

Monitoring implementation of the UN Convention on the Rights of the Child:

A review of Concluding Observations by the UN CRC Committee regarding General Measures of Implementation

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August 2011



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The CRC reporting process a vehicle for progressive change

According to the UN Convention on the Rights of the Child, CRC, adopted in 1989, state parties are the primary duty bearers in promoting and protecting children's rights and shall undertake all appropriate measures for implementation of such rights (Art 4). An expert committee - UN Committee on the Rights of the Child - shall examine progress made by each state party in fulfilling its obligations under CRC (Art 43).

Since 1992 the UN Committee on the Rights of the Child (the Committee) has examined initial and then periodic reports on the situation of children from close to all state parties. In making such assessments the Committee has considered a range of additional and complementary information from other sources, in particular from NGOs and their so called supplementary reports. Following the examination of each state party report the Committee has issued Concluding Observations with comments, remarks and recommendations to the state party on future monitoring and implementation of the CRC. Measures taken to respond to such recommendations could then be expected to be reported on in the next state party periodic report. In that way the Concluding Observations may play an essential part in setting national focus and drive progressive systematic implementation of the CRC, in particular so with regard to governance measures.

Child rights monitoring is a sub-theme of Save the Children Child Rights Governance Global Initiative, SC CRGI, and thus a priority area for program co-operation in Save the Children.

Support to the CRC reporting and monitoring process has been identified as a strategic priority issue. The overall purpose is to extend leverage of the CRC reporting process to influence state governments to progress on child rights fulfilment. To fully explore the potential of the reporting process there is a need to further follow up and build on remarks and recommendations by the Committee to the states concerned- thereby turning the CRC reporting process into a continuum of monitoring and progressive implementation of the rights of the child.

About this Study

Thus the overall purpose of this study is to improve the UN regular monitoring process of CRC in order to impact state parties to progress implementation of CRC. The objective of the study is to get a review of recent and SC relevant Concluding Observations to identify focus, gaps, stands and recommendations, especially regarding General Measures of Implementation GMI.

Child rights governance is about child rights monitoring and national systems to support and ensure the full implementation of children's rights according to CRC, by the Committee referred to as General Measures of Implementation, GMI. This study focuses on comments made by the Committee in its Concluding Observations regarding such measures.

To limit the scope of the study Concluding Observations made during the last five years, 2006-2011, regarding SC International program countries were selected. These turned out to be fifteen in total including three countries in Latin America (El Salvador, Paraguay, Uruguay), six in Africa (Mozambique, Ethiopia, Senegal, Burkina Faso, Niger), four in Asia (the Philippines, Afghanistan, Sri Lanka, Bangladesh) and three in Europe (Norway, Moldova, Ukraine). Information from the NGO Group for the Convention on the Rights of the

Child, Child Rights Information Network and the UNCRC Secretariat in Geneva has also contributed to this document.

The study should be relevant to program and policy staff among Save the Children members, particularly SC Child Rights Governance Global Initiative, or any other organisation working on strengthening the monitoring of CRC implementation.

The CRC reporting

CRC Committee Guidelines for CRC reporting

The Committee has provided specific reporting guidelines regarding format and content of the initial and periodic reports to be submitted by the state parties. Supplementary reports by NGOs are expected to follow the same guidelines when relevant. The Committee apply the corresponding structure in presenting its Concluding Observations.

A report structure of eight clusters is recommended:

- 1 General measures of implementation (Art 4, 42, 44.6)
- 2 Definition of the child (Art 1)
- 3 General principles (Art 2, 3, 6, 12)
- 4 Civil rights and freedoms (Art 7, 8, 13, 14, 15, 16, 17, 19, 37(a))
- 5 Family environment and alternative care (Art 5, 9, 10, 11, 18, 20, 21, 25, 27.4)
- 6 Basic health and welfare (Art 18, 23, 24, 26, 27)
- 7 Education, leisure and cultural activities (Art 28, 29, 31)
- 8 Special protection measures (Art 22, 30, 32, 33, 34, 35, 37, 38, 39, 40)

(The reporting guidelines, first issued in 1991, have been up-dated in 1994, 2005 and 2010.)

