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Making Children Count:

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Implementing the Convention on the Rights of the Child



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UNICEF is building an electronic database on the progress being made around the world in implementing the Convention on the Rights of the Child. The database will be available through the UNICEF Web site and will include illustrations of the laws, structures, policies and processes that are being created to improve the situation of children within the Convention's framework. For governments and child rights advocates seeking to bring about changes in their own countries, knowing what others are doing to ensure the human rights of children can serve as a practical resource.

How can you contribute to the Web site project?

The success of UNICEF's project depends on learning about positive developments in legislation, policy, strategies for children, monitoring mechanisms, coordination of structures, data collection and information dissemination. In addition to general descriptions of measures

taken, we also hope to receive the relevant documents, such as the text of a constitution, strategy, impact assessment or report.

Please send your information, preferably on disk, to:

**Implementing the Convention
Division of Evaluation, Policy and Planning
UNICEF, 3 UN Plaza
New York, NY 10017, USA
or by e-mail to: crcimplement@unicef.org**

The existence of a particular institution – a Ministry for Children, for example, or a particular children's rights law – is no guarantee that it works well for children. The compilers of the project are not in a position to evaluate the information in the database. Any national evaluations will be quoted or referred to as such. UNICEF relies on users of *Making Children Count* to provide comments and proposals for additions.

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Making Children Count:

Implementing the Convention on the Rights of the Child



"The realization of children's rights and in general of human rights is by nature a permanent and endless process of demanding the search for betterment, where there is always room for improvement."¹

The Convention on the Rights of the Child, adopted in 1989, now has been ratified by all but two of the world's nations (Somalia and the United States). Translating this global commitment into real change for children remains a task that must engage everyone. Above all, it requires action and leadership by governments.

Under the Convention, the States' abiding obligation is to take action on behalf of children: "States should therefore not simply remain passive, but rather adopt *all appropriate measures* designed to ensure and protect children's rights."² Passivity is not an answer even in situations where the State might be tempted to

believe it has attained a sufficiently developed level of implementation.

General Measures of Implementation

The Committee on the Rights of the Child, the internationally elected body of experts charged with monitoring the Convention's implementation, has consistently encouraged States to take special measures and develop special institutions for the promotion and protection of children's rights. These General Measures of Implementation are the structures, laws, mechanisms and activities developed in each country to promote the fullest possible implementation of the Convention and thus the fullest enjoyment of the rights by all children under the State's jurisdiction.

The Committee reviews and comments on reports that each country is required to submit. Through these reviews, the Committee urges governments to

¹ Marta Santos Pais, former rapporteur of the Committee on the Rights of the Child, in a recent interview.

² Marta Santos Pais, 'The Convention on the Rights of the Child', *Manual on Human Rights Reporting*, United Nations Publication, 1997, p. 394.

use the Convention as the basis for their work as they:

- develop a comprehensive national agenda for children;
- develop permanent bodies or mechanisms to promote coordination, monitoring and evaluation of activities throughout all sectors of government;
- ensure that all legislation is fully compatible with the Convention – incorporating the Convention into domestic law or ensuring that its principles and provisions take precedence in cases of conflict with national legislation;
- make children visible in the process of policy development throughout government by introducing child impact assessments;
- carry out adequate budget analysis to determine the proportion spent on children and to ensure effective use of resources;

- ensure that sufficient data are collected and used to improve the state of all children in each jurisdiction;
- raise awareness and disseminate information on the Convention, including through training for all those involved in government for children and working with or for children;
- involve civil society, including children themselves, in the process of implementation and raising awareness; and
- develop independent statutory offices for children – children’s ombudspersons, commissions or other institutions – to promote children’s rights.

“The well-being of children requires political action at the highest level. We are determined to take that action.”

– World Declaration on the Survival, Protection and Development of Children, 1990



National agendas for children

This section will include frameworks and implementation methods for national plans and agendas that base themselves on the entire Convention.

The adoption of a national agenda, strategy or plan for children is fundamental to the implementation of the Convention and to effective government for children. The Committee on the Rights of the Child, in its *Guidelines for Periodic Reports*, asks for information on "any steps taken or envisaged to adopt a comprehensive national strategy for children in the framework of the Convention...." And the World Conference on Human Rights (held in 1993 in Vienna): "Calls on States to integrate the Convention on the Rights of the Child into their national action plans."

A national agenda is considered most effective when it:

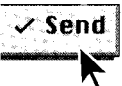
- is based on the whole Convention;
- addresses all children;
- includes specific priorities and goals, with time lines and specific budgets for achieving them;
- involves in its preparation widespread consultation and debate, including with non-governmental organizations (NGOs) and children;
- is combined with other national strategies, priorities and programmes of development;
- has strong political backing within the central government;
- is widely disseminated both within government and civil society; and
- is kept under effective review.



