

### **Advocacy role of independent institutions**

While some institutions continue to be preoccupied with dealing with individual cases, many have developed a strong advocacy role on behalf of children as a group, and/or particular groups of children. Some have concentrated on issues where there is already an established international consensus for action, including on protection from sexual exploitation and trafficking, while others have initiated debate on still sensitive issues, such as: promoting children's rights within the family; ending corporal punishment; setting a deadline for complete elimination of bullying in schools and challenging detention of children, including asylum-seeking children. Many can point to changes or additions in national legislation which reflect children's rights.

The annual reports which most institutions are required to present to Parliament create visibility for children's real lives and they further increase understanding and hopefully initiate debate on the breaches of their rights.

## Reporting to the Committee on the Rights of the Child

Increasingly, children's ombudsman offices and commissioners have taken part in the reporting process under the CRC on the Rights of the Child. In some States, the institutions have worked with NGO children's rights coalitions on the preparation of an "alternative" report, but in others, institutions have reaffirmed their independence both from government and from NGOs, preparing a separate report.

The Committee has stressed that in preparing reports for the Committee, States should consult with national institutions. But such institutions must maintain their independence. It is not appropriate to delegate the drafting of reports to institutions, nor to include them in the government delegation to the Committee. This has, however, happened on two occasions. Independent institutions now frequently take part in Pre-sessional Working Group meetings organized by the Committee with relevant partners, including UN agencies and NGOs. In at least one case, a Children's Ombudsman has asked to brief the Committee separately.

The Paris Principles suggest that contributing to reports to Treaty Bodies and to regional human rights mechanisms is among the responsibilities of national human rights institutions. For its part, the Committee has emphasized the independent monitoring function of these institutions:

"[Institutions] should contribute independently to the reporting process under the CRC and other relevant international instruments and monitor the integrity of government reports to international treaty bodies with respect to children's rights..."

This is one of the areas in which it is important to evaluate further, the varying contribution made by national independent institutions to the CRC reporting process, as well as the impact of that contribution, both on the concluding observations adopted by the Committee and on policy making at national level.

## Collaboration among independent institutions

From early on, independent institutions have recognised the importance of collaboration and networking. In 1997, the European Network of Ombudspeople for Children (ENOC) was formed at a meeting in Trondheim, Norway, with UNICEF's Regional Office for Europe in Geneva providing its Secretariat. Initially, the network included 10 institutions, but by the 2004 annual meeting, it had grown to include 26 members, despite a tightening of its membership criteria to require a legislative base clearly focused on the promotion of children's rights<sup>29</sup>. By 2003, ENOC had adopted statutes, agreed plans for a permanent, independent and staffed secretariat to be based in the Council of Europe's headquarters in Strasbourg and drafted detailed Standards for Independent Children's Rights Institutions. The Standards are based on the Paris Principles and incorporate them.<sup>30</sup>

The adopted aims of the Network are "to improve the lives of all children in Europe in ways which include:

- encouraging the fullest possible implementation of the CRC ;
- supporting individual and collective lobbying for children's rights and interests to Europe-wide and international bodies (e.g. the European Union, Council of Europe and its European Strategy for Children, Committee on the Rights of the Child);
- sharing information, approaches and strategies for the benefit of children, including comparative studies;
- providing a forum for individual offices to generate new ideas and gain support;
- promoting and supporting the development of effective offices able to advocate independently for children"

Children's rights institutions in the Pacific Region and in Central and Latin America have also formed informal networks.

At the first global meeting of independent institu-

### Questions that have arisen during the rapid development of national independent children's rights institutions, which need further research and debate:

#### *Degrees of independence*

Independence is clearly the key characteristic for these institutions. Many fall short in one way or another of the independence demanded by the Paris Principles and the General Comment of the Committee, either because of their legislation, method of appointment, source of funding or methods of working. Some have been established initially with a child welfare or protection remit and not with a clear mandate to safeguard children's rights.

Some are actually government agencies - important and valuable to advance the agenda on children, but not fulfilling the role of independent institutions. Some are appointed directly by government ministers and with no requirement to consult outside government. Governments can, in some cases, direct the ombudsman or commissioner to carry out functions on its behalf.