To further guide and support states in their reporting the Committee has developed General Comments on specific articles and issues. At present there are thirteen such General Comments. General Comment number 5 is about General Measures of Implementation.

In order to strengthen the UN treaty body system and its different instruments and processes, including concluding observations, the High Commissioner for Human Rights initiated a number of consultations starting in late 2009 with state parties, UN entities, specialized agencies and civil society organisations and networks. Many suggestions for improvements have been made like more frequent periodic reports to keep the monitoring process going, and like improved co-ordination between the various UN human rights reporting processes including the Universal Periodic Reporting to simplify information sharing and to make monitoring more effective. However, so far no decisions have been taken and consultations are expected to continue.

Concluding Observations by the UN Committee is a developing instrument

The Committee introduced Concluding Observations as an instrument in 1993. Initially these comments were brief, fairly general and less structured with few – if any - concrete recommendations. By the late 1990's, when the second periodic reports were examined and considered, the Concluding Observations were divided into sections based on areas of concern. Recommendations became less general, sometimes country specific. However,

references to issues mentioned in previous Concluding Observations were still limited. Five years later, in the Concluding Observations of third periodic reports the Committee had developed a distinct structure, had country specific recommendations and references to previous reports got more frequent.

In 2003 General comment nr 5 about General Measures of Implementation, GMI, was released by the Committee which did facilitate the reporting on GMI as well as systematic comments and recommendations by the Committee.

The Committee comments on both progress, violations and gaps. It takes note of factors and difficulties impeding implementation of the CRC, the principal issues of concern and suggestions or recommendations for future action. They also comment on outstanding issues stressed in previous Concluding Observations or still standing state party reservations to the CRC. Today recommendations are usually more comprehensive entailing many more subject areas.

The Committee cannot make its own research but relies on information available. Therefore scope and quality of its observations depend on the reports provided by the state and information from other bodies and organisations, in particular supplementary reports by NGOs or NGO coalitions.

Concluding Observations regarding General Measures of Implementation based on General Comment nr 5

According to Art 4 state parties shall take legislative, administrative and other measures to implement the CRC. The General Comment nr 5 on GMI outlines what general measures should be undertaken with regard to implementation and monitoring of the CRC including the following:

Legislative measures, including a review of all domestic legislation to ensure compatibility with the CRC, either through incorporation of the CRC into national law or through adaption of domestic law whenever relevant.

National Strategies and/or National Action Plans for the implementation of CRC should be developed and fully resourced. Such strategies or plans should be developed through a participatory process that includes children.

Coordination of implementation and monitoring of the CRC is required among the various governmental bodies concerned (horizontally) and at all administrative levels (vertically). Coordination between government and civil society may also be needed. In case of decentralisation of decision-making and/or functions the state has to ensure implementation throughout the country. Risks for discriminatory effects of non equal treatment or resource distribution between different parts of the country should be looked into.

In case of privatisation of services states are still obliged to fulfil their obligations and thus ensure that non- state service providers respect and contribute to the fulfilment of CRC.

Monitoring implementation of the CRC is needed and to conduct child impact assessments and evaluation of proposed, laws, policies, plans and budget allocations

Data collection and indicators of reliable data on children and effective data collection systems that gather information on children are important in order to develop effective policies and programmes for children and secure monitoring.

Making children visible in budgets to measure/show the proportion of the budget allocated to children in order to be able to measure if states are implementing children's rights to the "maximum extent of available resources.

Training and capacity building for all those involved in the implementation of the CRC from government officials to all those working for and with children should be highlighted and the training should be systematic and be included in professional curricula.

Cooperation with civil society should be promoted to ensure that children's rights are respected in practice and that all sectors of society are engaged in the implementation of the CRC.