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In South Africa: "The National Programme of Action (NPA) ... is a mechanism for identifying all plans for children developed by government departments, non-governmental organizations and other child-related structures, and for ensuring that all these plans converge in the framework provided by the Convention on the Rights of the Child, the goals of the 1990 World Summit for Children, and the Reconstruction and Development Programme."

- Introduction to the National Programme of Action for Children in South Africa: Framework, 31 May 1996



Governmental bodies or mechanisms

This section will include detailed descriptions and evaluations of the mandates, activities and achievements of permanent bodies that give children priority and of those that coordinate government at all levels.

One very evident response to the Convention on the Rights of the Child has been the development of new bodies or mechanisms – near or at the very heart of government – that are specifically for children. The purposes of these bodies or mechanisms are to:

- give visibility to children;
- coordinate activities;
- monitor progress; and
- promote a comprehensive and integrated agenda for the realization of children's rights and the development of national benchmarks to promote the steady improvement of children's lives.

To be effective, they should have a defined jurisdiction and a permanent role, be given adequate resources, and report periodically on achievements and prevailing difficulties.

Bangladesh has a Ministry of Women and Children Affairs, a National Children's Council and the Bangladesh Children's Academy.

Denmark has both a Ministerial and an Inter-Ministerial Committee for Children.

In Ghana, the National Commission on Children is a government department that reports to the Office of the President.



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In Honduras, a National Commission on the Rights of the Child was established by decree.

In Hungary, the Secretariat of the Coordinating Council for Youth and Children's Affairs is in the Prime Minister's Office.

Nepal has a National Council for Women and Child Development, chaired by the Prime Minister.

In Viet Nam, the Committee for Protection and Care of Children, which is chaired at the ministerial level and includes the heads of 23 ministries and mass organizations, functions with a decentralized structure.



Independent human rights institutions for children

This section will include models and evaluations of legislation that establishes offices; innovative strategies and programmes; and links to individual and regional 'children's ombudsman' web sites.

During its examination of States' reports, the Committee on the Rights of the Child systematically encourages the development of independent offices for children – bodies outside of government that promote the human rights of children and serve as watchdogs of those rights.

The Committee emphasises the particular importance of 'independence', which is best achieved by giving the office legislative powers and duties, legitimized by the mandate arising from the Convention on the Rights of the Child, and making it accountable to the legislative body rather than to the central government.

- *In Europe*, a Network of Ombudsmen for Children was formed in 1997, with the UNICEF Office for Europe, located in Geneva, providing the Secretariat.
- *In Norway*: The Government was the first in the world to set up an independent body for children. The Act establishing the Office of Commissioner for Children was passed by the Norwegian Parliament in 1981.
- *In Sweden*: Rädna Barnen (Swedish Save the Children) established an Ombudsman for Children in the 1970s.

Independent human rights institutions for children exist or are in the process of being established in Australia, Austria, Belgium, Canada, Colombia, Costa Rica, Denmark, Finland, France, Germany, Guatemala, Iceland, Luxembourg, New Zealand, Norway, Portugal, the Russian Federation, Spain, Sweden and Ukraine.



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These independent offices for children have a variety of names and forms, such as the children's ombudsman, children's rights commissioner, national committee or commission for children's rights, defender of children, children's advocate and so on. Some form part of national human rights institutions, others are free-standing. Their distinctive role is to develop direct contact with children, promote public and governmental respect for children's views and provide a channel for airing their views.

In Spain: "As I am under 18 and cannot vote to elect authorities, the Ombudsperson fights for my interests so that I'm not forgotten when laws are being made or when decisions that could affect me are taken."

– A child explains the role of the Children's Ombudsperson for Madrid

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This section will include examples of measures to review and audit legislation for compatibility with the Convention; drafts of new constitutional provisions or laws based on the Convention; and examples of mechanisms for enforcement, reparation or redress.

Compatibility with the Convention requires a studied process of review, enactment and enforcement of a country's legislation. Existing and proposed laws need to be systematically and regularly audited and any corrections made. This is also necessary in countries that automatically incorporate the Convention as part of domestic law as well as in those where complementary legislative measures are required.

Laws should explicitly recognize children's rights and freedoms under the Convention. Children also need legal rights that are distinct from those of adults, addressing their:

- particular vulnerability and need for protection against economic or sexual exploitation, cruelty and abuse, abduction or recruitment into armed forces;
- special developmental needs and evolving personality, including the right to an education, an adequate standard of living and to a juvenile justice system based on rehabilitation rather than retribution; and
- special need for a family environment, family unity and adequate alternative care if deprived of a family.

UNICEF/PS-09/48/Grossman



New constitutional rights for children in Ethiopia and South Africa: Both Ethiopia and South Africa have adopted new Constitutions that cover specific rights of children. While differing in detail, both ensure the rights to: have their best interests accorded the "primary" (Ethiopia) or "paramount" (South Africa) consideration in actions concerning them; a name and nationality; family care, or appropriate alternative care; be protected against exploitation and maltreatment, particularly from exploitative labour; and to be detained by the State only in separate facilities from adults.

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Child impact assessment

This section will include examples of systematic child impact assessments of existing and proposed government measures.

A child impact assessment involves the examination of existing and proposed policies, legislation or changes in administrative services for their impact on children and for how they support the implementation of the Convention. The assessment should be conducted at all stages of state action: when policy is first considered; when the budget is approved or bills are drawn up; and when evaluating the impact after the measure is finally implemented. An assessment is equally needed when the proposed measure is not directly or obviously concerned with children, such as when it concerns immigration, transportation, social security, taxes or the environment.

A child impact assessment of a proposed measure will usually include the following:

- a description of how the measure affects (or might affect) children;
- an account of how the measure promotes or impedes implementation of the Convention;
- an identification of controversial issues and of any gaps in information or expertise;
- guidelines on how the measure should be monitored;
- children's views on the measure; and
- proposed steps to ameliorate or solve any adverse effects that might be anticipated.

In Belgium: The Flemish Parliament passed a decree in 1997 "instituting an impact report with regard to children and the monitoring of government policy in terms of its respect for the rights of the child." The decree further states:



UNICEF/96-0234/Toutounji

"Article 4. All proposed decrees when laid before the Flemish Parliament shall be accompanied by a report on their impact on children, to the extent that the proposed decision directly affects the rights of the child....

"Article 5. The impact report referred to in article 4 must include at least the following information:
1. The impact of the proposed decision on children;
2. The alternatives to the proposed decision, and in particular a description of the measures to be taken to avoid or to limit significant damaging effects of the decision, and if possible to remedy them; 3. A list of the difficulties encountered in the collection of the required information."

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Budget analysis and available resources

This section will include measures to analyse the financial claims and needs of children and the relative proportion of available resources spent on children. The site will be linked to web sites on international aid.

States are required to ensure the realization of the "economic, social and cultural" rights of children "to the maximum extent of their available resources." This provision represents an extraordinary challenge to all countries to review and, where necessary, take action on:

- the proportion of government expenditure on children, compared to expenditure on other matters or even, in some cases, to expenditure on other population groups;
- the proportion allotted to the social sectors, both from national resources and international aid;
- the revenue and the material, human and organizational resources that are available at central and local levels; and
- how these resources can be applied "to the maximum extent." This may imply changing **where** the resources are spent, for example, from defence to primary health; or it may mean changing **how** the money is spent, for example, by giving social security to mothers rather than to fathers, or by targeting particularly disadvantaged groups.



UNICEF/93-1992/Pirozzi

Making children visible in budgets in Norway

The Norwegian Government publishes a 'children's annex' to its annual budget. This annex describes the overall public policy on children and outlines specific measures and budgets for them under the following headings: family policy; loans and grants; children's living conditions; education, training and work; leisure, culture and democracy building; health and social affairs.

The budget and annex are presented on a regular basis to the Storting (Parliament).

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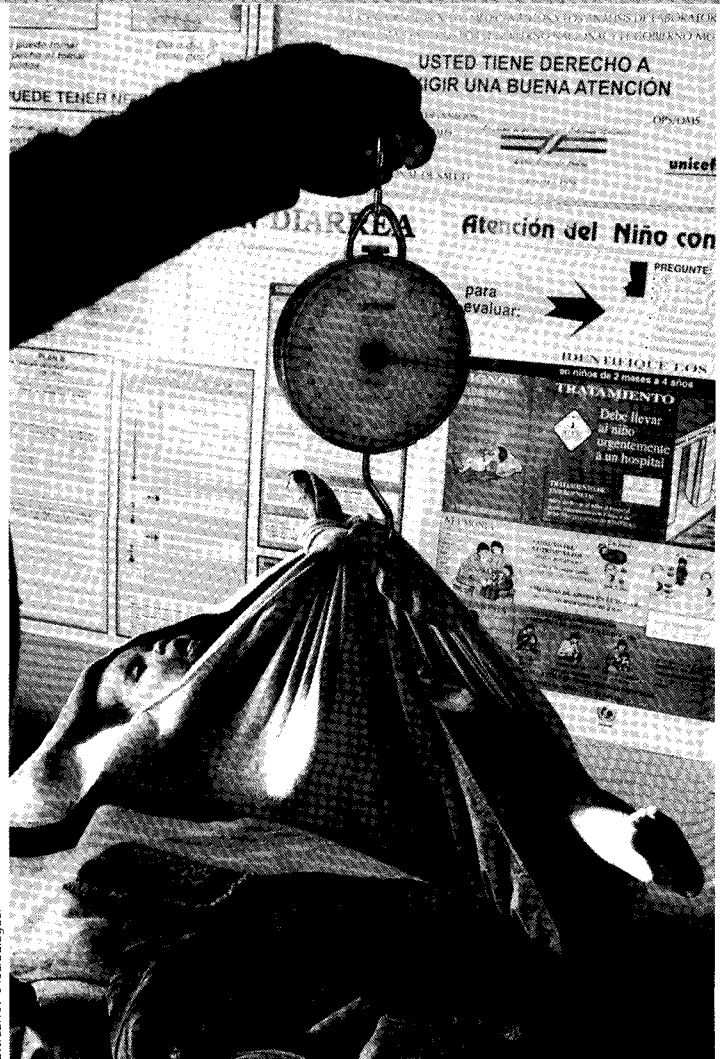
Data collection on children