### ***Fulfilling the roles of government***

In some cases, there seems to be a blurring of the borders between the responsibilities of government and the role of independent institutions, in implementation of the CRC. For instance, while the national institution plays an important role in creating awareness and disseminating information on children's rights, these functions are not designed to replace the responsibility of the State to fulfil its obligations to make the CRC and its provisions well known to adults and children, by active and appropriate means.

As the Committee's General Comment now emphasizes, the role of the independent institution is to monitor independently the State's compliance with and progress towards, effective implementation of the principles and provisions of the CRC.

### ***Role in relation to complaints***

Independent institutions that are required to investigate individual cases or complaints, often report that they are overloaded and that this function affects their ability to promote and protect children's rights more generally and to support effective implementation of the CRC. The only two independent evaluations so far carried out of any of these institutions, argued against a substantial role in investigating individual cases. In addition, institutions report that they get few complaints directly from children and it is sometimes hard to determine whether those making the complaints are really acting on behalf of children, or in their own interests (e.g., complaints concerning custody following separation or divorce).

While neither the Paris Principles nor the Committee's General Comment "require" national institutions to investigate all individual complaints and cases that come to them, both stress that the institution must be able to address any situation of violation of human rights and that it must have special powers to do so. It is vital that independent institutions, whether or not they investigate individual cases for themselves, have the necessary powers to be able to refer them on to competent bodies and mechanisms. In addition, they must have the power to review and report on whether these existing bodies are able to provide effective remedies for children.

### ***Development of networking***

There is recognition of the need for networking among independent institutions. In Europe and other regions, collaboration and information-sharing has contributed towards addressing issues which cross national boundaries, including trafficking and sexual exploitation. However, the full potential for independent children's rights institutions to act as an influential collective voice for children has yet to be realised. The European Network (ENOC) has prepared position statements on such issues as juvenile justice, ending corporal punishment, promoting children's participation and creating new independent institutions. It has undoubtedly contributed to the spread of institutions, both within Europe and further afield, through visits and capacity-building and the development of a training pack, as well as promotion of the Standards. But until it has an adequately-staffed secretariat, it is unlikely to be able to do more collectively, to influence the realisation of children's rights regionally.

The proposal to base ENOC's secretariat in the Council of Europe headquarters in Strasbourg, could lead to creative and effective collaboration with the various human rights mechanisms of the Council. To date, there has been little sign of independent institutions using regional or international human rights mechanisms to pursue children's rights either for individual children or collectively. This may come with the next phase of development.

International and regional networks of national human rights institutions and of general ombudsman offices are well-developed and have begun to consider children's rights among a range of specialist topics at their meetings. It is essential that the independent children's rights institutions are actively involved in these networks, as well as in their own specialist networks, to ensure the steady mainstreaming of children's rights.

### ***Lack of evaluation***

In the light of available information, only two institutions have been independently evaluated to date— in Norway and Sweden. Moreover, there has not been any systematic analysis of the legislation establishing institutions, to determine to what extent it is compliant with the Paris Principles. The UN Secretary General's End-Decade Review, *We the Children*, called for such evaluations and this study can only highlight the relevance of such recommendation. The European Network of Ombudspersons for Children (ENOC) has begun a process of accreditation, by setting criteria for membership and applying them to new institutions, but there is as yet no global process.

The first global meeting of these institutions in 2002 set a target: to double their numbers within a decade. At the present rate of development that target can undoubtedly be met. At this stage, it is important that growth is informed by rigorous evaluation of what works best, in terms of legislation, types of advocacy and involvement of children. This will help to create and sustain effective independent human rights institutions for children.

tions in 2002, there was a commitment, which would be supported by IRC, to develop a global network to promote exchange of information and strategies. It was agreed that UNICEF Innocenti Research Centre would support the global network, to collect and make available through IRC's website, basic information about all institutions, linking to existing websites including ENOC's. It was also agreed that regular contact through e mail would be

established, to:

- Highlight international developments of relevance to all institutions;
- Enable individual institutions to share information on positive initiatives they have taken and to seek advice and information from other institutions;
- Enable those involved in establishing new institutions to seek information and support.