International cooperation is needed to ensure that a proportion of international support is earmarked for children and that CRC forms the framework for the cooperation.

Independent human rights institutions are recommended such as a Children's Ombudsman, which independently monitor compliance with the CRC.

Information and awareness rising to make the Convention known to adults and children i.e. by inclusion of the CRC in school curricula at all levels and making the reports and information of the CRC public and widely available.

Committee recommendations on GMI in Concluding Observations

Legislative measures

In all cases studied the Committee has recommended the state party to continue to harmonise its legislation with the principles and provisions of the CRC and to incorporate CRC into domestic legislation or when adopting new laws. In addition the Committee sometimes suggests an analysis of legislative reforms and system (legislative review) and/or a comprehensive Child Act including all legislation regarding children.

Usually comments on legislation regarding a specific issue, like sexual abuse or a traditional harmful practice, are mentioned in connection with that issue and related cluster of Articles of CRC, and not under the GMI cluster. However, one gets the optimal oversight when measures of legislation are mentioned both under GMI section and the section of that specific subject area or issue. Like in the Concluding Observations regarding the Philippines 2009, the Committee recommended to government "to harmonize its legislation fully with the provisions and principles of the Convention" under the heading of GMI and then listed all the specific legislation concerned "including through the expeditious adoption of the Anti-Corporal Punishment Act (Bill No. 682), Bill No. 5846 criminalising torture, the Anti-Child Pornography Act (Bill No. 2317) and the Age of Statutory Rape and Acts of Sexual Abuse Act (Bill No. 2172). The Committee also recommends that the State party enact legislation to address the status of children born out of wedlock."

Out of the fifteen Concluding Observations reviewed in this study legislation on corporal punishment was raised in fourteen cases, legislation on juvenile justice in twelve cases and on sexual abuse and exploitation in nine cases. Violence against children is often highlighted, in particular in relation to the follow up of the UN Study on Violence. The need for legal framework and adoption of laws to combat economic exploitation of children, mainly child labour, is mentioned in ten cases. Other issues mentioned are the need for a family code in line with CRC, legislation against traditional harmful practices like female genital mutilation and early marriage as well as legal measures for birth registration.

Legislative measures are rarely recommended in the areas of health and education except for recommendations regarding legislation on adolescence health, mentioned in six cases, and legislation on access to education for children with disability mentioned in a couple of cases. Possibly reflecting an emerging trend is a comment in the case of the Philippines on legislative measures on reduction of pollution and environmental degradation affecting children.

Development of National Strategies and National Action Plans

In all cases the Committee was concerned about implementation in general as well as about allocation of financial and human resources to the realisation of an national strategy or action plan. In some cases the Committee stresses the development of comprehensive strategies and national action plans for child rights based on consistent child rights policies. To overcome a fragmented approach of a variety of plans the Committee in some cases recommends states to address possible divergences by a comprehensive national CRC framework covering all areas based on the outcome document of the 2002 United Nations General Assembly Special Session on Children, “A World Fit for Children”. In some cases the Committee underlines the need for specific goals and targets to follow up and measure progress in action plans.

In its Concluding Observations the Committee gives special attention to the recommendations made by the UN study on Violence regarding implementation and monitoring and the need for national plans of action.

Coordination of implementation

The Committee has almost invariably encouraged further government coordination to ensure effective implementation. The Committee favours a structured coordination system which means establishment of a single permanent and effective coordination mechanism between different line ministries and bodies, as well as between central and local administration and services. It underlines that such a mechanism needs an adequate mandate and resources to become effective.

However, recommendations are made in general terms in all the concluding observations studied and no specific recommendations are made regarding coordination among central government departments like education, health or welfare and finance and planning departments. No specific recommendations are made on coordination of response to complex issues i.e. collaboration among different departments to address corporal punishment.

No comments are made on coordination between government and civil society plans.