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This section will include mechanisms for effective data collection on children and the ways data are used, disaggregated and linked to strategic and reliable indicators of progress on the implementation of the Convention.

The Committee on the Rights of the Child asks States to provide extensive child-focused data in their periodic reports, including data:

- disaggregated in terms of age, gender, ethnic and social origin, place of residence (particularly rural or urban), family status and special groups (disabled children, children deprived of families, refugee children, etc.);
- on the state of children's civil rights, as well as on their welfare and development;
- that is qualitative as well as quantitative, with children themselves consulted as to how information about their lives can best be collected and used; and
- that is accessible to all concerned with the well-being of children. It should be published and made publicly available, including being presented to governmental bodies on a regular basis to inform planning and policy-making.



UNICEF/97-0408/Balaguer

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Disseminating information on children's rights

This section will include descriptions of dissemination processes, examples of materials, curricula and courses, and frameworks for evaluating knowledge of children's rights.

One of the many innovations of the Convention is to place an explicit duty on States to "undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike."

The Committee on the Rights of the Child suggests that dissemination of the Convention be:

- based on a comprehensive strategy that reaches all sectors;
- continuous rather than one-off;
- accessible to and understandable by children;
- in appropriate languages and forms to reach the entire population including all minority and indigenous groups;
- integrated into school and training curricula and underpin the ethos and organization of education;
- fully supported by the media; and
- evaluated by surveys on the knowledge of children's rights among children, parents or people working with children, and the public at large.



"Members of the Committee in their travels have found that, in general, the majority of children they meet are unaware of the rights of the child or of the text of the Convention."

– Committee on the Rights of the Child,
October 1996

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Involving civil society in implementation

This section will include detailed strategies for engaging various civil society partners including children themselves, together with evaluations of the strategy's effectiveness.

While it is States that take on an obligation under international law to implement the Convention, every sector of society needs to be involved if the Convention's principles and standards are to become reality. Article 12 of the Convention demands that the opinions of children be given due weight when decisions affecting them are being made. And to ensure that right, changes would be expected in adult attitudes about listening to children's views and taking them into account.

- Government channels may include children's councils in local communities and schools, and children's elections, hearings and parliaments.

One measure of a government's commitment is the degree to which civil society, including children themselves, are actively engaged in the process of implementation.

- NGOs have both a formal role in the process of reporting under the Convention (article 45) and a monitoring and advocacy role at the national level. Coalitions of NGOs that focus on children's rights have been formed in many countries; in some they have regular formal meetings with the government and collaborate on implementation initiatives.
- Other partners, such as the media, professional associations, groups representing different faiths, academic institutions and business interests, should be engaged in making the Convention work for children.



In France: "The Committee recognizes the importance of the annual meeting held between the public authorities and the non-governmental community on the anniversary of the adoption of the Convention.... The Committee stresses the value of such a meeting in launching a fruitful dialogue between the Government and the 'civil society', as well as in ensuring a serious evaluation of the governmental policies adopted for the promotion and protection of the rights of the child."

– Concluding observations of the Committee on the Rights of the Child: France, 1994

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Children's rights cannot be perceived as an option, as a question of favour or kindness to children, or as an expression of charity. Rather, children's rights generate obligations and responsibilities we all must honour and respect.

UNICEF

Division of Communication
3 United Nations Plaza, H-9F
New York, NY 10017, USA

✓ E-mail: pubdoc@unicef.org
Web site: www.unicef.org

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