## Notes

- 20 Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna, June 1993, UN General Assembly, A/CONF.157, para. 36.
- 21 Principles relating to the status of national institutions, UN General Assembly resolution 48/134, 20 December 1993, annex.
- 22 *A world fit for children*, outcome document of the UN General Assembly Special Session on Children, May 2002, A/RES/S-27/2, para. 31
- 23 Committee on the Rights of the Child, General Comment No. 2, "The role of independent national human rights institutions in the promotion and protection of the rights of the child", 2002.
- 24 In the early 90's, the Innocenti Research Centre had promoted the publication "A Voice for children, speaking out as their Ombudsman" by Målfrid G. Flekkøy, the first Ombudsperson for children in the world and Senior Fellow to IRC from 1989 to 1992; in 2001, the Centre published *Independent institutions protecting children's rights*, Innocenti Digest No. 8, June 2001
- 25 *We the Children: End-decade review of the follow-up to the World Summit for Children*, Report of the Secretary general, UN General Assembly, A/S-27/3, 2001, paras. 460 - 461
- 26 see note 1, paras. 6 and 7
- 27 see, for example, acts establishing institutions in Mauritius, Malta, Croatia and Northern Ireland in 2003
- 28 Standards for Independent Children's Rights Institutions, adopted by European Network for Ombudspersons for Children, 2001; see <http://www.ombudsnet.org/documents/Standards.htm>
- 29 With these criteria, bodies established not through legislation but by non-governmental organizations and parliamentary bodies are not included.
- 30 The Network has its own website at [www.ombudsnet.org](http://www.ombudsnet.org).



# NATIONAL COORDINATING MECHANISMS

## General Background

One visible response to the CRC has been the development, in many countries, of new bodies or mechanisms for children near or at the very heart of government. The purposes of these bodies or mechanisms are to:

- make children visible in government's action;
- ensure coordination of relevant activities,
- monitor progress; and
- promote a comprehensive and integrated agenda for the realization of children's rights.

The existence of such coordinating bodies is one indicator of the political priority given to children.

Coordination is an essential part of making government work **for children**, because invariably many departments provide services for children and have an impact on the realization of children's rights. As the General Comment of the Committee stresses, (see below) co-ordination needs to be inter-departmental, multi-disciplinary, promoted between central and sub-national authorities and in collaboration with civil society and the private sector.

"The purpose of coordination is to ensure respect for all of the Convention's principles and standards for all children; to ensure that the obligations inherent in ratification of, or accession to the Convention are not only recognized by departments which have substantial impact on children – education, health or welfare and so on – but right across government, including for example departments concerned with finance, planning, employment and defense, at all levels"

"In its examination of the State Parties reports, the Committee has almost invariably found it necessary to encourage further coordination of government to ensure effective implementation: co-ordination among central government departments, among different provinces and regions, between central and other levels of government and between government and civil society"<sup>31</sup>

There are many formal and informal ways of achieving effective coordination. In some countries, an

inter-ministerial and inter-departmental committee for children is established. For others, coordination is overseen by a unit that is awarded high-level authority and which has over-arching responsibilities for children and for the implementation of the CRC. With these and other examples in mind, the Committee urges States that have not already done so, to review the machinery of government in its entirety, with a view to ensuring the effective implementation of the CRC.

As the Committee recognizes, it is not usually possible to bring all matters covered by the CRC under one government agency, because the actions of more or less all government agencies impact upon children's lives. Past experience has given visibility to the dangers of the marginalization which might result from giving responsibility for children's policy to a single unit, particularly if it is not given high status and authority in government. There are also disadvantages of the unit being placed in a government agency whose minister is not represented in Cabinet, whose executive head has low status within government, or whose resources are clearly insufficient to promote the effective implementation of the CRC.

While women's and children's interests are inextricably linked, the focus on children has sometimes been weakened by placing the unit in a department concerned with the affairs of women and children or within a broader department of family and youth affairs. Children need an explicit and distinct focus. Their interests are likely to be overridden and to lose visibility, if they are integrated into a department with responsibility for other groups in society as well as for children.