Decentralisation

Although decentralisation might be an important aspect of CRC implementation it has not been given a separate heading in the reporting guidelines. Comments on implementation or monitoring at local level, may it be district, municipality or community level, are usually

made in the section on coordination. In a couple of cases the Committee observes provincial economic or social disparities or a rural – urban divide with regard to access to or quality of basic health services or education and then recommends to reduce such disparities. The Committee also underlines the need for transparent and participatory budgeting allowing for a dialogue with local level authorities and groups.

Privatisation

Privatisation is a growing issue, lately paid attention to by the Committee. In the Concluding Observations regarding Sri Lanka 2010 and Mozambique 2011 the Committee suggests that the state party makes efforts to ensure that private foreign and domestic investments are mindful and responsive to children and operates in a socially and environmentally responsible way to safeguard children and their communities. Future recommendations may be more elaborated as a result of the work by a recently formed working group within the Committee on CRC and business.

Data-collection and indicators

The need for data collection is constantly raised by the Committee in all the cases of this study. The Committee stresses the need for information and data about children's situation in different settings and the importance of getting children's views. Though the request for data includes the majority of child rights there is a tendency to stress data related to child protection and education.

The need for adequate, disaggregated data as well as indicators for the measurement of implementation is mentioned in some cases. And in some cases the Committee recommend the state party to build or improve its national data collection system as well as cooperation and sharing of data among government and civil society.

Monitoring implementation

In general monitoring and evaluation of the implementation of the CRC are paid limited attention, although child impact monitoring and evaluations are essential measures for follow-up on progress.

In the template for Concluding Observations there is no particular heading regarding monitoring of implementation. Recommendations on monitoring can be found in different parts of the Concluding Observations, usually in the section on data collection.

Recommendations have been made to measure impact like how new laws have affected children (Bangladesh), the impact on children of budgets and policies, and in monitoring national programmes for children (the Philippines). There are also recommendations to monitor address of a specific issue like child abuse, but such recommendations are scarce and scattered. Lately monitoring of child rights awareness raising and training have been mentioned.

Making children visible in budgets

In all Concluding Observations studied the allocation of resources, human and financial, for implementation and monitoring of child rights is highlighted, in particular resource allocations to the health and education sector. Support to vulnerable families and child residential care is mentioned specifically as well as support to families with children with disabilities. While such recommendations are usually made in general terms, the Committee may make specific suggestions like on budget tracking to monitor budget allocations for children, request to define budget lines for disadvantaged children and lines for those

situations that may require affirmative social measures like in the case of birth registration. Corruption is an emerging new subject to the Committee, which have made remarks about taking all necessary measures to prevent and prosecute any act of corruption.

Cooperation with civil society

From its start the Committee has stressed cooperation with civil society as essential for effective implementation and monitoring of the CRC. It has always encouraged NGO contributions in the reporting process. However, this is not reflected in all the Concluding Observations studied. Recommendations are usually presented in general terms, often limited to recommend state parties to continue working with civil society and international NGOs. However, lately the Committee has been more specific by recommending that civil society, including NGOs and children, should be taken into account in legislative, administrative measures and policy reforms (Moldova). Likewise that civil society should take part in research and in monitoring and evaluation of existing national action plans and follow up of the Concluding Observations for preparation of the next periodic report (the Philippines).

International Cooperation

Recommendations to seek international cooperation in terms of technical assistance for the implementation of the CRC are made in some of the Concluding Observations. In most cases these suggest assistance from UN agencies, such as UNICEF, OHCHR, UNHCR. In some rare cases recommendations are made to seek support from INGOs.

Recommendations are also made to donor countries like in the case of Norway. When collaborating with bilateral development cooperation partners in different program countries, Norway is requested to promote and support measures recommended in the Concluding Observations in order to enhance child rights in that country.

Independent human rights institutions

In all Concluding Observations studied the Committee has recommended to establish or improve National Human Rights Institutions or Children's Rights Institute / Children's Ombudsman like a clear mandate for the institute to act and adequate resources or expertise. In some cases the role to receive, investigate and address complaints of violations have been highlighted as well as the importance to establish regional or local offices.