Locating a separate children's unit in one of the large government service-delivery agencies (e.g. health, education or welfare), may also raise difficulties, as it may be overwhelmed by the service-delivery obligations of that department. It may create inter-departmental tensions and it may become marginalized. There are contra-indications also to placing the separate unit in a specialized department (such as a justice department or attorney-general's office), because such departments may be remote from the centre of power.

States Parties are expected to promote coordination of economic and social policies and to ensure that disparities between different regions and groups of children are bridged, in relation to the access and

provision of social services. Accordingly, the Committee has often emphasized the need for state parties to undertake budgetary analysis, to identify and maximize the resources allocated for the benefit of children and, in particular, the proportion of the national budget devoted to social expenditure on child's health, education and welfare at the central, regional and local levels -- and where appropriate, at the federal and state or provincial levels<sup>32</sup>.

Where a country is afflicted by social upheaval, serious economic downturn, war or events such as earthquakes and floods, there is a tendency to reallocate funding from social services to meet other priority needs. The first call for children should not be pushed aside by other priorities: in troubled times, children are often in greater need.

Coordinating the activities of the relevant departments helps to keep children's concerns at the centre, steadily informing policy decisions guided by the best interests of the child.

Coordination between different levels of government is always to be encouraged. In states with a unitary system of government there is a need for co-operation between different arms of government. Even in those states where the separation of powers is a fundamental constitutional principle, there is room for coordination, because there remains a degree of interdependency between them. Where a federal, provincial or regional system is in place, the commitment of the states, provinces or regions to the principles of the CRC should have been secured in some formal manner, before ratification. Where devolution is planned, post-ratification of the CRC, the obligation lies with States Parties to ensure that devolved authorities make a separate commitment to the CRC and have the necessary financial, human and other resources, to effectively discharge their responsibilities for its implementation<sup>33</sup>.

States Parties must retain the powers needed to ensure full compliance with the CRC by devolved entities or local authorities and must establish permanent monitoring mechanisms to ensure that the CRC is respected and applied to all children throughout its jurisdiction, without discrimination of any kind. Decentralization and devolution should not be used as an abdication of responsibility by States Parties nor result in any weakening in the commitment to full implementation of the CRC. It should not lead to discrimination against some children because they happen to live in a certain province, state or region. <sup>34</sup>. It is essential to establish - with appropriate support - inter-state or inter-provincial committees of ministers, responsible for children's issues including welfare and protection, health, education and justice.

## The Findings

It may seem remarkable that in submitting initial reports to the Committee, a number of countries overlooked the issue of coordination. By the time

they submitted a second report, many more State Parties had taken steps towards coordination. It is impossible to determine whether this was systematically in direct response to the recommendations of the Committee, although direct causality or attribution is obvious in a few cases.

Major challenges to coordination are practical issues, such as the historic and still common sectoral allocation of resources, as well as the frequent lack of transfer of adequate funds in the context of decentralization processes. In spite of the progress achieved, fragmented sectoral actions and a weak horizontal coordination across departments, as well as between central and sub-national authorities, has often prevailed.

There has been insufficient coordination of economic and social policies to identify and to narrow disparities between regions and social groups and to ensure universal access by all children to basic social services of quality. Moreover, coordinating mechanisms have often failed to involve governmental departments responsible for finance and planning and in turn, to ensure the allocation of required resources for the realization of children's economic, social and cultural rights.

Competition among and between actors, has also been noted. The research conducted so far, indicates that the establishment of permanent coordination mechanisms is an area requiring further strong action by states.<sup>35</sup> In some cases, the process of implementation of the CRC together with the political commitments undertaken in the framework of international conferences, have led to the development of national coordinating bodies responsible for children's questions (for example, on the protection from sexual exploitation or from child labour); these efforts have, however, sometimes led to a multiplicity of such bodies, without the necessary communication between them and without the provision of required resources, to enable them to be effective.

The findings also confirm that establishing children's rights-focused permanent institutions and structures within governments, has been critical to the pursuit of coordinated implementation of the CRC -- and to the CRC becoming a visible reference for the public at large. With a more coordinated approach, the involvement of civil society becomes more likely, as does the ability to incorporate the child's perspective in policy-making. These mechanisms have helped place children on the national agenda, promoted articulation of child related activities, developed a strategy for the realization of children's rights and assessed progress. The fact that such mechanisms exist, is an important indicator of the political priority given to children. Moreover, to the extent that these mechanisms are 'above party politics' they are an even stronger indication that their purpose and mission has been internalized within a particular society.