Information and awareness raising

The need for information and awareness raising is raised in all the Concluding Observations reviewed. The Committee stresses the need to strengthen the efforts to ensure that the provisions of the CRC are widely recognized and understood by civil society like children and their families, communities as well as traditional and religious leaders. CRC in the curricula for children in schools is mentioned in some cases. Particular issues raised are trafficking, corporal punishment, birth registration, reproductive health, the right to education. The need for information in local languages and child friendly material is highlighted. Lately the role and responsibility of media in dissemination information on the CRC has been highlighted.

Training and Capacity building

In all the Concluding Observations the Committee points at the need for strengthening systematic training of all professional groups working for and with children (i.e. staff at childcare institutions, health personnel, social workers, teachers, law enforcement officials) and raising awareness of child rights also in policy making bodies and administrations at

various levels. In some cases it recommends that comprehensive information and courses on child rights should be included in the relevant curricula at universities and colleges.

The general principles of the CRC reflected in the Concluding Observations on GMI

The principle of non-discrimination is stressed by the call for legislations and action plans for specific vulnerable groups as separated children, refugees and asylum seekers, children with disability and children from minority groups. Mechanisms for complaints are often highlighted.

The principle of child participation - the child's right to be heard - is often mentioned in the recommendations for legislation, like involving children in the whole process of design, implementation and monitoring of laws, and national plans of action. The need for involvement of specific groups as adolescents, street children, minority groups and children with disability in data collection, budget allocations etc. has been underlined by the Committee.

Regarding the principle of the best interest of the child, Art 3, there is hardly any example in the comments made on GMI. In most cases the Committee makes a general statement in its recommendation to the state party like in the case of Moldova: "The Committee recommends that the State party take all appropriate measures to ensure that the principle of the best interests of the child is a primary consideration, in accordance with article 3 of the Convention, and is adequately integrated into all legal provisions, judicial and administrative decisions and into projects, programmes, and services which have an impact on children. To this end, the State party should take the necessary measures to raise awareness of the practical application of this principle".

Conclusions and recommendations

The Committee has provided specific guidelines for state party reporting on the CRC. These guidelines on form and content of initial and periodic state party reports are relevant to NGO supplementary reports. The Concluding Observations by the Committee to the states follow the same structure as the reports. Reports as well as Concluding Observations have developed over time. Efforts made by the UN High Commissioner of Human Rights in late 2009 to strengthen and further develop the systems of the UN treaty bodies will hopefully further improve mechanisms and reporting guidelines both to facilitate complex human rights reporting on state performance and to enhance leverage of such reporting processes.

To further explain and guide state parties in how to interpret the CRC the Committee has issued General Comments on specific themes or articles. Its General Comment nr 5 is about a cluster of articles referred to as General Measures of Implementation, GMI. In all its Concluding Observations the Committee has commented on GMI since these articles are overriding or supportive to the implementation of other articles. Such comments by the Committee are mainly made under the heading of GMI but comments may also be made in connection with a specific article under any other heading. *So far there seem to be no systematic approach in presenting the Concluding Observations on GMI issues.*

This review of fifteen Concluding Observations provides a general picture of current status of Concluding Observations and points at areas to be further developed in order to make these observations more effective as an instrument for change. The review shows that several of the General Measures of Implementation are frequently commented on. In every case studied the Committee underlines the need for **harmonisation of laws to the CRC** and the development

of a **national strategy or plan of action** for the implementation of the CRC. Other such measures frequently recommended are the development of **data collection**, including structures and systems. Furthermore to **make the CRC widely known** and understood among adults and children and to carry out awareness raising campaigns on certain identified issues. **Education and training programmes on the CRC** should target not only adults and children in general but also all professional groups relevant to children. **Allocation of resources** and promotion of child rights budgeting are also frequently mentioned. Likewise further development of **independent human rights institutions**.

General measures like **coordination and effective decentralisation** are commented on less frequently and usually in general terms in spite of seen crucial to implementation.