One very visible response to the Convention on the Rights of the Child has been the development in many countries of new bodies or mechanisms for children near or at the very heart of government:

- *Children's units in the office of the president or prime minister or cabinet;*
- *Department for children rights; Ministers for children and for youth;*
- *Inter-ministerial committees;*
- *National Councils for children;*
- *National coordinating commission for the rights of the child;*

The purposes of these bodies or mechanisms are to: make children visible in government's action; ensure coordination of activities; monitor progress; and promote a comprehensive and integrated agenda for the realization of children's rights

Some countries have placed coordinating mechanisms under the authority of the President or Prime Minister, providing high visibility and relevance to children on the national agenda. But this decision has not always been complemented by active involvement in child-related activities, with the result that an integrated approach to children's rights has been compromised.

In some cases, these mechanisms have been placed under the authority of a line ministry, with limited capacity to effectively involve other relevant departments, the allocation of needed resources and the mainstreaming of children's rights in the overall national political agenda.

In some other cases, the action on children has been integrated with other related areas of concern, including women's and family affairs. This means that sometimes, children's issues have been diluted, as have the resources required to address their major needs.

The following is a regional 'overview' of the development of national coordinating mechanisms.<sup>36</sup> It is not exhaustive, nor does it allow for an evaluation of the effectiveness of the mechanisms. What is clear, however, is the variety of responses among regions and countries. Moreover, although there is great variety in the coordinating mechanisms, there the CRC Committee has consistently expressed concern that these mechanisms may not be effective, due to insufficient human and financial resources. The Committee also repeatedly notes the importance of linking national plans of action or national strategies for children's rights, to the coordinating mechanisms.<sup>37</sup>

There is in fact a strong link between coordination and developing – and subsequently implementing – national plans of action and/or strategies for children's rights. National strategies can aid the coordination process, by providing a framework and by guiding the interventions of a range of actors, while coordinating efforts may help focus both efforts and budgets, when developing strategies. Some countries have established a coordinating mechanism, to promote articulation of child-related activities. There

are instances where the coordinating body has been placed under the authority of the President or in the Prime Minister's office, as in the case of Belarus, Ukraine, Burkina Faso and Syria. There are cases where it is supported by an inter-ministerial technical committee. In Costa Rica, a three tiered national system for the protection of children and adolescents has been set up., The National Council, which constitutes the upper level, is under the President's authority and is composed of senior officials from key social departments, with representatives from non governmental organizations and the private sector.

- In the Middle East, extensive coordinating efforts have led to the establishment of National Councils for children – this has been the case in Egypt, Lebanon, Lybia and Tunisia. These mechanisms have responsibility for the development of programmes and strategies for children. In some cases they oversee implementation of the CRC and represent a national consultative forum for interaction with the public and NGOs on the realization of children's rights. In Morocco, a National Observatory on the Rights of the Child has been set up to provide a public forum for dialogue between public and private actors.

Egypt's efforts in this area have been extensive – (see following text box for detailed description).

### Egypt

Since its establishment in 1988, the National Council for Childhood and Motherhood has been considered to be the mechanism for coordinating activities relating to the implementation of the CRC in Egypt, by virtue of the mandate laid down in the decree establishing it. That mandate is as follows:

- (a) To propose a general policy on childhood and motherhood;
- (b) To draw up a comprehensive draft national plan for childhood and motherhood covering every field, including the provision of care by society and the family, health, education, culture, information and social welfare;
- (c) To follow up and evaluate the implementation of the general policy and the National Plan for Childhood and Motherhood, in the light of reports submitted by ministries, institutions and agencies and to remove any obstacles encountered;
- (d) To collect information, statistics and studies concerning childhood and maternity and to evaluate their indicators and findings and the possibility of making practical use of them;
- (e) Under the terms of its constitution and powers, the Council plays a coordinating role between ministries and public institutions. Its decisions are not subject to appeal and are immediately enforceable.

The Children's Code, promulgated within the framework of Act No. 12 of 1996, is considered to be one of the most noteworthy accomplishments of the Council; its promulgation was the outcome of five years' effort, by the working group on legislation, under the umbrella of the Council.

- In some cases, the coordinating mechanism operates within the overall responsibility of a relevant ministry – often the one responsible for social, welfare or women affairs. This is the case in some Latin America countries, including Argentina and Mexico. In this region, coordinating bodies for the protection of children’s rights have been foreseen by the new children codes, as is the case of Ecuador, (see following text box).

### Ecuador

The National Council on Children (CONAME) is the institution responsible for defining and designing the General Plan for the Protection of Children at the national level as well as, for designing national policies and strategies for the protection and rehabilitation of children. It also foresees the participation of private and public organizations dealing with children’s issues. Among them, the National Institute for Children and the Family (INNFA) is the most renowned. INNFA, which receives funding from Government resources and is presided over by Ecuador’s First Lady, has three national programmes focused on several children’s issues, which dealt with 109,510 children in 1996.

CONADE is also in charge of executing plans and programmes for children and women, through different Ministries and adjunct entities. It also monitors the fulfilment of goals from the National Plan of Action

- Some coordinating bodies have an explicit mandate to oversee implementation of the CRC. Latin America is an important example. In Nicaragua, for instance, a National Commission for the Promotion and Safeguard of Children’s Rights coordinates the formulation, monitoring and evaluation of public policies, as well as follow-up to the implementation of the CRC. In Europe, both Belgium and Italy have set up mechanisms to coordinate the reporting process before the Committee on the Rights of the Child<sup>36</sup>. Similarly, in the Russian Federation, a coordinating committee reporting to the Government has been given operational responsibilities connected with the implementation of the CRC. In Slovenia, the Council of Children acts as an advisory body to the Ministry of Labour, Family and Social Affairs, with overall responsibility for the coordination of measures on CRC implementation.
- Some countries have been concerned about the

need for appropriate coordination of local action in favour of children’s rights. Ecuador has promoted City Mayors for the protection of children, to encourage local governments to include the teaching of children’s rights in their policies’ framework and to promote an integrated approach to safeguarding the rights of the child. Municipal and community offices have been established in the capital, Quito, with the aim of sensitizing the community to the rights of the child.

- Some countries have established a special Ministry entrusted with children’s policies. In some cases, the portfolio is associated with other areas of government. In others it is in charge of children’s rights only. In France, responsibility for coordinating ministerial measures to implement the CRC, rests with the minister responsible for family affairs, who is currently the Minister for Employment and Solidarity. In Germany, the Ministry for Family Affairs, Senior Citizens and Youth, is responsible for coordinating the implementation of the CRC. Norway has a Ministry for Children and Family Affairs, which is responsible for formulating national childhood policy and works in conjunction with relevant ministries.

### Timor-Leste

In Timor-Leste, the Conference for the Development of Legislation on the Rights of the Child, held in September 2004 under the auspices of the President, agreed to create a National Council for the Rights of the Child. The National Council will be granted the necessary political authority and created at the highest governmental level and is expected to begin its functions in the very near future. The National Council will:

- promote the review of the compatibility between national legislation and the Convention on the Rights of the Child; identify gaps in the law and promote the formulation of legislative proposals and initiatives;
- be a mechanism for coordination and articulation of child-related policies, promote joint efforts and oversee the effective use of human and financial resources;
- play an instrumental role in gathering, compiling and analyzing data on the situation of children and will influence its consideration by the National Development on Human Rights Plans of Timor-Leste;
- promote the participation of civil society in the promotion of activities on the rights of the child.

### Notes

31 Para. 37 of General Comment N°5 (2003) of the Committee on the Rights of the Child, on the General measures of implementation of the CRC.

32 *Guidelines for Periodic Reports*; allocation of resources to children will be covered in detail in Phase 2 of this project on general measures of implementation.

33 General Comment No. 5 (2003), para. 41.

34 General Comment, para. 41.

35 The study acknowledges that its findings are a reflection of dearth of information available and reviewed so far.

36 Not all of the countries in this study appear in this summary version, and in this particular section, countries that do not have coordinating mechanisms have deliberately been omitted. They will be referred to in the longer version of this paper to be published later.

37 As mentioned earlier, national plans of action and national strategies for children’s rights are not elaborated on in this Executive Summary but will be addressed in the longer version of this study.

38 Respectively the National Commission on the Rights of the Child, and the National Observatory on Children and Adolescents



# SUMMARY AND CONCLUSIONS

Preliminary analysis of the findings of the study at the end of its first phase, suggests that the impact of the CRC has been rapid, widespread and sustained. The interactions between the Committee, State Parties and other actors have been vibrant and the content of reports *to* the Committee and observations *from* the Committee, rich and enriching. What is the result? A thriving discourse and a degree of practical progress on the rights of children, unique in the history of human rights.

## Law Reform

The catalytic role of the CRC is most evident in law reform. According to the study, there has been substantial progress in this area. An increasing number of State Parties now make specific reference to the human rights of children in national constitutions and in other legislation. There is mounting evidence of the link between law reform and improvements in the access to and quality of programmes providing essential services to children and their families. These links appear strongest and most widespread in the health and education sectors. Although there have been important legal and related reforms in many countries concerning the family and children in need of special protection, much still remains to be done. The study has also found that law reform is a complex and long-term process. State Parties in all regions of the world report being involved in 'processes' of legislative reform and highlight the need for law reform to be linked with institutional restructuring, coordination of the efforts of governmental and other actors, resource allocation, as well as research, monitoring, capacity building and community outreach. Permanent bodies have been established by some states, to ensure these processes can be sustained.

## Independent Human Rights Institutions for Children

According to the study's preliminary findings, independent national children's rights institutions have been established by law in many countries. Since the early 90's, more than 60 institutions have been set up. In some instances, protection of the rights of children is the sole objective of the institution; in others, a specialized body has been established

within a human rights commission or ombuds office which has a broader mandate to protect human rights. The independence of these institutions and the nature of their links to the government is a vital and much debated issue. A need for separate bodies specialized in the human rights of children is likewise a question under consideration. The mandate and functions of existing institutions for the protection of the rights of children vary greatly. The effectiveness of the various types of independent human rights institutions for children and their suitability for different kinds of societies is a subject which requires further study and analysis. The progress that has been made in establishing networks between national institutions, both at the regional level and globally, is a valuable step towards the exchange and evaluation of experiences and methodologies.

## National Coordinating Mechanisms for the promotion of children's rights

Some states have established coordinating mechanisms at the national and in some cases, at the state, provincial and local levels. It is clear that coordination is critical to 'making government work for children'. The Committee has repeatedly urged State Parties to better coordinate their efforts, to establish coordinating mechanisms particular to children and to ensure that such mechanisms are resourced in both human and financial terms. The study finds there is no single model and the range of existing mechanisms is vast - among them children's units in the offices of heads of state or government; committees and commissions for children; departments for children's rights; ministries for children and/or youth; and national councils for children and the rights of the child. Another key finding of the study is that there is a flourishing of coordinating bodies in Latin America. This may in part reflect the widespread introduction of children's codes, many of which link the functions of coordinating mechanisms to the rights and principles recognized by the code.

## **Conclusion – the Study as a ‘Work in Progress’**

This study – like the implementation of the Convention itself - is a work in progress. After only its first phase of investigation, the study is already shedding new light on a vast and complex global process. It confirms the commitment of State Parties to incorporate the principles and provisions of the CRC into national law, programmes, services and structures and documents the steps they are taking to do so. The study provides some insight into the visible ways in which this process is transforming the circumstances in which children live and develop, and the extent to which they

are protected and enabled to participate in decisions that affect them. . At the same time, the study also recognizes the critical challenges ahead and the need for a much steadier evaluation of this process.

– Uppermost in the minds of the sponsors of this study, is the impact of the CRC and its implementation, on the lives of real children. No single study can provide all the answers. But as this initiative moves forward, it holds out the promise of a substantial contribution to understanding this process, in its various forms.

## Appendix 1

### List of countries under review for the study

1. Argentina
2. Bangladesh Rwanda
3. South Africa
4. South Korea
5. Spain
6. Sri Lanka
7. Sudan
8. Syria
9. Sweden
10. Tunisia
11. Ukraine
12. United Kingdom
13. Vietnam
14. Yemen
15. Belarus
16. Belgium
17. Bolivia
18. Burkina Faso
19. Canada
20. Chile
21. Colombia
22. Costa Rica
23. Cyprus
24. Czech Republic
25. Denmark
26. Ecuador
27. Egypt
28. Ethiopia
29. Fiji
30. Finland
31. France
32. Georgia
33. Germany
34. Guatemala
35. Honduras
36. Iceland
37. India
38. Indonesia
39. Italy
40. Jamaica
41. Japan
42. Jordan
43. Lebanon
44. Libya
45. Mexico
46. Morocco
47. Nepal
48. Netherlands
49. New Zealand
50. Nicaragua
51. Nigeria
52. Norway
53. Pakistan
54. Panama
55. Paraguay
56. Philippines
57. Poland
58. Portugal
59. Romania
60. Russian Federation
61. Rwanda
62. Togo

## Appendix 2

### Independent child's rights institutions- The Global picture

IRC's research suggests that independent human rights institutions for children or focal points on children's rights within national human rights institutions now (November 2004) exist in the following States Parties : **[List and map]**

Australia: Human Rights and Equal Opportunity Commission has a special focus on children's rights; Children's Commissioners exist in New South Wales, Queensland and Tasmania.

Austria: each of the nine lander has an ombudsman for children and youth.

Belgium: Children's Rights Commissioner in Flemish Community; Delegeue General aux Droits de l'enfant in the French Community.

Bolivia: Defensor del Pueblo in Office of the Ombudsman

Canada: special focus on children in the office of the Ombudsman for British Columbia; Children's Advocates linked to child welfare services in Alberta, Saskatchewan, Manitoba, Ontario and Quebec

Colombia: Office of People's Defender includes Defensoria para la Ninez, la Mujer y el Anciano (attached office for the defence of Children, Women and the Elderly)

Costa Rica: section on children's and adolescents' rights within the office of the Defensor de los Habitantes de la Republica

Croatia: Ombudsman for Children

Czech Republic: focal point within office of the general Ombudsman

Denmark: National Council for Children

Estonia: Focal point within the office of the Legal Chancellor

France: Defenseur des Enfants

Georgia: Child Rights Centre within Public Defender's office

Germany: children's ombudsman in some lander

Greece: Deputy Ombudsman for Children's Rights within office of the Ombudsman for the Hellenic Republic

Guatemala: Special department within Office of the Procurator for Human Rights (Defensoria de los

Derechos de la Ninez de la Procuratoria de los Derechos Humanos)

Hungary: Deputy Ombudsman responsible for children's rights

Iceland: Ombudsman for Icelandic Children

Ireland: Children's Ombudsman

Latvia: Child Rights Protection Office within the Latvian National Human Rights Office

Lithuania: Controller for Protection of the Rights of the Child (Children's Ombudsperson)

Luxembourg: Ombudscommittee for the Rights of the Child

Macedonia: Ombudsperson for Children

Malta: Commissioner for Children

Mauritius: Ombudsperson for Children

New Zealand: Commissioner for Children

Nicaragua: Sub-commission for the Human Rights of Children within the Human Rights Commission (La Procuraduria Especial de la Ninez y la Adolescencia)

Norway: Children's Ombudsman (Barneombudet)

Philippines: Children's Rights Centre within the Commission on Human Rights

Poland: Ombudsman for Children

Portugal: focal point on children and juveniles within Office of the Ombudsman

Romania: focal point on children within General Ombudsman office

Russian Federation: children's commissioners or ombudspeople established in 15 Oblasts or city regions

Slovenia: Counsellor responsible for children's rights within Slovenian Human Rights Ombudsman Office

South Africa: commissioner responsible for children's rights within Human Rights Commission

Spain: Ombudsman for Children in Madrid (Defensor del Menor en la Comunidad de Madrid) and Deputy Ombudsman for Children in the Office of the General Ombudsman for Catalonia

Sweden: Children's Ombudsman (Barnombudsmannen)

United Kingdom: Children's Commissioner for Wales; Commissioner for Children and Young People, Northern Ireland; Commissioner for Children and Young People, Scotland





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