Privatisation and the obligation of the state party to make sure that private business, especially companies running schools or other child related services, do respect the CRC and contribute to its fulfilment is seldom mentioned and, and if so, in general terms.

Until recently **cooperation with civil society and international organisations** was hardly mentioned by the Committee and then referred to in general terms. However, today the Committee clearly underlines the role of civil society in legislative and administrative matters, in policy reform and in the monitoring of progress made with regard to implementation of national plans on CRC and the Concluding Observations.

Monitoring and evaluation are mentioned briefly as a tool for realisation of CRC but not consistently. Overall with regard to GMI it seems the Committee has more often recommended research, including collection of data, than further measures of implementation or monitoring of progress.

The Committee often recommends awareness raising rather than solutions or further steps towards fulfilment. This might partly reflect slow progress in states. However, state parties may also be left without specific direction and pressure to take action on GMI. There is a need for more specific and concrete recommendations. Today comments are rather general global statements than country specific, and if country focused still fairly general. Furthermore most recommendations for action have no deadline. (It is quite common among other treaty body committees to mark priority measures by setting a deadline for implementation and follow-up-usually with two years.)

There is a need for building on previous observations to create continuity. The Committee may make a general reference to previous Concluding Observations, but rarely makes any systematic follow-up of its recommendations.

However, one has to consider that the Committee is dependent on information from the state party, the UN and external sources like civil society supplementary reports. The Committee compiles information but does not do any research of its own. This review of Concluding Observations demonstrates that when the reports entail specific information or suggests solution of a specific problem like juvenile justice, sexual abuse or corporal punishment and when such an issue is raised and commented on by many sources, Concluding Observations will be more extensive and detailed. Child protection is by far the most frequent and elaborated subject area.

It is important to enhance emerging child rights issues to ensure these are incorporated. Corruption and corporate sector responsibility are emerging issues in the CRC reporting.

Consequently these have not until recently been given attention by the Committee and commented on. Another such area is children's environmental rights which has emerged following the global debate. This demonstrates and underlines the importance of extensive and thorough reporting, not the least by NGOs.

Recommendations to strengthen CRC Concluding Observations

To strengthen the Concluding Observations on General Measures of Implementation by the CRC Committee as an instrument for change and progressive implementation of CRC

a) Save the Children and other NGOs should influence the Committee

- to follow up on and refer systematically to previous Concluding Observations to the state party to enhance systematic progress of implementation and a forth going process
- to structure its Concluding Observations in a way where recommendations regarding General Measures of Implementation correspond with, complement and reinforce recommendations made regarding specific issues or rights
- to expand on and further develop comments on issues less commented on though essential for implementation of child rights like coordination, decentralisation, privatisation/corporate sector responsibility, international cooperation and cooperation with civil society
- to make, whenever feasible, recommendations country specific and concrete to push and facilitate state party action and follow-up
- to stress the monitoring of child rights and explicitly recommend child impact analysis whenever required

b) Save the Children should influence civil society organisations and networks, in particular national coalitions on child rights,

- to report on issues or aspects important to the overall implementation of CRC like corruption, taxation, corporate sector responsibility
- to broaden the scope of situation analysis to all rights of the child and thus the scope of CRC reporting. Especially focus on important issues overlooked i.e. impact of environmental degradation and standard of living
- to apply when reporting on a specific right or issue the structure of GMIs as set in the CRC reporting guidelines : legal framework, national strategy/plan, allocation of resources, data collection etc.
- to suggest when reporting concrete solutions or steps to be undertaken to improve the situation in order to inform the Committee and serve as a basis for its comments and recommendations

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Acronyms

CRC	Convention on the Rights of the Child
CRGI	Child Rights Governance Global Initiative
CRIN	Child Rights Information Network
GMI	General Measures of Implementation
NGO	Non Governmental Organisation
OHCHR	Office of the High Commissioner for Human Rights
SC	Save the Children
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund