

**MODELS FOR MONITORING THE PROTECTION
OF CHILDREN'S RIGHTS
MEETING REPORT**

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MODELS FOR MONITORING THE PROTECTION OF CHILDREN'S RIGHTS MEETING REPORT

Introduction

The International Child Development Centre (ICDC) was established to help strengthen the capacity of UNICEF and its cooperating institutions to respond to the needs of children and their families. Basically a research and training centre, ICDC acts as a forum for the professional exchange of experiences and ideas. The "Models for Monitoring the Protection of Children's Rights" meeting, held from 27 November to 1 December 1990, was part of a series of meetings organized by ICDC to seek ways to promote the emerging global ethic of caring for children and, more specifically, to discuss strategies for implementing the UN Convention on the Rights of the Child.

The adoption of the Convention in 1989 and its entry into force in September 1990 have greatly enhanced the importance of the Rights of the Child, one of the four major programme areas at ICDC. UNICEF has a special responsibility for providing assistance to States Parties to facilitate the implementation of the Convention and will also continue to promote its ratification in countries which have not yet done so. In either situation, monitoring will be required and should function on several levels. **International** monitoring of the Convention, will be the main responsibility of the Committee on the Rights of the Child. **National and sub-national** monitoring will be the responsibility of each country. The Convention will lead to increasing international pressure to monitor and to improve conditions for children in all countries.

Recognizing the importance of monitoring, UNICEF requested an evaluation of the Norwegian Ombudsman for Children, the first office of its kind in the world. Innocenti Essay No. 1, "Working for the Rights of Children" and the book, *A Voice for Children: Speaking Out as their Ombudsman*, both by Maalfrid Grude Flekkoy, are studies of the structure, terms of reference and effectiveness of this pioneer effort. ICDC further decided that a comparison of different institutions protecting children might result in the formulation of guidelines which could help monitoring structures to save steps, to avoid mistakes, and to adopt more effective strategies. Hence the November meeting, which was actually the first international gathering of people who are, or have been, directing ombudsman-like mechanisms at a national or sub-national level. It brought together governmental, university and community representatives from industrialized and developing countries and UNICEF representatives from country offices, from ICDC and from UNICEF Headquarters in New York.

The meeting was divided into three parts. During the first two days presentations were made by the following participants who had been requested to analyze the public monitoring structures they direct or represent:

M. Viquez Jimenez, Defensor del Infancia, Costa Rica
I. Hassall, Commissioner for Children, New Zealand
M.G. Flekkoy, former Ombudsman for Children, Norway
J. Ruiz-Giménez, El Defensor del Pueblo, Spain
M. Horowitz, former Ombudsman for Children, Jerusalem
M. Singer, the Kinder-und Jugendanwalt, Vienna
S. Castell-McGregor, Children's Interests Bureau, S. Australia

A. Wilkins, Children's Defense Fund (CDF), United States, then discussed monitoring at the national level from the perspective of a **non-governmental** organization. G. Melton, Centre on Children, Families and the Law, University of Nebraska and F. Spiesschaert, Faculty of Psychological and Educational Sciences, University of Ghent analyzed the presentations from a more theoretical and conceptual point of view.¹

1. The above presentations and summaries have been incorporated, in edited version, in this report, as well as a paper prepared for the meeting by T.V. Torgersen, the present Norwegian Ombudsman for Children, who was unable to attend the meeting. The German Bundestag, 'Commissioner on Children's Concerns', was also invited but could not participate.

During the third and fourth days, participants formed working groups to discuss the strengths and weaknesses of the models presented and to focus on the principles that make these models work effectively. Realizing that the models could not be literally transposed to other countries, participants strove to gain a better understanding of the innumerable factors - social, economic, cultural, political, governmental, or other - which could determine the suitability of a monitoring mechanism to a particular context. Ideas for alternative models were developed.

The international level was **not** on the agenda, although national mechanisms may very well have international links. The focus was on the many types of structures functioning on the national or sub-national level, in both the public and private sectors. Working to protect children and their rights is so important, and in many ways such a challenging task, that individuals, informal groups, organizations large and small, non-governmental or governmental, are all needed.

Defining the parameters of the term 'monitoring' was one of the first tasks of the participants. In the meeting the term was used in the broad sense of "keeping a constant surveillance upon". It was not intended as **passive** receipt of information, but included **active** development of, for example, interventions, extensions of information bases, etc. A more complete definition of monitoring as a system which creates "structures that make it difficult to do anything but behave in a (defined) way" is elaborated by G. Melton in his "Summary Impressions".

One specific monitoring structure is the Ombudsman, a Scandinavian term for which there is really no adequate translation into English or any other language. Institutions which are more or less similar to the Ombudsman have been called 'ombudsman-like', 'ombuds-type', 'Commissions' or 'Bureaux'. Ombud originally meant 'ambassador' or 'delegate', and was used especially to denote the messenger from the King to the people. Recently, the opposite is more nearly the case: it has become the name for a person or an office which deals with complaints from a defined, circumscribed group of people or individuals within a group, speaks on behalf of that group and tries to improve conditions for individual members as well as for the group in toto. An Ombudsman serves as an independent, nonpartisan agent, spokesperson, arbitrator or referee who ensures that the ministries, and others, fulfill their legislative purpose, and suggests improvement measures. An Ombudsman has the power to investigate, criticize and publicize, but not to reverse administrative action or revoke administrative decisions. Confrontations with public authorities may be necessary from time to time, but often action takes place quietly, 'behind the scenes'.

Reports from the working groups were discussed on the last day of the meeting. It was at this point that the 25 participants, each viewing issues from his or her own perspective, engaged in some particularly profitable exchanges of opinions. The 'flavour' of some of the questions addressed is illustrated by the following quotes from participants:

Can government policy be effectively monitored by a public statutory institution?

"From my experience working close to government, taking up politically sensitive matters involving children, I am convinced that inroads into government processes and decision-making are essential to effect genuine reform and change. We have chosen to work for reform from within the system." (S. Castell-McGregor)

"The Children's Defense Fund is **completely** independent from the government: it has never received government funding, and never intends to, because of the limits such funding would impose on its ability to develop and advocate for policies independently. I feel strongly that if you are going to be a watchdog for children, you cannot depend on the government to pay your bills." (A Wilkins)

"It is probably best to see things not in terms of *either/or*, but *both*. There is a place for a person with ... a purely 'ombudsman' function, ... and also ... a place for voluntary groups to form lobbies on behalf of children." (I. Hassall)

Should the monitor take an adversarial stance?

"Legislative staff tend to be less conservative in defending government procedures than are administrative staff; advocates outside government tend to be the most confrontational of all." (G. Melton)

Can children have a voice in the monitoring process?

"Children themselves, especially those from disadvantaged backgrounds, will not believe that they have rights, even if an initial effort is made to educate them." (G. Melton)

"In creating a sounding-board for the ideas and the feelings of children themselves, .. children become more visible, both as a strategy and as an effect." (F. Spiesschaert)

"The most novel, and one of the most important, effects of the Ombudsman Office was giving children a possibility of expressing their own views, opinions and worries.. .without ambassadors or adults." (M. Flekkoy)

Will lack of funds make monitoring impossible?

"To quote Paulson -'No law can be better than its implementation. No implementation can be better than resources permit.' I would argue that legislation of children's rights can be a driving force to establish better services and secure resources." (M. Horowitz)

"The lean years had, however, taught us a valuable lesson: getting results in working for children need not necessarily involve excessive costs." (M. Flekkoy)

Monitoring and the Convention on the Rights of the Child

The working groups discussed at length the ways in which the Convention will influence all monitoring efforts. They viewed the Convention as a living document which allows governments and advocates to address problems, and seek solutions to them, in a climate of international solidarity. For States Parties, it is also an important new instrument for the creation of a monitoring system, one element of which will be the government body responsible for reporting to the Committee on the Rights of the Child. The formal process of regular reporting and the obligation to make reports public and widely available within each country will provide an opportunity for independent advocates and government officials to come together. It was noted that because the Convention is such a wide-ranging document, monitoring structures will have to be alert to ensure that government reports place emphasis on issues which have clear priority and that their reports are not biased or incomplete. Therefore, an independent monitoring system could well be necessary or advantageous. The Declaration and Plan of Action resulting from the World Summit for Children (September 1990) can be used as another yardstick of government actions, as it includes precise goals for the fulfillment of children's needs and rights.

The participants agreed that implementation of the Convention could be thwarted by the negative attitudes of political leadership. Some countries do not intend to ratify the Convention. Other countries will ratify, but may make reservations which are so broad or incompatible with the purpose of the Convention that the ratification will be invalidated in principle, if not in fact. Other countries may lack a real political will to implement the Convention's norms and abide by the obligations it creates. This will result in their using the Convention and similar instruments in a symbolic and rhetorical way. A government's lack of effort to give more than lip-service recognition to rights, particularly rights for children, can be a problem for monitoring as well as for implementation.

Some factors which can determine a country's attitude towards the Convention were enumerated:

- Cultural values, traditional attitudes, customs or beliefs which are at variance with the concept of rights for children, particularly as described in the Convention;
- State policy based on a traditional interpretation of national sovereignty, which places the Convention, as well as other international pacts, on a lower standing than national law;
- An insufficient understanding of the concept of children's rights and of the full implications of the Convention, resulting in little consensus on what should be monitored.

- A political ideology in which "human rights" are subservient to the government's interests, and surveillance or control is in the hands of a centralized power.

Strategies to counter these specific problems were also suggested:

- Increase public awareness of the negative consequences of beliefs or attitudes which deny children specific rights.
- Focus attention on national law, pressing for changes in legislation and practices which will result in the improvement of conditions for children.
- Expand the government's conception of children's rights beyond traditional views, which stress formal regulatory and social assistance aspects, to a fuller understanding by emphasizing the place of children's rights within the broader framework of human rights.
- In a dictatorial or autocratic system, monitoring of any aspect of the government's domestic policy will probably be strongly opposed. A monitor would need to have special protection, or authority to speak without repercussions. Pointing out that attention to children could result in greater national support and international prestige for the leader was suggested as a possible strategy.

An important consideration is that an increase in the general public's knowledge about the rights of children is not only an end in itself, but could also, eventually, have an effect on the government. Several ways to make the public more aware of the Convention were discussed. Advocates could use the Convention (and the Guidelines for reporting to the Committee) to measure the degree of compliance within their country (regardless of whether or not it is a State Party) and then publicize their conclusions and proposals for improvements. Special groups and opinion leaders - such as religious groups, parliamentarians, teachers, etc. - could be kept especially informed on matters relating to children's rights. Existing mass media and communication channels could be exploited to create the necessary atmosphere for attitudinal changes and information dissemination. Advocates could also increase international awareness of particularly problematic conditions within their country.

Participants concurred that in every country, whether it has ratified or not, the Convention should stimulate action for children. Moreover, non-ratification of the Convention does not preclude, and in fact may underscore, the need for constant surveillance of conditions for children. While the overall plan should be to press for ratification of the Convention in every country, participants felt that the Convention should be viewed as the basic, but not the only, instrument for developing an integral system for monitoring and protecting children's rights.

Functions of a Surveillance Mechanism

Reflecting how each political system views its concern for children, each model was found to have functions which depend in part on its link to the legal or political system. Some institutions are attached to the Department of Social Welfare and are therefore very service-oriented (e.g., the South Australian Children's Bureau); others depend on the Department of Justice and have a legal bias (e.g., the Costa Rican Ombudsman). Although the models examined vary structurally, they are remarkably similar in their roles. In general terms, each is an **independent** body, created to defend children's rights, with the following functions:

- **To respond to complaints and/or violations:** This was considered a core function and the closest to the original meaning of the word 'Ombudsman'. It is a means for individuals (in this case, children) to overcome a faceless, inhuman bureaucracy by having their grievances identified and pursued by a personal advocate. This function was variously described as "to right individual wrongs", "to humanize administrative relationships" or "to serve as a watchdog against abuse".
- **To influence legislation, policies and practices:** Particularly at national and sub-national levels, this function is written into the instructions of the public offices. "*To propose measures to strengthen children's safety under the law*" and "*to ensure that legislation relating to the protection of children's interests is observed*" are parts of the mandate of the Norwegian Ombudsman, and similar provisions are stated in the mandates of the Costa Rican and New Zealand Ombudsmen. It was agreed that the structure has to stand apart from, but be able to influence, government. In some countries, this role is best accomplished by non-governmental bodies; in others, it would have to be, at least, sanctioned by the Government.
- **To carry out research or establish a data base:** The systematic gathering of statistical and more in-depth information on the conditions of children and families was considered to be essential for establishing and monitoring good family policies. It was emphasized that this information should also include the views of children.

- **To review the performance of government and independent organizations from the point of view of children's rights:** It was suggested that monitoring of other monitoring structures would also be required and that a public ombudsman-type organism could not be expected to be responsible for government reports, but should keep these under review.

Background and Facilitating Factors

Referring to the presentations and addressing the question, "Why this particular structure at this particular moment in time?", the working groups agreed that, in every country under review, similar positive forces were working for improvement in conditions for children prior to the establishment of the structure and have continued to do so.

The models, generally predating the Convention, are the expression of a national concern for children. Many of the structures were set up as a result of circumstances more than of top-down development planning. A combination of pressures exerted by child advocacy groups and a particular public focus on the problems of children were typically present. The International Year of the Child in 1979 was consistently mentioned as an important factor leading to the establishment of these offices.

Growing public dissatisfaction with the existing child welfare structures was also widespread. In Costa Rica, for example, the public, and especially young people, were openly hostile towards the huge, impersonal bureaucracy. In every country, gaps in the system - the lack of preschool facilities or adequate medical coverage for children, for instance - were being criticized by individuals and the press.

Within these societies, **humanitarian institutions**, religious or secular, were working to satisfy children's needs or to support children's rights. Traditional concepts of paternalistic charity were declining and being replaced by participatory approaches. Child rearing practices were also being reassessed. South Australian parents groups openly questioned the legitimacy of corporal punishment in schools. In Norway, physical punishment of children, even by parents, was strongly censured. Similarly, attitudes towards monitoring systems were changing. They were increasingly viewed as a means of securing improvements rather than as a method of negative control.

It was in this context that the **political will** to improve conditions for children gradually evolved, leading to legislative reforms and, where considered feasible, to the establishment by law of a specific office for children.

It was emphasized that all of the models were set up in **democratic societies** and are the expression of democratic principles. In these societies, there is a general understanding of the concept of human rights, an independent judiciary and a traditional reliance on legislation to safeguard the welfare and interests of the individual, and particularly of the more vulnerable groups of society. Freedom of speech, freedom of association and freedom of the press are guaranteed constitutionally. There is a high literacy rate and mandatory public instruction has been functioning, in some cases, for more than a century. Mass media is highly developed and is used to inform the public and galvanize public opinion: it has, in every instance, made a positive contribution to the social awareness and understanding of children's problems. Communication networks are efficient: good postal systems exist and telephones are widely used.

It was noted that in many cases, the facilitating circumstances are a question of **degree**. Is there enough political will? - a sufficient number of interested organizations? - an adequate level of understanding? Or is the combination of factors strong enough to make establishment of a monitoring structure possible? The political will to better children's conditions was recognized as a prerequisite for the establishment of a public monitoring structure. But, in Norway, there was only just enough political unity to carry the vote in the legislature; while in Costa Rica, the office was initially established by presidential decree, succeeding in a two-year period to create the political goodwill needed to obtain permanence through law. In other countries - the United States, for example - there has not been enough political will as yet to create a public structure on a national level, but non-official monitoring is nonetheless carried out by private, non-profit organizations.

Principles and Problems

Again, analyzing the characteristics the models have in common, the working groups identified principles which could serve as a framework for any kind of surveillance structure for the protection of children. They

also focused on constraints - which are often the complete or relative lack of the facilitating factors mentioned above - to the establishment or effectiveness of a structure, and suggested ways to work around them, when possible. Because the majority of the models function in industrialized countries, participants were very much aware of the western bias in the presentations. They concurred that in developing countries some, or all, of the principles could be extremely difficult to apply and could only represent long-term goals.

Important principles for monitoring structures and possible constraining factors were defined as:

1. *It should be a voice for children*

The working groups considered this to be the fundamental guiding principle of any structure monitoring the fulfillment of children's rights. The monitoring mechanism should serve as a 'voice' or channel of communications between children and the health, welfare and education systems, the judiciary, the local planning boards and, in general, any area of government where decisions affecting children are made. By transmitting information from children, and by speaking on their behalf, it could make the needs and rights of children publicly known. At the same time, it could impart to children information they need to know. Making sure that children are aware of the Convention and its relevance to their daily lives is one of its most important functions.

Moreover, it was stressed that a monitoring structure should ensure that children's own voices are heard - that is, that the concerns and opinions which children themselves have actually expressed are taken into consideration. It must also listen to children, which was regarded as its most difficult task. In many societies, children are objects of adult control. Parents and other adults often speak on their behalf and would be unwilling to give up even a part of this privilege by encouraging children to speak for themselves. Devising ways for children and youth to exercise their right to participate actively in society could, under these circumstances, be especially complex. It was noted that, from the point of view of implementing the Convention, the involvement of young people is very important both in the short and long term because it is often easier to change their attitudes than those of adults and because they are potential parents.

The working groups agreed that methodical enquiry into what is important to children is almost universally missing. It was felt that all countries should work to create a systematic process by which children and youth can express their concerns and relate their own experiences. The participation of youth and children in monitoring their own conditions would be the ultimate goal. This was viewed as a practical problem. How to establish structures and implement the right of participation, how to find out whether that right has, in fact, been implemented, and how to involve children in the process are some of the questions that need to be addressed. It was recognized that, in this area, there is little experience and an obvious need to share ideas.

Some suggestions were to convene focus groups of children and encourage them to talk about themselves - that is, fact and opinion gathering. Possibilities such as children's forums and children's elections were discussed. Asking people who talk to children - such as, lawyers, teachers, doctors, parents - was indicated as a more indirect way of getting information about children's opinions and problems. In societies where children do not have a 'public' voice, advocacy efforts might be directed towards encouraging an increased participation of children in decision-making within the schools. Youth groups and organizations should be actively mobilized and motivated to participate.

The working groups also noted that the 'privacy' of the family unit is fiercely guarded in many countries. This could mean that parents and other groups in charge of children might resist intervention and monitoring actions by organizations which protect children's rights within the family. It was suggested that, in such societies, a government monitoring mechanism, in particular, could take measures to project an image of a structure which has been created to assist families and not to interfere in their affairs. One way of doing this could be to prohibit the structure, specifically by law, from handling individual conflicts within the family, as was done in the Norwegian Act. When children or parents report such conflicts, they are referred to other agencies or centres set up specifically to assist in these cases. The general issues - such as measures to prevent physical abuse or neglect or to protect the interests of children following parental divorce - would, on the other hand, be taken up by the monitoring structure.

Finally, it was recognized that some advocacy groups which claim to speak on behalf of children may actually be using children for other political ends. It was agreed that all child advocates have, apart from their concern about children's interests, their own ideological baggage, and that many would be in favour of what they are advocating even if children's issues were not involved. The working groups emphasized the need

for **all** persons responsible for representing children to examine their motivation constantly to make sure that their voice is, in fact, a clear voice for children.

2. *As far as possible, it should be independent in relation to political administration, legislature and political organisms*

'Independent' is used very specifically in this context to mean that the monitoring structure should not be manipulated by the government or by political parties, that government officials should not be able to intervene in its functioning and that it should be able to respond honestly to individuals seeking help.

It was noted that the public Ombudsman or Commissioner will, obviously, have an administrative connection to a governmental branch, a precise mandate limiting the scope of his or her activities, and a budget within which to work. He or she could, nonetheless, be 'independent' if the following principles were observed:

- In order to be able to observe and, if necessary, criticize government and legislature for lack of action for children, the Ombudsman or Commissioner should be protected from arbitrary dismissal by the government.
- The public monitoring structure should, preferably, have constitutional support.
- To ensure permanence and stability in the services for children, the structure should represent a state policy and not the policy of a specific party or government.

Illustrating how the absence of these principles could adversely affect monitoring efforts, CDF reported that, in the United States, some very effective state Children's Offices, strongly linked to one of the political parties, were defunded or disbanded upon the election of a new governor from the opposing party. Other offices were subject to political interference with staffing and other matters.

Many institutional arrangements for public monitoring structures were considered to be acceptable, as long as the above principles were sustained. In addition, it was noted that some of the structures did not have the optimal degree of independence at the start of their operations, but have, with time, been able to secure greater autonomy. Specific examples cited were the Australian and New Zealand offices, which were both established under a Ministry, but are actually in the process of obtaining more independence through their own legislation.

The consensus was that Ombudsman and other public children's advocates are in an uncomfortable position, being both party and judge. One example was given by the Spanish Defensor whose questioning of the constitutionality of laws, approved by the Parliament which had appointed him, created tensions in his relations with the legislative branch of government. However, tensions of this sort were considered to ferment social change and are, thus, fundamental to a monitoring process. Naturally, there is always a risk that an Ombudsman can be too 'independent' and not be reappointed for another term of office, but in none of the presentations did this consideration appear to act as a deterrent.

The working groups found that there is a clearer separation between party and judge in the case of non-governmental organizations, which are generally more critical of government action than public advocates. They are not, however, exempt from manipulation by other groups, including political parties and contributors.

3. *It should be financially independent*

This principle was viewed as being closely connected to the preceding one. The 'financial independence' of a government monitoring office was defined as meaning that its funding is guaranteed by the State and not dependent on the party in power. Non-governmental organizations must attain the same level of financial independence, and could do so by having a broad base of financial support. One example was given by CDF. When one of its major contributors, a multinational cigarette company, learned that CDF was supporting the introduction of a tax on cigarettes to fund children's health programmes, it demanded a change in position or its money back. CDF was in a position to render the money.

The working groups stressed that, in both developing and industrialized countries, economic constraints could be the major reason - or the major excuse - for not setting up or sustaining a monitoring system. Budgetary priorities are often called into play. Priorities in spending for children, for example, were used as an argument against the creation of the Norwegian Ombudsman office during Parliamentary debate: it was

thought that it would be better to reinforce other existing efforts or services rather than invest funds in a new office for children.

In countries where budgetary constraints are severe, it was agreed that priorities would become especially critical. Some basic questions the working groups sought to answer were whether an extremely poor country *should* give priority to setting up an office for children; or whether a country, burdened by huge international debt and severe structural adjustment problems - the case of some Latin American countries - *would consider* allocating funds for monitoring purposes.

Participants cited the example of the Ombudsman office in Costa Rica - a nation classified as developing - to demonstrate that funding problems can be overcome, either by reallocating public funds or by obtaining external funding. The Jerusalem Ombudsman office, financed by a private foundation, was given as another example. Private funding was not, however, regarded as a desirable permanent solution.

In every presentation, it was clear that the initial investment in the monitoring office had been small. The point was made that a weak office for children is, essentially, a negative symbol. It was also queried whether politicians had purposely created an office which would not have enough power or influence to do much 'harm', but at the same time could serve as a justification for not disbursing additional funds on child-related problems. Even if conceived as 'token gestures', the various Ombudsman offices have, in the opinion of many of the participants, made a concrete difference in conditions for children, despite a small or non-existent budget. The budget for the Norwegian Ombudsman, for example, initially averaged out to US\$0.25 per child inhabitant per year, but increased as the office proved its value. In Vienna, the Ombudsman for Children, established in 1989 within the municipal Youth and Welfare Office, works with no independent budget at all except for the salaries of two employees. It has mobilized volunteers to carry out surveys and man its contact phone, organized workshops bringing together professionals from different child-related fields and has, in fact, been able to accomplish far more than anticipated.

The economic gains involved in coordinating services were suggested as a good argument, if properly substantiated, for convincing governments to invest in a monitoring office. Experience, documented in the presentations, shows that even a small monitoring structure can help eliminate needless duplicity in services.

4. *It must be accessible to the population, preferably including children themselves*

The reports of the working groups emphasized that access to a monitoring structure should be as direct and easy as possible; that the mechanism should not become a bureaucracy incapable of reaching people or being accessible to them; and that children and families should be able to relate easily to the structure. This could be facilitated by identifying the structure with a person or, in some situations, with an institution or an organization which is widely regarded as an identifiable body concerned with children's issues (e.g. UNICEF). A non-bureaucratic approach was recommended. This could be accomplished by replying quickly to queries, permitting contact with the office without intermediary screening, limiting the use of forms and waiting lists for appointments, and so on. As M. Singer pointed out in his presentation, "Children are able to articulate their needs and wishes, but will not contact anonymous institutions. By making our office accessible to children, we have taken a first step towards an effective representation of their interests."

The working groups noted that the Costa Rican, New Zealand and Norwegian models are functioning in small countries with basically homogeneous populations, although there are isolated groups of children and minority populations, problems which can be much more overwhelming elsewhere. In some countries, the range and diversity of individuals, groups and languages is so wide - 20 different groups in Nepal and 71 tribes in Kenya, for instance - that making a system accessible to the population, and viceversa, would be a very complex task.

Participants stressed that, when dealing with minority groups, the monitoring mechanism should fit the cultural context. It should analyze what is culturally acceptable, both in relation to the possible introduction of improvements and to the monitoring process itself. It must also respect ethnicity and diverse child-rearing practices when these have not been proven harmful. The importance of having knowledge of the ethnic groups in question, and especially of being aware of their 'cultural' understanding of the nature of rights, was recognized. Terms such as a 'full' life and 'a standard of health' and 'the best interests of the child' can be defined or understood in many ways. This may make it difficult to reach a consensus on what these terms mean, what the indicators for progress should be, and what should be monitored.

The models examined rely heavily on the use of telephones and postal systems. The use of mail in particular depends on the ability to read and write. Knowledge about the structure is spread through printed media, as well as by radio and television. Participants discussed how monitoring functions could be carried out in countries where telephones and televisions are not common, the postal system is inefficient, or the population is predominantly illiterate (e.g., 70% in Nepal). They concurred that the difficulties in reaching sections of a population by either printed or transmitted word makes influencing public opinion on a wide scale problematical. The field of action would, by necessity, be narrowed. The spoken word, word-of-mouth spreading of messages (the 'jungle telephone') and radio may be the only ways to spread information to these groups, but they can be highly effective.

Factors such as land area, type of terrain, population distribution, population density, migration, etc., were also taken into consideration. It was pointed out that geographic isolation often hinders communication with the very groups that need help most. The more isolated children are, the more difficult and expensive it is to get information to them, from them and about them.

Ways to increase possibilities of access to the monitoring structure were examined. One strategy could be a wide decentralization, particularly when the body is meant to serve large populations whose problems would not otherwise be known to a centralized structure. Decentralization can also be helpful to facilitate quick reactions and responses to problems. The Spanish model, with seven decentralized offices at the regional level, was found to be a very effective, but not always obtainable, solution.

Some participants suggested that even a tight network of local branches may not be the only, or best, solution to the problem of isolated population groups. Other solutions could be to utilize existing local resources - such as health workers, teachers and whatever other groups know what is going on within the community - to spread information to parents and children and to monitor their conditions. Such community reporting was thought to be 'manageable' in many countries.

In countries where the population is scattered over a wide area, it was suggested that regional groups - such as religious associations in mosques, temples and churches or youth organizations like the Boy Scouts - be used to spread information and collect data on children. The success of this strategy in immunization campaigns was mentioned. Grass-root level mobilization of people to help with monitoring was regarded as a useful method for gathering accurate, up-to-date and valid information from the field. It is also low-cost and linked to the people.

5. *It should be close to the decision-making bodies concerned with conditions that affect children*

The working groups considered that one of the most important tasks of a monitoring structure is to serve as a connection between the grass-roots level (children and adults) and the decision-making levels (local, state or national). It should confront decision-makers with the problems that need to be solved and with their own lack of action or inadequate responses. One way of bridging the distance between politicians and voters, described in the CDF presentation, is to provide the public with information about the performance of politicians, which in itself increases the pressure on them to keep their promises and strengthen their commitments. In formal federal states, it is particularly necessary to assess national, regional and local government actions and policies.

6. *It should work for and within networks at state and local levels, as well as at the non-governmental level*

Participants concurred that to be effective, the monitoring structure has to have wide contacts within the community, with departments of state, with schools, professional groups, the media and individuals. In this connection, it was noted that the federal system of government in countries like the United States, Canada and Australia could present obstacles to establishing uniform laws and policies affecting children. (It was reported, for example, that in the United States, each of the 50 states has its own laws regulating marriage, divorce and other family issues.) On the other hand, federal systems in large countries facilitate closer contact between the grass roots level and the service-providing levels of the government. Balance is needed between some uniformity of standards and responsiveness at state and local levels.

The need to establish mechanisms of coordination between state institutions and to devise ways to collaborate with non-governmental institutions was underscored. Participants described initiatives in their

countries which focus on the welfare and rights of children:

- The National Council for Children and Mothers in Egypt
- The National Children's Council in Mauritius
- The Governments Children's Departments in Kenya and Nepal
- Networks of advocacy bodies, voluntary and statutory, in USA and Australia.

It was recognized that all existing structures have a part to play in surveilling children's rights, but, because there are many different elements involved in monitoring, achieving some degree of co-ordination is a complex task.

7. *It should be legally established or in some other way be given authority to carry out its functions*

The working groups specified that this principle should not be interpreted as meaning that monitoring should only be carried out by government structures. Non-governmental organizations are, by definition, 'legally established' (they can, for example, be tax-exempt and will have reporting responsibilities to public authorities), but their real authority to monitor children's rights has to be earned. As G. Melton pointed out during the meeting:

"The source of authority can be derived from 1) *the power of ideas*,: the information flow which assumes the facts gathered will result in policies consistent with the way we would like children to be treated, and they would like themselves to be treated; 2) *the power of personality*: one of the features of the Ombudsman model, in particular, is that it is a strong-person model directed by charismatic individuals who are listened to because of who they are; 3) *'loot and clout'*, i.e., "it is not so much who I am, or what I am saying, but who or what it is that I represent. I have authority by virtue of pure raw power." All may be variably effective in different contexts.

It was agreed that a public monitoring structure should, preferably, be established under statute and be given specific authority to carry out surveillance functions in well-defined areas of the government. In the Jerusalem presentation, the disadvantages deriving from a lack of legal status were enumerated: cooperation was voluntary, there was resistance to intervention in the educational and child welfare systems, prior permission had to be obtained to read the children's files of public or private agencies. Again, G. Melton observed:

An advocate without a portfolio, e.g., one who does not have explicit statutory authority or has statutory authority that is so broad that it is essentially vacuous - who is, in other words, watching almost anything relating to children - has an inherently suspect legitimacy. More particularly in the early years, and no matter what the specific structure, if it has no specific jurisdiction, it will be forever politically 'under gun' for questions of overstepping boundaries. Where the jurisdiction is ambiguous, advocates have to take on a 'missionary character' and be willing to take chances in terms of the range of issues they examine.

Credibility was emphasized as one avenue to authority. It was recognized that any monitoring body, whether inside or outside the government, will carry weight only if it establishes credibility and is 'legitimized' by the communities and by the families it serves. To do so, it is essential that the structure clearly serve only the interests of children, that is, it should never be suspected of having a hidden agenda. It should avoid 'the impossible', selecting issues which can actually be influenced by the work done, with the resources available. The persons involved should be professional, non-bureaucratic and able to make things happen. They should, above all, base their statements and opinions on facts, as far as possible.

8. *It should have access to valid statistics and data analysis on conditions for children*

Speaking with facts in hand depends upon the availability of sound statistics and data analysis on conditions for children - information which is often missing. The working groups were particularly concerned about the issue of systematic data collection processes to generate all the social and other indicators which are essential to sound policy and planning. It was noted that, even in countries which already have a monitoring system, this may be lacking. Descriptive data, particularly in industrialized countries, are often missing. As CDF mentioned, in the United States more is known "about the number of trout in our streams than ... about the number of children in day care." One reason for this is that theory testing is much more likely to be reinforced in academia than purely descriptive social indicators work. In other words, researchers generally have no incentive for finding out how many children are in foster care, whereas they do get rewards for finding

thought that it would be better to reinforce other existing efforts or services rather than invest funds in a new office for children.

In countries where budgetary constraints are severe, it was agreed that priorities would become especially critical. Some basic questions the working groups sought to answer were whether an extremely poor country *should* give priority to setting up an office for children; or whether a country, burdened by huge international debt and severe structural adjustment problems - the case of some Latin American countries - *would consider* allocating funds for monitoring purposes.

Participants cited the example of the Ombudsman office in Costa Rica - a nation classified as developing - to demonstrate that funding problems can be overcome, either by reallocating public funds or by obtaining external funding. The Jerusalem Ombudsman office, financed by a private foundation, was given as another example. Private funding was not, however, regarded as a desirable permanent solution.

In every presentation, it was clear that the initial investment in the monitoring office had been small. The point was made that a weak office for children is, essentially, a negative symbol. It was also queried whether politicians had purposely created an office which would not have enough power or influence to do much 'harm', but at the same time could serve as a justification for not disbursing additional funds on child-related problems. Even if conceived as 'token gestures', the various Ombudsman offices have, in the opinion of many of the participants, made a concrete difference in conditions for children, despite a small or non-existent budget. The budget for the Norwegian Ombudsman, for example, initially averaged out to US\$0.25 per child inhabitant per year, but increased as the office proved its value. In Vienna, the Ombudsman for Children, established in 1989 within the municipal Youth and Welfare Office, works with no independent budget at all except for the salaries of two employees. It has mobilized volunteers to carry out surveys and man its contact phone, organized workshops bringing together professionals from different child-related fields and has, in fact, been able to accomplish far more than anticipated.

The economic gains involved in coordinating services were suggested as a good argument, if properly substantiated, for convincing governments to invest in a monitoring office. Experience, documented in the presentations, shows that even a small monitoring structure can help eliminate needless duplicity in services.

4. *It must be accessible to the population, preferably including children themselves*

The reports of the working groups emphasized that access to a monitoring structure should be as direct and easy as possible; that the mechanism should not become a bureaucracy incapable of reaching people or being accessible to them; and that children and families should be able to relate easily to the structure. This could be facilitated by identifying the structure with a person or, in some situations, with an institution or an organization which is widely regarded as an identifiable body concerned with children's issues (e.g. UNICEF). A non-bureaucratic approach was recommended. This could be accomplished by replying quickly to queries, permitting contact with the office without intermediary screening, limiting the use of forms and waiting lists for appointments, and so on. As M. Singer pointed out in his presentation, "Children are able to articulate their needs and wishes, but will not contact anonymous institutions. By making our office accessible to children, we have taken a first step towards an effective representation of their interests."

The working groups noted that the Costa Rican, New Zealand and Norwegian models are functioning in small countries with basically homogeneous populations, although there are isolated groups of children and minority populations, problems which can be much more overwhelming elsewhere. In some countries, the range and diversity of individuals, groups and languages is so wide - 20 different groups in Nepal and 71 tribes in Kenya, for instance - that making a system accessible to the population, and viceversa, would be a very complex task.

Participants stressed that, when dealing with minority groups, the monitoring mechanism should fit the cultural context. It should analyze what is culturally acceptable, both in relation to the possible introduction of improvements and to the monitoring process itself. It must also respect ethnicity and diverse child-rearing practices when these have not been proven harmful. The importance of having knowledge of the ethnic groups in question, and especially of being aware of their 'cultural' understanding of the nature of rights, was recognized. Terms such as a 'full' life and 'a standard of health' and 'the best interests of the child' can be defined or understood in many ways. This may make it difficult to reach a consensus on what these terms mean, what the indicators for progress should be, and what should be monitored.

The models examined rely heavily on the use of telephones and postal services. The use of mail in particular depends on the ability to read and write. Knowledge about the structure is spread through printed media, as well as by radio and television. Participants discussed how monitoring functions could be carried out in countries where telephones and televisions are not common, the postal system is inefficient, or the population is predominantly illiterate (e.g., 70% in Nepal). They concurred that the difficulties in reaching sections of a population by either printed or transmitted word makes influencing public opinion on a wide scale problematical. The field of action would, by necessity, be narrowed. The spoken word, word-of-mouth spreading of messages (the 'jungle telephone') and radio may be the only ways to spread information to these groups, but they can be highly effective.

Factors such as land area, type of terrain, population distribution, population density, migration, etc., were also taken into consideration. It was pointed out that geographic isolation often hinders communication with the very groups that need help most. The more isolated children are, the more difficult and expensive it is to get information to them, from them and about them.

Ways to increase possibilities of access to the monitoring structure were examined. One strategy could be a wide decentralization, particularly when the body is meant to serve large populations whose problems would not otherwise be known to a centralized structure. Decentralization can also be helpful to facilitate quick reactions and responses to problems. The Spanish model, with seven decentralized offices at the regional level, was found to be a very effective, but not always obtainable, solution.

Some participants suggested that even a tight network of local branches may not be the only, or best, solution to the problem of isolated population groups. Other solutions could be to utilize existing local resources - such as health workers, teachers and whatever other groups know what is going on within the community - to spread information to parents and children and to monitor their conditions. Such community reporting was thought to be 'manageable' in many countries.

In countries where the population is scattered over a wide area, it was suggested that regional groups - such as religious associations in mosques, temples and churches or youth organizations like the Boy Scouts - be used to spread information and collect data on children. The success of this strategy in immunization campaigns was mentioned. Grass-root level mobilization of people to help with monitoring was regarded as a useful method for gathering accurate, up-to-date and valid information from the field. It is also low-cost and linked to the people.

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out how social workers make decisions.

It was recognized that one important task of a surveillance mechanism is to point out the deficiencies of national or local statistical data on children. Participants from the developing world were especially aware of the critical lack of reporting systems on child-related data. They reported that some systems are not sophisticated enough to get up-to-date data and that setting up a better system would require resources which are not available. Other countries may have reasonably good statistics, but have very little capacity to analyze them for public policy purposes.

The question of key indicators was considered to be critical to the monitoring enterprise. Two current views were summarized:

- the legal approach which is based on the study of case law, looking at the situation of children on a **case by case basis** and
- the social sciences approach - a systematic, pro-active examination of broad segments of the population.

Each view has its role in the larger context of describing national conditions, and neither view should predominate in the process. Conditions affecting children can be expected to change, national and local conditions will also change. Therefore, specific indicators should be flexible. Participants agreed that the collection and analysis of appropriate official data is a fundamental issue. For independent advocates, as well as official agencies, cost could be a major restriction to effective monitoring.

To address this potential constraint, it was recommended that reviews be undertaken to determine methods of data collection and analysis appropriate in different situations. The results of these surveys should be shared internationally. A second recommendation was to enlist the so-called 'numbers crunchers', that is, social statisticians who develop models for data analysis, in order to survey techniques for monitoring specific provisions of the Convention.

Where data from a country are missing or unreliable, and a local data collection process is difficult to establish, it was suggested that data from comparable countries should be made available, for instance, through international organizations like UNICEF. For many countries, an international data bank on conditions for children, based on common indicators, would be of great help in the preparation of reports for the Committee on the Rights of the Child as well as for monitoring purposes within the country. More importantly, technical and initial financial assistance should be provided to help set up or improve the data collection and analysis system.

The need for technical assistance was clearly recognized. International cooperation, with the participation of UNICEF, WHO, UNESCO, UNDP and other UN agencies, must be increased in order to improve the guidelines and methodologies for the use of social indicators that permit intercountry comparisons and periodical evaluations inside every country.

Alternative Models

The working groups agreed that alternative models should, as far as possible, incorporate the assets of the models presented. They should not only have a surveillance role, but also an active development role, including educating the community at large about the needs and rights of children; mobilizing public opinion in order to create the necessary climate for reform; and, in some countries, empowering and training local people or institutions and developing local resources to sustain the implementation of children's rights and monitoring efforts.

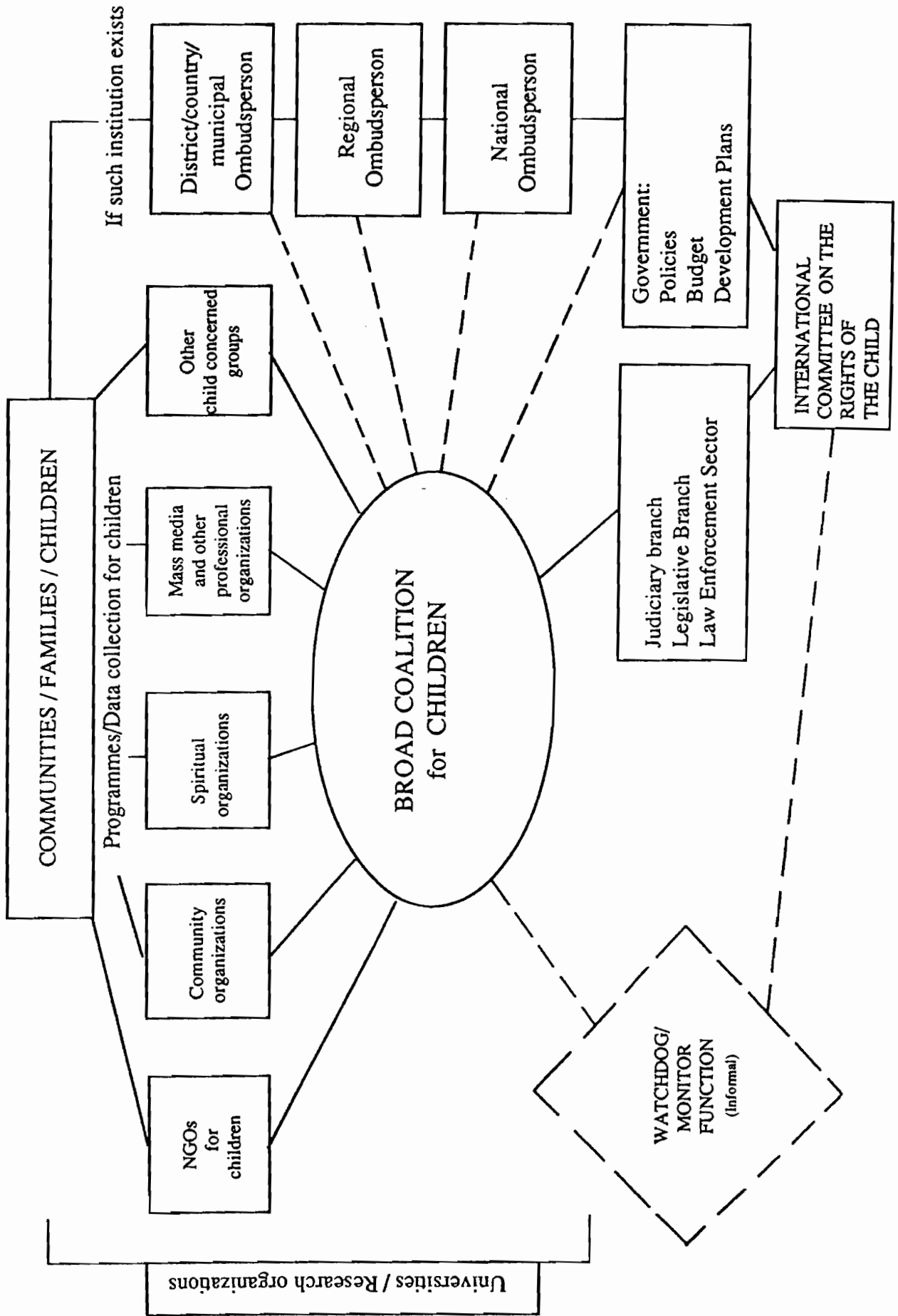
How the actual monitoring system is set up in each country must be solved by the country itself. The elements which have gone into the monitoring mechanisms under review, and which could be considered in new planning, were compared to the squares and triangles of a child's puzzle that can be put together in dozens of different ways. The diagram on the following page gives an overview of the various elements of a monitoring system. It was pointed out that, as each single element may or may not apply, the system must be 'put together' to fit the specific situation of each country.

The working groups agreed that there is a need for an **integrated system** involving diverse components

because of the danger of failure if monitoring is the sole responsibility of one individual or agency. Furthermore, different structures are needed for different aspects of monitoring. It was reiterated that the Convention together with the Plan of Action provide a very important and powerful framework within which to plan and establish monitoring.

Because the system will not originate by itself, an initiator will be needed and could be, among others, a UNICEF National Committee, a national branch of an international NGO, one of the specialized agencies, or an individual.

POTENTIAL COMPONENTS OF A MONITORING SYSTEM



The broad components of an effective system of monitoring were identified as follows:

1. **A government system**, which would be responsible for the States Party report, as required under Article 44 of the Convention. Government policy, legislation and practice, as well as the general conditions of children as described in official statistics, research projects and reports might be monitored by governments through their departments or through special agencies, such as commissions, set up for this purpose. The government might take responsibility, in some countries, for establishing some form of Ombud office for monitoring conditions of children. Governments could also take an active development role, incorporating children's needs and rights into national plans, providing for information delivery and collection, and for training.
2. **A coalition of independent organizations** - including non-governmental organizations, churches, academics, professional groups and service organizations - which would undertake monitoring in their own spheres, and would also monitor official information, individually and collectively. In countries where it is not possible to establish a governmental Ombudsman office, this role could be taken up by coalitions of organizations or by an individual organization. The business sector, which was not drawn into the diagram, would not be involved directly in monitoring activities but could be financially supportive.
3. **Universities and research organizations** which should be considered as separate from this coalition. Their distance was considered necessary to enable them to generate an independent analysis of the data collected.

4. **A watchdog**, which would examine:

- governmental policies, budgets and developmental plans which reveal to what extent the Government has directed resources towards programmes and services to benefit children and to promote and protect their rights;
- official information at its sources, and as incorporated in the State Party's report;
- general issues involving the violation of children's rights;
- the activities of non-governmental organizations concerned with children;
- the activities of other organizations acting, or purporting to act, in children's interests.

To carry out these functions, the watchdog must be independent of the government. This role need not be permanently adopted by any one organization.

5. **An international system** including UN agencies, and UNICEF in particular, which would monitor the general country situation. These organizations would also keep the credibility of the watchdog constantly under review. In an effective monitoring system, monitoring will be undertaken at international, regional, national and sub-national (including municipal, community and neighborhood) levels. The components listed above could operate at these different levels with varying degrees of effectiveness. **A development role** could be undertaken by existing structures at all levels.

At every level, each component must consider means by which children's participation in monitoring and development can be carried out.

Specific alternative models were suggested by different working groups.

- An independent association able to gather information on violations of children's rights and make that information known to the state and the public (either a separate entity or part of an existing ombudsman or human rights institution).
- Networks of NGOs for children.
- Voluntary service providers (religious groups or NGOs, e.g., Save the Children) whose roles had been expanded to include monitoring conditions for children.
- Professional service providers (teachers, psychologists, public health workers, etc.) whose roles had been expanded to include monitoring conditions for children. It was felt that professionals, and the people to whom they are theoretically accountable, could take a more active role in protecting the rights of the children with whom they work. In-service training of less experienced professionals should include guidance on what measures they should take to ensure that children's rights are fulfilled.
- Children's Committees established within legislative bodies at the national level (Children's Committee in Sri Lankan parliament, Children's Commission in the German Bundestag).
- Children's Committees within sub-national or local legislatures (municipal 'conditions for children' boards).
- Non-political, cross-professional Children's Councils on national or sub-national/local levels.
- Mobile ombudspersons who could travel to remote areas or serve in areas with migrant or scattered population.

Even though the working groups concentrated on national/sub-national levels, some suggestions were made regarding international cooperation and strengthening of national efforts through international support.

It was noted that international organisms can sometimes have limited or inaccurate knowledge of country realities which causes them to make erroneous recommendations or suggest ineffective policies, as evidenced in the planning of aid projects in some developing countries.

International and external agencies, such as UNICEF, can play an important catalytic role in the initial process of establishing a monitoring system, particularly in countries where effective national-level mechanisms are difficult to set up due to political and economic constraints. The real and sustainable responsibility, however, rests on the nation and its inhabitants.

Specific suggestions included:

- Meetings for exchange of experiences and points of view;
- Computer networks to help share information and strategies;
- Data bank or published material on conditions for children in specific countries;
- Internationally developed indicators for evaluating conditions for children.

Since the Convention on the Rights of the Child was adopted by the United Nations, all UN agencies should take the rights of children into account in future planning. On the national level in donor countries, pressure may need to be exerted on appropriate authorities to ensure that development cooperation efforts include the rights of children as an important consideration.

* * * * *

Much of the discussion in the working groups centred on constraints. It was concluded that constraints are very difficult to generalize: they can occur in widely different contexts, combinations and circumstances. In each country, it will, therefore, be necessary to identify and evaluate the actual situation. Inventiveness in finding the models that will work is essential.

Resourcefulness is, in fact, one of the keys to the success of an effective structure. The staff of monitoring mechanisms must realize that some constraints cannot be overcome - they must be lived with and solutions found in spite of them. To do so, the people involved must have a realistic approach, be thoroughly prepared, flexible, and above all committed and persistent. A philosophy which all participants share, and which was apparent in all of the presentations, is that constraints can become opportunities to get things done.

Reasons for Establishing the Office

Costa Rica is a small country - 50,000 km² - and similar to other countries in Central America. Minors account for almost half of the population: out of approximately 2.8 million inhabitants, 43.6% are under 17, 36% under 15 and 30.5% under 12. According to United Nations statistics, Costa Rica has a higher level of human development countries: the infant mortality rate is 13.4 per 1000 and life expectancy is 75 years. It is possibly the only country in the world without an army. Costa Rica, moreover, has been a democracy for more than a century.

Defensoria de la Infancia
Ministerio de Justicia y Gracia
San Jose, Costa Rica
Tel: 506 237344 ext 240
Fax: 506 233879

Population	2.900.000
Children under 16	1.100.000
No. of staff	6
Public Funding	US\$ 36,000
Private Funding	US\$ 35,000
Total Budget	US\$ 71,000

While this is an encouraging situation, there are still substantial problems to be addressed. Although democratic rights are guaranteed to all citizens under the constitution, the distance between the theoretical recognition of rights and their actual application is evident, and more markedly so among the poor, ethnic minorities, women and children. The violation of children's rights is not exclusively a problem between individuals, as in cases of physical abuse or incest. Children in Costa Rica are also victims of cultural, institutional and social injustice.

Until recently the concept of children's rights was unknown in our country. Parental authority was absolute: children were viewed as the private property of their parents, to be protected or exploited at will, and essentially without rights of their own. Children face difficulties caused by the process of socio-economic deterioration which began in the 1970s. The Government has reacted to rampant inflation, trade deficits and a large social debt by reducing budgetary allotments to social services, with a consequent negative impact on the living conditions of children. For example, according to data published by UNESCO in *Evaluations of the Educational Systems in Latin America and the Caribbean* public expenses for education represented 31.5% of the total budget in 1975 and 18.4% in 1984. The economic crisis has, moreover, created an ever-widening gap between an elite class and the extreme poor.

Political and armed conflicts in Central America have led to the wide-scale dislocation of families, creating within Costa Rica new marginalized groups composed largely of children. 95% percent of the children who come in contact with the judicial system of the country are from poor or marginalized segments of the population. An average of 20 to 30 new cases - involving children who have been abandoned, physically abused or sexually violated; children who are drug addicts, beggars, runaways or prostitutes; and children who are missing or possible legal offenders - are taken up by the authorities each day, with an annual average of 5,000 cases and an unofficial estimate of 45,000 minors at high social risk throughout the country. On the other hand, children who are mentally and physically handicapped and working minors have been seriously neglected by the system. Among the young in general social unrest and questioning and/or violation of social norms and cultural standards, as defined by adults, are frequent.

Although there is a large social infrastructure, counting both public and private institutions, dealing specifically with children, it does not always function effectively. Problems include lack of coordination between institutions, duplication of functions, and a tendency to be inhumane and excessively bureaucratic. Institutional procedures, moreover, are not exempt from practices which may be threatening to children's rights and many of the deviations come from the very institutions created to prevent them. The public's relationship to this bureaucracy has become increasingly conflictive. Institutional restructuring, coordination between institutions, legal reforms and the development of a policy of prevention rather than a curative approach have long been delayed by the Government.

It is in this context that the Ombudsman Office for Children was established under the jurisdiction of the Ministry of Justice by Decree No. 17933-J of 9 September 1987, and its legal status was consolidated by Law No. 7142 of 1 May 1990. It was recognized that one single institution could not deal with all of the problems

connected with the 1.2 million minors in Costa Rica: that since many public and private child welfare institutions were already in existence what was needed was not another institution but an instrument which would voice and defend children's rights, and complement and work to improve the existing structures. The Office, therefore, is not a substitute for any legal or administrative bodies dedicated to children.

Mandate of the Office

According to Article 17733-J of September 9 1987, the Ombudsman must "protect children's rights and promote policies, programmes, projects, research and actions to improve the situation of children". More specifically, he or she must:

- a. Receive and investigate complaints from single persons, groups, associations, societies and refer cases to appropriate entities.
- b. Prevent the violation of children's rights by actions and recommendations directed to pertinent bodies.
- c. Mediate and intercede between authorities to defend children's rights.
- d. Propose reforms to established procedures, regulations or laws with a view towards improving all public services related to children.
- e. Diffuse information about children through mass media, publications, seminars, workshops, etc.
- f. Determine priority areas for the investment of material and human resources by institutions working for the minor.

The Office is composed of the Ombudsman, two counselling units and four operation areas. By legislation, all institutions and governmental agencies must cooperate with, and offer advice to, the Office whenever solicited. It has, moreover, access to all administrative documents or materials related to the investigation of cases, except when stipulated by law. The Ombudsman may delegate functions whenever appropriate and may obtain counselling from experts or commissions, as needed, to carry out his or her activities. It should be noted, however, that while the Ombudsman office has the power to question anyone it wishes, it has no power to punish and its decisions are not binding.

Although appointed by the Ministry of Justice, the Ombudsman is only connected to the Ministry in an administrative sense and has complete autonomy in matters within his or her competence. In the event of hostile attitudes on the part of authorities or representatives, the Ombudsman not only has recourse to public opinion but - as established by the General Public Administration Law - also to superior offices of the Government and even to the President of the Republic.

The financial resources of the Office come from the national budget, as well as from donations by private or international organizations.

Initiatives and Results

The office handles a wide variety of cases involving individual abuses (rape, incest, assault); organized crime (trafficking of children, the training of minors to beg, corruption of minors); legal violations (sale of cigarettes to minors); institutional violations (minors processed in ordinary courts, minors in adult prisons, institutionalized minors not permitted to see their parents); abuses by mass media (TV commercials harmful to children, newspaper articles damaging a minor's reputation); discrimination (refusal to rent apartments to families with children or to allow children to play in public areas) and problems connected with adoption, foster parenting, immigration, schools, etc. It is contacted by both adults and children and, as in Norway, it has set up a direct telephone line.

Due to efforts of the Office, decisions of the Supreme Court have been affected, and agreements reached by Congress as well as institutional procedures have been modified. The Ministry of Police, courts for the Protection of the Minor, and the National Children's Bureau, among others, have responded favourably to its initiatives.

Since its creation, the Office has actively participated with government and non-governmental agencies to conduct research on children and to develop strategies to promote children's rights:

- To raise the public's awareness of the special rights of children, the Office has published and distributed brochures entitled "What is the Ombudsman Office in Costa Rica?" and "Project on the Convention on the Rights of the Child." Other publications include "Ombudsman for Children in Costa Rica",

"Problems of the Minor in Adult Prisons" (which includes recommendations for reforms), "Basic Guide for Authorities", "Project of the General Law for Public Entertainment" and "Let Us Defend the Lives of Luisito and Ana Maria", a comic book whose text was written by children.

- To promote the Convention on the Rights of the Child, the Office designed special posters, prepared two short television programmes, organized conferences and conducted newspaper, television and radio campaigns. (The Ombudsman is a member of the National Committee which will monitor the Convention and was active in promoting the ratification of the Convention not only in Costa Rica, but also in Guatemala and El Salvador.)
- A specific training programme is being designed to sensitize the 14,000 policemen in the country about children's rights.
- A free and accessible telephone service, manned by volunteers, is being organized to deal with children's complaints and enquiries.
- A committee composed of social communication professionals was formed to investigate and provide information about matters relating to children's interests.
- The Office has designed campaigns and programmes concerning specific aspects of the situation of children, such as child abuse, street children, minors in adult prisons, etc.

One of the permanent functions of the Ombudsman is to review all administrative and legal procedures - laws, decrees, regulations, etc. - to ensure that they do not violate children's rights, and to propose necessary reforms. The Office is presently developing an ambitious programme to analyze and rewrite the whole juridical framework using the guidelines of the Convention. It has also created a relevant data base.

The Ombudsman Office must also be alert to different social and cultural forms of abuse against children. In this connection, the Office has given strong support to a law, proposed by the Superior Tribunal for Censorship and still pending approval by Congress, designed to regulate all public entertainment. The law sets standards for all public communication systems in order to avoid excessive commercial exploitation of children and to limit their exposure to violent images.

The Ombudsman Office has only existed for two and a half years. Much of the first year was dedicated to obtaining public recognition and legitimization of the Office. In this short period of time and thanks to the cooperation received from other government institutions, private businesses, organizations and many individual supporters, a large sector of our population now speaks about children's rights. There is a growing awareness among adults that children not only have the right to survival, but also the right to participation, which means that adults must respect children's opinions and take them into consideration when decisions are made.

Constraints

The aspirations of the Ombudsman Office to promote new initiatives and projects to benefit children are limited by inadequate resources. Nevertheless, the assistance and cooperation received at all levels, together with the creativity necessary to fulfill its goals, has enabled the Office to accept the commitment of doing the best we can with the resources at our disposal.

Reasons for Establishing the Office

New Zealand has a tradition of establishing agencies of State which protect individuals and classes of people who are apt to suffer discrimination or disadvantage. In this category are four Ministries of State which pursue specific class interests: the Ministries of Women's Affairs, of Maori Affairs, of Consumer Affairs, and of Pacific Island Affairs. (A Ministry of Senior Citizen's Affairs was established during the recent election period in New Zealand, but appears to be the subject of reassessment by the incoming government.) As Ministries of State, they are instruments of government policy and are constrained within that particular boundary.

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Population		3,300,000
Children under 18		1,000,000
Number of staff		4
Public Funding	US\$	280,000
Other funding		Nil
Total Budget	US\$	280,000

In addition to the Ministries, agencies have been established under Acts of Parliament for the purpose of responding to individual complaints. They may also - except in the case of the Ombudsman office, on their own initiative, pursue the interests of a class of people. These include:

- The Race Relations Conciliator, 1971
- The Ombudsman Office, 1975
- The Human Rights Commission, 1977
- The Victims Task Force, 1987
- The Police Complaints Authority, 1988

A Health Commissioner to act as advocate for the rights of patients in the health system is also envisaged.

The Commissioner for Children, established under the Children, Young Person's and their Families Act in 1989, is part of this tradition.

The effect of all of these agencies is to extend the power of the individual. They do so by virtue of their expert knowledge, their statutory powers of enquiry, their access to other agencies and to the Government, their ability to present a case to the public and to others, and the authority and standing they are given by the Law and acquire by practice.

They are advocates for the individual who has been dominated and misused, either by the system or by fellow citizens who are in a more powerful position. Except in the case of the Ombudsman, they also have a role as advocates for a class of people who are at a disadvantage. These agencies are an attempt to bring the apparatus of the State down to a human scale so that it can be approached by the ordinary citizen. In this respect, they are again a part of a New Zealand tradition.

New Zealand was the last habitable land mass to be occupied by humanity. The Maori came only a thousand years ago and the Europeans, two hundred years ago. This recent occupation of the land has two linked consequences in shaping the attitudes of New Zealand's present inhabitants - Maori and Europeans who are known as Pakeha. Firstly, they tend to be self reliant. They expect to shape and use available resources in order to meet their needs. Secondly, they are innovative. They tend to imagine they are solving a problem for the first time and are unlikely to seek solutions from the past.

These attitudes have carried over into a method of meeting social needs, characteristic to New Zealand. It is the method of self-help - the formation of democratic organizations at the local community level which provide mutual support and appropriate services in a particular social area that is perceived, by those with an interest, to be an area of need. Because of this approach, numerous organizations to help children and their families have been formed. Many have evolved into national organizations, but all of them retain a strong

element of local control. Recently, as costs have escalated and volunteer fund-raising has fallen short, these organizations have been subsidized by the central Government. Nevertheless, there is an emotional and financial commitment by New Zealanders as a nation to this style of social services.

The community-based child health and welfare organizations in New Zealand conform in many respects to the model adopted by WHO at the international conference on primary health care in Alma Ata in 1978. One difference is that they generally specialize in a particular area of health or welfare rather than offering general health care, as envisaged in developing countries.

In summary, the desire to scale down organizations and problems to a local and manageable size is part of our tradition.

Why this Form of Advocacy at this Time?

The momentum to create a Commissioner for Children was the result of several factors and was by no means a top-down procedure. A sensational case involving the murder of a child had roused a great deal of public indignation and was thought to be emblematic of the failure of the current system to protect children. A substantial grass roots movement was also present. Quite a number of people had, since the International Year of the Child (IYC) in 1979, demanded the establishment of an office of this kind, among others the National Council of Women, the Committee for Children set up during the IYC, law groups and various women's representative groups.

Two public discussion papers, in particular, examined children's advocacy in relation to proposed reforms to the 1974 Children and Young Persons Act. One entitled "Review of Children and Young Persons Legislation", presented in 1984, proposed an office of public advocate. The second was the report of the working party on the Children and Young Persons Bill released in 1987. It emphasized that children were in a disadvantaged position with respect to articulating and advancing their interests, and underscored the need for a specific children's advocate. The working party in particular recommended the establishment of a national children's interests advisory committee; an enhancement of the role of the Ombudsman with regard to the child clients of governmental bodies; the development of a system of children's advocates to represent young people accused of offending during court proceedings or in the operation of court orders; the improvement of the operation of the Counsel for Children Scheme in care and protection hearings and during the operation of court orders; and the strengthening of law and community advocacy of children and families during court and other proceeding under the legislation.

Consideration was given to placing a Commissioner for Children within the Human Rights Commission. It was recognized, however, that children needed a considerably different approach than that used towards other groups. Moreover, the Human Rights Commission deals with discrimination against people who are equal in the eyes of the law. Children are inherently not equal, i.e. they are dependent and while it is true that they may be discriminated against in the same way as women, ethnic minorities, the disabled, etc., it is more often their particular needs and interests that are overlooked.

A review of the roles and functions of children's advocates and commissioners overseas ensued and led to a widening of the functions of the proposed office of Commissioner for Children. In particular, two models - the Norwegian Ombudsman for Children established under its own act in 1981 and the South Australian Children's Interests Bureau established under the Community Welfare Amendment Act in 1981 - influenced the terms of the Commissioner's mandate.

In answer to the question - "Why this particular form of advocacy?" - it is probably best to see things not in terms of *either/or*, but of *both*. Thus, there is a place for a person with what in New Zealand would be called a purely 'ombudsman' function, that is, the pursuit of an individual complaint on behalf of a child as a citizen. There is also, of course, a place for voluntary groups to form lobbies on behalf of children, either in general or in relation to particular areas of danger, union issues, diseases or disabilities.

Functions

The first Commissioner for Children was appointed in July 1989 for a five year term of office. The Commissioner's functions, detailed in S411 of the Children, Young Person's and their Families Act which came into law in May 1989, are:

- a. to investigate any decision or recommendation made, or any act done or omitted, under this Act in respect of any child or young person in that child's or young person's personal capacity;
- b. to monitor and assess the policies and practices of the Department and of any other person, body, or organization exercising or performing any function, duty or power conferred or imposed by or under this Act, in relation to the exercise or performance of any function, duty, or power conferred or imposed by or under this Act;
- c. to encourage the development within the department of policies and services designed to promote the welfare of children and young persons;
- d. to undertake and promote research into any matter relating to the welfare of children and young persons;
- e. to enquire generally into, and report on, any matter, including any enactment or law or any practice or procedure, relating to the welfare of children and young persons;
- f. to receive and invite representations from members of the public on any matter relating to the welfare of children and young persons;
- g. to increase public awareness of matters relating to the welfare of children and young persons;
- h. on the Commissioner's own initiative, or at the request of the Minister of Social Welfare, to advise the Minister on any matter relating to the administration of this Act.
- i. to keep under review and make recommendations on the working of this Act.

Thus, four of these functions - a, b, h and i - are concerned with the administration of the Act itself including enquiry, appeal, monitoring, review and the provision of advice. Another four - d, e, f and g - are functions that do not necessarily relate to the Act, but are concerned with the welfare of children and young persons in general. They may therefore include matters of health, education, justice, etc. They are investigatory, review, advisory and public advocacy functions. The remaining function - c - is one of policy and service development in relation to the Department of Social Welfare.

Initiatives and Results

Ideas and proposals from this Office have been incorporated into various reports to the Government, into the rules and instructions of private organizations, into the instructions issued by government departments, and so on. In general terms, what our Office can do best is to influence policy, law and practice at central government level.

A campaign for the establishment of a Child and Family Policy in New Zealand has occupied a considerable amount of our time in the last few months. We prepared a brochure for circulation to political candidates during the recent election campaign and in November 1990 we held a three-day seminar, opened by our Minister of Social Welfare, on the subject. The seminar was attended by two overseas guests who spoke with members of government and opposition, officials and advisors. The need for a Child and Family Policy, together with an appropriate research and information base, has been publicly delineated and there is also some political will in this direction.

Other activities of the office include:

- the examination of adoption practices in New Zealand;
- the restraint of police action towards young people on the streets;
- the organization of a Cot Death Prevention campaign, based on a recently completed three-year study;
- support for anti-smoking legislation.

Problems

The response of the Department of Social Welfare to proposals prompted by complaints has been less than satisfactory. It is probably just a matter of time needed for them to perceive our place in the scheme of things. It is a large department, which tends to be very much self-contained and impervious to external influences. It has been suggested that the Office of the Commissioner should have the power of direction of the Department, but I believe that this proposal should be approached with great caution. Constitutionally, an advocacy unit such as ours should stand or fall on its own merits. If it did gain the power of direction of the Department, it would run the risk of being directed itself. It is important for the Office to be independent and to have freedom of action. It should not become part of a bureaucratic hierarchy.

Another matter which could be improved, and for which we will be seeking a legislative amendment, is the Commissioner's ability to enter into legal proceedings. Our right to do so is obscure at the moment. The

need for this function was foreseen in the 1984 public discussion paper which stated that the advocate should "commence or join in any action in any court in the name of his/her office to remedy any matter referred to him/her which affects, or may affect, the life or well-being of a child or young person" (regardless of whether other interested parties are involved or whether the child or young person is represented by a solicitor or barrister). We have already been involved in two cases before the High Court, one involving parents who sought to force a child to have a hysterectomy, the other in support of an application for an injunction to restrain the police from detaining young people going about their business on an inner-city street in the evening.

Constraints

Our main constraint is our size. Because of the limited number of staff, we are unable to get involved in all of the projects of interest to us or pursue all complaints with the thoroughness they merit.

A second constraining factor is our geographic location. We chose to establish the office in the nation's capital in order to have the Government and government departments in close proximity. Wellington is also a reasonably-sized city by New Zealand standards offering a university, a national library and other such facilities important to our Office. However, it would be helpful to have additional offices in Auckland, New Zealand's largest city, and in Christchurch, the largest city in the South Island.

Important Principles

Regarding our views on children, the principles we have found to arise repeatedly in the cases and projects we consider are:

- **The humanity of children:** We have inherited from Roman law a concept that children are 'defective or lesser adults'. This attitude is now changing. Children are human beings whose rights must be respected and upheld with no less vigour than is accorded others. Children share some needs with all of humanity and have certain particular needs of their own.
- **Individuality of children:** Children tend to be stereotyped and placed in a class. Each child is a personality with a set of attributes, a means of expression and of interaction with others that identifies him or her.
- **Diversity in child rearing practices:** There must be a respect for ethnicity. There are many variations in child rearing practices. None should be condemned unless there is acceptable evidence or a reasonable expectation that they will cause harm.

Concerning the principles on which our office has been established, I would say that such an office needs:

- **A reliable information base:** We have expended much effort in pursuing the establishment of a proper research base for children and families in New Zealand. We have been impressed by the Australian Institute of Family Studies in Melbourne, which undertakes and contracts out research aiming at defining the position of children and monitoring the effects of policy, the provision of services, etc. Such information is essential for the preparation of commentaries and submissions by our Office. Advocacy based on hearsay, anecdote and unreliable information is not only ineffective, but also discredits the office and the cause being pursued.
- **Independence.** The Office must be independent of any government department and of political interference. To safeguard its independence, it must have a budget which is separately allocated by Parliament and it must be established under statute. The terms of appointment of the Commissioner should not coincide with the term of office of a Government. The Commissioner must be scrupulous about being open and nonpartisan in his/her relationship with politicians. It is important to keep in touch with politicians, but it must be on the basis of keeping in touch with politicians of all parties.
- **Contact.** If the Office is to be responsive, accessible and up-to-date, it must have wide contacts within the community, with voluntary organizations, with departments of state, with professional groups, individuals, schools, the news media, etc.
- **Identity:** There is always pressure on this office to pursue projects which are worthy but not, strictly speaking, in the area of children's interests. The temptation to take them up should be avoided. Moreover, the Commissioner must strive to maintain a child advocacy stance and endeavor to see each case from the child's viewpoint at all times. In proceedings involving both adults and children, the interests of children are often submerged. Commissioners for Children have no reason to be complacent about immunity to this problem.

The Convention on the Rights of the Child

No major changes will be needed in New Zealand law to make it conform to the articles of the Convention. However, while the law upholds children's rights, it can fall short of meeting children's needs in practice because of attitudes of indifference and complacency. The principal value of the Convention to New Zealand, I believe, lies in its potential to focus attention on children's needs and on its usefulness as a reference standard.

NORWAY: THE FIRST OMBUDSMAN FOR CHILDREN

Maalfrid Grude Flekkoy

The present Norwegian Ombudsman for Children was unable to attend our seminar, but presented a paper which follows this presentation. I would like to emphasize at the outset, particularly because the working style of the office has changed under his direction, that my presentation will deal with the organization, conceptual thinking and accomplishments of the office from its establishment in 1981 until September 1989.

Why the Ombudsman and not something else in Norway?

The Ombudsman for Children has its roots in the history, traditions and culture of Norway.

Principles of equal rights won acclaim early in our society. Women gained access to higher education in 1884 and the right to vote in 1913. Norway has a long tradition of democracy with a deep faith in using legislation as a tool for changing attitudes.

Recognition of children in Norwegian law dates back 700 years: the 13th century penal code, in fact, states that children were not to be punished as harshly as adults. Children (but only those born in wedlock) were recognized as heirs to property and as legal subjects in connection with the church in the 17th century. In 1630, legislation established that public authority - i.e., guardians appointed by the townships - might supersede parental authority in cases of vagrant children. The first legislation directly concerned with the religious and moral improvement of children (and society) was the Public School Act of 1739. Another milestone was the Child Protection Act, proposed in 1898 and passed by Parliament in 1900. This was obviously an important step in the right direction, but in retrospect it is clear that it aimed at protecting society at least as much as children. A growing understanding of child development, together with new and more humane treatment and penalty principles in general, led to further legislative reforms, most notably the Child Protection Act and the School Act.

Current Norwegian legislation reflects a general acceptance of the concept that child development is a gradual process during which the child assumes responsibilities and attains rights at different stages in his progress from a dependent baby to an autonomous adult. This is evidenced in a list, compiled by the Ombudsman Office, of 30 different age-limits set by law. Increasingly, there is also a tendency to recognize children as legal subjects having their own legal rights. The School Act, for instance, gives the child the right to an education, a right which in many other countries is given to the parents on behalf of the child.

The public, administrative and political debate preceding the adoption of the Ombudsman for Children Act clearly indicated a general recognition of the need to improve conditions for children. Children cannot vote, they have no influence on the political bodies which make important decisions regarding them, and they cannot use mass media or organizations to sway public opinion. Moreover, politicians are not always ideal spokesmen for children. Representation by parents, and particularly by mothers with children under 16-18 years of age, is probably low in decision-making bodies (even if women constitute over 30% of the elected politicians in Norway, mothers of young children are unlikely to be a significant part of this group). As Norwegian politicians are statistically at least 45 years old, their personal concerns may be focused on their aging parents and their own old age. Moreover, they have been voted into office by an increasingly elderly electorate whose interests they will have to defend. They may even be elderly themselves. Regardless of party membership, therefore, politicians might make choices which benefit the elderly more than children. In 20 to 30 years, children will constitute only 15% of the total population, and their parents 30% of the total population or 36% of the *voting* population. There can be no doubt that parents and children need strong voices speaking on their behalf.

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Population		4,200,000
Children under 16		900,000
Number of staff		4
Public funding in 1982	US\$	172,000
Public funding in 1988	US\$	268,461
Other funding		Nil
Total budget	US\$	268,461

The Ombudsman for Children Act was passed by the Norwegian Storting (Parliament) in March 1981, with a 5-vote majority, splitting the Storting along party lines. The same arguments originally voiced by conservative groups who opposed the creation of an Ombudsman for Children in Norway are now being used by left-leaning groups in other countries against the establishment of a similar office. Occurring in different patterns in different countries, the reasons for opposition, therefore, seem to be more or less independent of political 'colour'. To summarize the arguments:

- The Ombudsman will be a threat to parental authority.
- The Ombudsman might become an excuse for other groups and bodies responsible for children to diminish or relinquish their responsibilities.
- It would be better to spend the money required to set up an Ombudsman Office on strengthening other existing efforts or services for children.

In the debate preceding the creation of the Office, various alternatives were brought into discussion. A State Council was proposed, but was not perceived as having the necessary independence. Local 'ombudsmen' were indirectly suggested, but did not gain significant support, partly because the expenses would be so much higher. Creating some kind of cooperative effort and responsibility on the part of non-governmental organizations was **not** part of the discussion, probably for two reasons: there were (and are) few organizations with the interests of children as their main objective, and none of the organizations themselves suggested such a solution.

It could be that the organizations preferred a more independent position, free to join in the fight on any issue, but not obliged to do so on any specific set of issues.

The fact that Norway had other Ombudsman Offices to protect and promote the interests of minorities - Equal Status of Women, Consumer Affairs and Public Administration - undoubtedly cleared the way for an office for children, who are also clearly a minority group.

The Mandate of the Ombudsman for Children

The public Ombudsman offices were all established and funded by the Storting, and their responsibilities are described in the Acts for their respective Offices. Except by revoking or amending the Acts, the Storting cannot, however, instruct the Ombudsmen. They therefore have a rare independence in relation to administration, including the obligation to criticize even the Storting itself, if need be. The Ombudsman Offices are required to propose amendments to laws, regulations, and procedures aiming at bettering conditions for the groups they represent.

Unlike other Ombudsman offices, which are responsible for specific provisions of Norwegian legislation, the Ombudsman for Children has no single law or sets of laws to monitor.¹ The Office was established to "promote the interests of children vis a vis public and private authorities and to follow up the development of conditions under which children grow up" (Act of the Commissioner for Children §3). Its only restrictions regard handling conflicts within the family or issues already before a court of law. The Ombudsman must keep an eye on all areas of society, give warning of developments harmful for children, and propose changes to improve their conditions. He/she must be alert to the consequences and implications for children of all aspects of the Norwegian legislation and regulations. Since the Office has no decision-making power and no right to rescind the decisions of other authorities, its main weapons are information, advocacy, and well-documented statements. The Office seeks to increase public knowledge and to change the opinions and attitudes of others, in an effort to improve the situation of children.

Did the Ombudsman for Children Work?

In 1981, I was totally unknown as a public figure. I had not held office at the county, much less the national, level. My own public image was as unclear as the image of the Office, which could be both an advantage and a disadvantage. Preconceptions about what I would do were minimal. This meant that I would be able to build up the image and establish the value of the Office, which was going to be permanent, rather than of

1. There was, therefore, some discussion about whether or not the term Ombudsman was appropriate for the new Office when it was established. However, no better term was found.

the Ombudsman, who was temporary. I felt strongly that faith in the Ombudsman Office must not rely solely on the person in office. On the other hand, the fact that the office and its incumbent were 'unknowns' - and that the public was no doubt skeptical about both - meant starting from scratch on all counts. The ambivalence and divided opinions about establishing the Office were evident, expectations were confused, the mandate was so wide that regardless of what we did, we would disappoint some expectations, but live up to, or exceed, others.

My initial goals were simple. I intended to work towards making the office a positive concept in the minds of children and adults, and to give the Office a clear 'child profile'. In practical terms, this meant that the Office was first and foremost for children and that the Ombudsman was a person available to children.

It seemed both to me and to my staff that the Office was taken seriously and was never subject to derision as other Ombudsman Offices had sporadically been. In order to obtain a partial but better understanding of public response to the Office, UNICEF-Florence in 1989 commissioned a survey which comprised a random, representative, nation-wide population sampling of approximately 1100 interviewees, all over 15 years of age.

The results show that the Office of the Ombudsman is now well established in public opinion: 74% named the Ombudsman as an institution protecting the interests of children, nearly half of the total sample naming this institution first. Over 80% of the interviewed people think the Office is useful, only 2% now want to abolish it. There is little difference between political parties. 65-88% of adherents of the parties that opposed establishment are now in favour of the Office, only 3-10% of them advocate abolishment. Age, gender, income, family size and region of residence are unrelated to opinions about the Ombudsman Office.

Did we achieve the children's profile we wanted? The survey sample does not include people under 15 years of age. In the 15-24 age-group, 65% mention the Ombudsman as a national body protecting the interests of children (as compared to 74% of the total sample). In an investigation carried out during September and October 1989, 69% of the sample of 74 twelve year-olds had heard about the Office; 64% would trust the Office to help if they had a problem; and 25% of this group knew the name of the new Ombudsman, indicating that the concept was better known than the person.

A sampling of 150 children in grades 1-6 (20 per grade) in the Trondheim area in 1989 revealed that 2/3 of the children in grades 1 and 2 had heard about the Ombudsman, 3/4 in grades 3 and 4, and nearly all of the children in grades 5 and 6. Almost all of the children, regardless of their grade, stated that they would turn to the Ombudsman for help if they needed it, and could give examples of when they would do so. Most, but not all, of the examples concerned problems with which the Ombudsman really could be of some help.

Over the years there was a change of emphasis in the Office's approach to the issues handled. Children's needs and vulnerabilities at different stages of development always remained basic guidelines and were steadily supplemented by the sociological and legal views of the other staff members and information from other sources. The Office increasingly emphasized the preventative measures possible within Norwegian society. We were particularly concerned about the difficulties of being a parent in today's world because of the lack of complementary and supplementary support systems around the family. Many of our statements underscored how changes within the society had had negative consequences on the healthy growth and development of children. We were aware that societal changes caused continual shifts in the balance between parental and public responsibility for children.

The other change of emphasis concerned rights for children. Starting with a recognition of the needs of children, we increasingly realized that legislative strengthening of children's rights was required. The rights and needs of adults were well taken care of by laws regulating community planning, employment, and welfare benefits, etc. In comparison, legislation safeguarding the rights of children, while improved over the years, was still weak. The rights of children were often *indirect, conditional, or non-existent* even in circumstances where adults, under very similar - even identical - conditions, had clearly stated rights.

Achievements

In spite of the constraints of a very small staff (4 members including the Ombudsman and the secretarial staff) and a small budget (U.S.\$0.25 per child per year) some results are clear:

- **The budget:** Practically unchanged during 1982 - 1987, with increases lower than the inflation rate, the budget was increased by 23% in November 1988 and again, one year later, by 50%. The staff has nearly doubled. The lean years had however taught us a valuable lesson: getting results in working for children need not necessarily involve excessive costs
- **A channel for children:** The most novel and one of the most important effects of the Ombudsman Office was giving children a possibility to express their own views, opinions and worries. They could - and very often did - go to parents, teachers, organization leaders or friends, who may or may not have taken the problem elsewhere. Some children sought help from local services, including churches or lower-level courts. What they did not have was a service to which they could turn when others could not, or would not, help. We were able to give children the opportunity to speak for themselves, without ambassadors - or adults.
In turning to the Ombudsman, children were never given a promise of success, only an assurance that the Ombudsman would consider their complaint seriously, and do whatever could be done if the complaint seemed reasonable. Children are sensible and rational, often more so when they are not speaking to, or arguing with, their parents. When explanations are given in terms they can understand, children accept arguments against their cause and appreciate the difficulties of achieving results. And finally, but most important of all: children **can** and **do** have an impact. Some of the major cases of the Ombudsman were brought up by children, a few even leading to legislative amendments. This certainly would not have happened without the Ombudsman.
- **Networks:** Another important, but not so visible, effect of the Office was 'bridge-building' - between organizations, between organizations and administration, and between different branches of local and national administrations. Because the Office was unhampered by bureaucratic 'rules of the game' and was independent, it was able to establish unorthodox contacts between sectors. Not connected to the political leadership, it also helped to bridge the gap that might have been created by changing Councils of State. The most important bridge it created, however, was between children and the top-level decision-makers.
- **Changes in rules and legislation:** The ultimate goal of the Office was, of course, to become obsolete, to change attitudes all over the country in such a way that the Office would no longer be necessary. While this goal is undoubtedly unrealistic, we did take small concrete steps towards its realization. Directing our efforts towards circumscribed problem areas, we had a publicly recognized role in achieving the following measures:
 1. Legislation prohibiting physical punishment and physical and psychological treatment threatening the physical or psychological development of children;
 2. Restrictions imposed on the distribution of videos;
 3. New regulations concerning the rights of hospitalized children ;
 4. Raising the age at which young people can be tried and sentenced by adult courts and imprisoned in adult prisons;
 5. Building regulations for safe housing and accident prevention in the home;
 6. Regulations for child safety in automobiles;
 7. National, governmental guidelines for taking the needs of children into consideration in all urban and rural planning;
 8. Legislative recognition of a child's right to know both parents, regardless of their marital status or whether they actually lived together at all after the child was born.

What is obvious from the above list is that none of the changes required a large disbursement of public money. Other, more expensive, proposals - such as creating nursery schools, making school compulsory from age 6 (not 7), lengthening the school-day, and giving children independent rights to social welfare benefits - have not met with success to date.

Apart from these accomplishments, it is not possible to determine whether the Ombudsman for Children has had an overall effect on conditions for children. Considered as part of a larger picture, these changes seem to indicate a tendency for children to have greater visibility and their concerns to be voiced more clearly. Acceptance of new hospital regulations and of child representation on local building boards demonstrate a will to create structures which may have very important consequences in the long term - if implemented seriously. There is no clear evidence that policy makers are paying *considerably more* attention now than they did in the past to the consequences to children of their decisions. But progress has been made. Perhaps our most important achievement was that the needs and interests of children have remained an important consideration within the country even though there are other strong forces counteracting them, including increasing financial

problems at the national and municipal levels and the growing number of elderly in the population.

Important Elements for an Effective Office

Analyses carried out by myself and others indicate that the following principles are important for the functioning of the Ombudsman for Children Office:

1. Established by Parliament, and based in its own Act, the Ombudsman has official status and is permanent until Parliament revokes the Act, regardless of shifting political majorities.
2. In spite of the fact that Parliament established the Office and provides its annual budget, Parliament cannot instruct the Ombudsman. Nor can any other administrative or organizational body or any individual decide what the Ombudsman can do, or how the Ombudsman shall carry out the responsibilities outlined in the Act. The Ombudsman has, by legislative consent, an obligation to criticize any administrative level, group, organization or person (except parents in their role as parents) who disregards or minimizes the interests of children, without taking into account relevant considerations. This means that the Ombudsman can raise issues which others, bound by loyalty to political leadership, cannot. A political majority can stall an issue, but the Ombudsman can counteract this strategy by initiating a process which can lead to an earlier resolution of the issue. Free to choose the most effective way of handling a case or problem, the Ombudsman can alert Members of Cabinet or Parliament or other top-level officials, taking any matter to the highest possible level of consideration. The Ombudsman can also distribute opinions and statements widely to the media, without any prior political consent, thus informing the public of specific instances of disregard for the interests of children and creating difficulties for politicians and decision-makers.

The above two principles ensure the independence of the Office, which, on the other hand, can be limited by the Act and by a small budget (both under the control of the Storting).

3. The right to relieve others of their oath of confidentiality combined with the Ombudsman's right to protect sources of information also contributes to the effectiveness of the office.
4. Finally, the Office has, and must have, the interests of the child - and no other interest - as the starting point, the focus, and the goal of its work. The Ombudsman is thus not suspected of serving any other purpose, particularly since the Office is legislatively and financially independent.

Important implicit guidelines in the work of the Ombudsman have been:

- The Ombudsman must be realistic. He must base all of his statements on factual knowledge, and not on hearsay, feelings or private opinions.
- The Ombudsman must avoid being identified with a political party or being suspected of voicing a political party's opinion.
- Particularly in cases where there is no clear empirical evidence for what really is in the best interest of children, the Ombudsman must be careful to present opinions based on cross-professional knowledge and reasoning.

This does not mean that the Ombudsman cannot give an opinion on issues that turn out to be politically inflammable. For example, the Ombudsman pointed out that all children need peer-group experience before the age of seven and that the availability and content of preschool education is important. No opinion was stated on whether or not nursery-schools and kindergartens should be private or public - a question of heated political debate in Norway.

- Realizing that the interests of children are sometimes inseparable from the interests of parents, and that anything done to enable parents to function more effectively as parents will also be beneficial to their offspring, the Ombudsman supported or suggested measures, such as parental right to paid leave of absence while children are small or sick, and stronger economic benefits for families with young children.

After these pioneer years, I am gratified to note the international interest in the Norwegian Ombudsman as one possible model, or as a starting point for discussions of new models, to monitor conditions for children.

NORWAY: THE PRESENT OMBUDSMAN FOR CHILDREN

Trond Viggo Torgersen

My experience as an Ombudsman for Children is limited to a little over one year. I took up my functions on 1 September 1989 following the term of office of Maalfrid Grude Flekkoy, the first Ombudsman for Children in Norway. The very important groundwork she did was a precondition for the way I can now run the office and work as an Ombudsman. I would like to share with you some information about our work and experiences during this last year.

Mandate of the Office

As can be seen from the Act establishing the Ombudsman's office, we have a very wide mandate. The office's political autonomy is of utmost importance. We are to act as a 'watchdog' for the interests and needs of children in all areas and on all levels of society.

The office can freely choose the subjects and cases to which it wishes to give priority. We have paid particular attention to enabling children to communicate easily with the Ombudsman and his staff. One example of this approach is the Hotline system we have set up which enables children to call us on a special telephone number, almost free of charge, and leave a message on an answering machine which is connected 24-hours a day. Children give us 'messages' on problems and may ask for the Ombudsman's assistance in their cases. It is our experience that children come forward with astonishingly clear perceptions and relevant questions.

In addition to calls on the Hotline, the office has been contacted generally about 5,000 times, counting both letters and phone calls. Both children and adults use the Ombudsman's office. The cases we deal with vary from specific problems to general questions about the welfare and living conditions of children and their families.

To handle all of these cases, we have a very small, but highly qualified staff. Our core staff numbers five, but by tapping different economic sources and reorganizing our budget, we now have a total of nine persons engaged in our office.

Initiatives and Results

It is difficult to evaluate my influence on children's welfare after just one year in office. Concrete results in this area are hard to verify, but I have tried to list some 'symptoms' of progress:

- **Ombudsman Hotline system:** We wanted to strengthen the communication system with children themselves because it is very important for us to be able to listen to children's own experiences, their thoughts and their ideas. We therefore started the Hotline system for children who have opinions and worries, but are not always in need of immediate help. During this first year we have received more than 1,600 telephone calls from children. The age range of the callers has been between 9 and 13 - the youngest was 5. We have also transmitted 22 television programmes. These programmes are seen by approximately 50% of the children between the ages of 10 and 13. We regard this as a very positive sign, more than we had hoped for. Through these programmes we have a unique possibility of communicating with children in a way that has not been done before in the history of the Ombudsman's work. Because of the hotline system, the percentage of children who contact the Ombudsman office has risen from the 10% to 12% registered during the period 1981 to 1989 to a current rate of 30%.
- **Public awareness:** During this year we have worked actively to inform the public about the problems we have in Norway in identifying and giving help to children in crises and to children who are being abused or neglected. We have been interviewed three times by mass media on this subject. We have used our influence in the bureaucracy and political system to put the issue of child welfare on the political agenda.

Barneombudet
P.O. Box 8036 Dep 0030
Oslo 1, Norway
Tel: (47 2) 344990
Fax: (47 2) 349524

Population (1988)	4,200,000
Children under 16	900,000
Core staff	5
Other staff	4
Public funding	\$490,000
Other funding	Nil
Total budget	\$490,000

We also reported three municipalities to the police for breaking the Welfare Act for Children.

As a result of this work, we have been able to bring these problems to the surface and make them more visible. We have also organized two large seminars, attended by politicians as well as professionals, to discuss issues concerning child welfare. We have asked the Department of Justice to examine the Child Welfare Act and confirm whether or not children in crisis situations have a legal right to help.

We have succeeded in making these problems understood at the political level and are aware that there is a political will in the newly-elected government to strengthen the rights of children. We intend to follow up on this work and will not stop working on the issue until all children are secured their right to help and support.

- **A 24-hour Hotline for 'Children in Need of Help':** This spring we took the initiative of establishing a 24-hour Hotline for children in need of help. Now the Norwegian Save the Children in cooperation with the Norwegian Red Cross has decided to take responsibility for opening a similar telephone system for the whole of Norway. This national guard-system will begin in the spring of 1991. In this case our office has served as a link between the government and private organizations and this interaction has resulted in the establishment of a service outside the Ombudsman Office for a special group of children: those in need of immediate help.
- **Other projects:** We are presently concentrating on problems in the school system. In Norway, children start school when they are 7 years old. In the first three grades, they have only 3 hours of classes per day. The parents of most school children (approximately 70-80%) work full-time outside of the home. Because of this time gap, many children spend hours alone at home each day. We are working to 'open' schools from 8.00 a.m. to 4.00 p.m. and to have the curriculum include both educational and cultural activities. We are also trying to strengthen the child research institutions in Norway. Relevant and high-quality research analyzing the living conditions for children is of utmost importance for our work.
- **Future projects:** We also plan to address the following subjects in 1991.
 - children and health
 - children's economic situation/family economy
 - children's relationships with their fathers
 - children's own culture.

Problems and Constraints

Because of the increasing number of enquiries, we are in great need of more staff. We also need more money to intensify our information work. We have problems dealing with all the cases and questions we receive and one of the main challenges we face is selecting the most important issues.

Facilitating Factors

I would list as the most important facilitating factors:

- the autonomy which the Office is given by its Act;
- the right to examine and read all official documents in cases concerning children;
- the cooperation of the press;
- admission to all offices and institutions - such as orphanages, kindergartens, etc.

Principles

I believe that our most important task is to bring children's problems forward and to present them to the authorities. The Ombudsman must be a consultant for children. We can suggest ideas on how to solve problems and we can present facts and research results in public debates and discussions. All changes take time, especially in a democracy. Norwegians have a long history of democracy and this enables us to influence and eventually change the system in order to give children a better life. This is our aim and in this struggle we need to be in close contact with powerful political institutions and with the press.

Reasons for Establishing the Office

El Defensor del Pueblo - or the People's Commission - is a democratic institution set up in 1978. Forerunners of the Commission can be traced back as far as the 15th and 16th centuries when institutions to defend children - El Defensor de Menores - were in operation. Provisions for minors have existed for centuries, and include a special office for the protection of children (El Consejo Superior de Protección de Menores), usually connected to the Ministry of Justice and with juridical competence in cases of juvenile delinquency. The immediate antecedent to El Defensor del Pueblo is the European (and especially Scandinavian) Ombudsman model.

El Defensor del Pueblo
Castelo, 66
28001 Madrid, Spain
Tel: 4314361
4314436

Population	39,100,000
Children under 16	9,000,000
Number of staff	100
Amount of public funding	100%

The People's Commission was created by Article 24 of the Constitution of 1978, and was subsequently modified by Law 3/1981 dated 6 April 1981 and by regulations of 1983. It is a collegiate with a staff of approximately 100, including professional collaborators, administrators and auxiliary personnel. It is a national institution and has seven decentralized People's Commission offices at the regional level. We have found this arrangement to be very effective in our country. The office is responsible for the human rights issues of the entire population, including 39 million minors. During the period 1983-1988 we received 98,000 complaints.

General Mandate of the Office

The purpose of the Commission is to permit dialogue, or to act as a mediator, between the public (nationals and foreigners) and the public administration. The Commission can take action when a fundamental human right (which has been recognized in the Constitution) has been violated by the community or by a public official in his official capacity. The Commission is autonomous and independent from all branches of government:

- **Executive branch:** The Commissioner is not appointed by the government and government officials may not intervene directly in the functioning of his office.
- **Judicial branch:** except in cases of offences which should be judged by the Supreme Court.
- **Legislative branch:** The Parliament nominates the Commissioner for a five-year term of office. His nomination has to be approved by all Parliamentary groups. (Consensus is often hard to reach!) The Office is funded by the Parliament to which the Commissioner must submit periodic reports. Apart from this administrative connection, the Commissioner is autonomous and cannot receive instructions or be prevented from undertaking any action within his mandate. Of course, the Commissioner can be too independent and not be re-elected for another term of office.

The institution has a non-formal approach: it is very flexible and easily accessible to the public. There is no office which mediates between the public and the Commission. This means that complaints can go directly to this office. It is illegal to obstruct communications with the Commission, as for example in the case of censorship of a prisoner's letters. The Commission can handle cases involving the violation of human rights (including children's rights) at any level. The Commissioner himself has, however, no decisional powers and can only mediate and persuade. His mandate is very broad. He is responsible for:

- Receiving, assessing and, if necessary, investigating or referring to other competent offices all complaints,** and raising issues on his own initiative, concerning the violation of fundamental human rights perpetrated by public officials or a public administrative office -including state, community and municipal offices. The Commissioner can intervene in cases involving the military services. He can also intervene in judicial cases, but only if there have been delays or irregularities during a trial which would indicate that due process of law had not been respected. He cannot make statements about the contents or validity of the case itself: he has no judicial powers, he is not a judge, and he cannot modify court

decisions.

- b) **Proposing reforms** in the interpretation of laws and regulations and soliciting new norms which conform to the letter and spirit of the Constitution.
- c) **Denouncing the violation of constitutional rights** if requested to do so by an individual whose case appears to be well-founded.
- d) **Denouncing the unconstitutionality of laws:** This is the most important, complex and difficult task the Commissioner has to handle. He must question laws approved by the Parliament which has appointed him. From 1983 to 1988, the Commissioner denounced seven laws as being unconstitutional and succeeded in five cases to modify the national law. The Commissioner can also propose reforms for sanction by the Supreme Court.

Acting for Children

The Commission's specific authority to defend and promote the welfare of children and youth (up to the age of 18) derives from Articles 14 and 54 of the Constitution and, in particular, from Article 39.4 which validates all international declarations and conventions protecting children. The Convention on the Rights of the Child - which has now been ratified by Congress and is pending Senate approval - will become part of national law once it is ratified. Spain so far has made two reservations, one concerning the age of majority, and the second regarding the provision regulating adoption, eliminating from the phrase "no undue benefit" the word 'undue', that is, no benefit at all.

As stated previously, the Commission can intervene only in cases of infractions to fundamental rights involving the action, or failure to act, of a public official or office.

The Commission may intervene in cases of intrafamilial violence or conflicts. Because such matters are considered private, this is a highly problematic area. However, if the Commission receives a specific complaint of ill-treatment, abandonment or abuse, it can and must make a report to the Public Prosecutor and to the Juvenile Magistrate.

The Commissioner can propose reforms to laws or regulations concerning children and youth, including the handicapped, retarded, drug addicts or young people in trouble with the law. He will also have to review national legislation against the norms of the Convention on the Rights of the Child once it is ratified and indicate which laws are not consistent with the Convention and, therefore, unconstitutional.

Initiatives and Results

While 'Pueblo' or people clearly includes children, the People's Commission received relatively few complaints from children (with the highest number from the 14-18 year-old age group) during the first five years of its existence (1983-87). One reason for this is that there were, and still are, three other institutions directly responsible for children:

1. The Magistrate's Office, including the police;
2. The Attorney General, whose duties include the monitoring of children's rights;
3. The Ministry of Social Welfare, which has juridical responsibility for minors.

The types of cases the Commission handled included:

- Problems in the provision of medical services to pregnant women or infants. Our efforts were one of the factors leading to the notable reduction of IMR which is now 9/1000 and on a level with other European countries.
- Reported cases of ill-treatment within the family.
- Problems connected with schools.
- Sexual abuse.
- Accidents caused by neglect.
- Drug addition and especially cases involving the recruitment of new addicts outside of schools. We intervened jointly with the Narcotics Office.
- Juvenile delinquency, and especially the detention of young people in adult prisons.
- The harmful influence of mass media, including pornography, violence and corruption in films. It is difficult to take action against private television stations, but we have been able to intercede in national networks.
- Problems of youth in the military service.

- The rights of conscientious objectors, a very serious problem which involved contesting the constitutionality of relevant national legislation.
- Insufficient attention to, and welfare provisions for, the handicapped. We handled several cases where the rights of the handicapped were not respected.

Special Problems

Relations with Executive Branch of Government: After 15 years, democracy has made important gains in Spain, but there are still areas which require improvement. One of these is detention policies and conditions within prisons. As Commissioner, I issued a very critical report calling for prison reform which caused an 'earthquake' in public opinion. This naturally led to difficulties in the relationship of the Office with the executive branch of the government.

Relations with the Judicial Branch of the Government: A similar falling out occurred in the Commission's relations with the judicial branch after enquiries into police violations. Difficulties also arose when a court refused to allow the Commissioner to investigate a report of obstruction of justice involving the deliberate delay in the scheduling of a hearing. The Court claimed that only the Ministry of Justice had the authority to intervene.

Relations with the Legislative Branch of the Government: The discussions concerning the constitutionality of laws caused considerable strain in the relations between the Commission and the legislative branch.

General Observations

The following are actions which should be taken to improve the situation of children within each country:

- Promote the rapid and efficient implementation of the Convention and the Plan of Action resulting from the 1990 World Summit.
- Reinforce the monitoring activities of the existing monitoring structures, especially in relation to children and youth.
- Strengthen coordination and cooperation between UNICEF and child-related NGOs, such as the Red Cross, Caritas, Manos Unidas. There is no need for a duplication of activities.
- Strengthen the activities of the UNICEF National Committees for children in their respective countries, without at all diminishing support for programmes assisting children in the so-called Third World.
- Consider seriously the advisability of setting up an Ombudsman for Children office in each country to liaise with the Expert Committee set up by the Convention.

The Children's Defense Fund provides a voice for children in the public policy process, primarily at the federal level. We think that this is important because many groups in America which claim to speak for children in the legislative process often speak for providers of children's services. For example, child welfare workers are more likely to talk about the need for additional child welfare workers than about the needs of children in the child welfare system. We try to represent **only children** in the legislative process.

The Children's Defense Fund
122 C Street, N.W.
Washington, D.C. 20001
USA
Tel: (202) 6288787
Fax: (202) 7837324

Population	245,400,000
Children under 16	56,300,000
Number of staff	90
Public funding	Nil
Other funding	US\$ 7,000,000
Total budget	US\$ 7,000,000

Non-Governmental Status

CDF is a private, nonprofit, non-governmental organization. It could not exist within the government because of the strong cultural mythology of individualism and the long tradition of separation between the family and the state in American society. Overcoming these ideas would be difficult and probably not worth the effort. An American Ombudsman for children is all but unimaginable: it would not work and it would not happen.

Some states have adopted Offices for Children, but, for the most part, they have not worked well. They have not brought together services for children; they have just created another box in state government. State solvency can be a problem. When Dukakis was Governor of the State of Massachusetts, he created a very efficient office which served as an advocate for children in state government and also coordinated state services. Now that Massachusetts is in financial difficulties, the office is being dissolved. Another problem has been staffing by political appointment. One office was largely ineffectual because its Director's only apparent qualification was that she was the wife of a very generous contributor to the political party in power.

CDF is **completely** independent from the government: it has never received government funding, and never intends to, because of the limits such funding would impose on its ability to develop and advocate for policies independently. I feel strongly that if you are going to be a watchdog for children you cannot depend on the government to pay your bills. During his term of office, President Reagan systematically defunded government-supported child advocacy groups. He decided he did not want these people around - these little fleas biting him - and so he cut their budgets. All of these groups were scrambling to protect their own budgets and none was doing budget analysis for children. Because of its independent funding, CDF could continue to do its work.

CDF is financed by private foundations, corporate grants and individual donations. A very large cigarette manufacturer gave us money for work on children's health. When we supported the introduction of a cigarette tax as a way to finance some children's programmes, they asked us to give them their money back, and we did. Now it is part of our policy not to take money from the cigarette or alcohol industry.

CDF is nonpartisan, again because partisanship would limit its independence and blunt its effectiveness. This does not mean that it is not political - it is a very political organization.

Structure of the Organization

CDF has a staff of 90, mainly based at its Washington headquarters; it also has offices in Texas, Minnesota and Ohio. Its budget is a little over \$7 million a year. Structurally, CDF is divided into five large departments:

- Department of Programme and Policy;
- Communications Department (which has a large staff and is divided in two departments - media and publications);
- Department of Governmental Community Affairs (responsible for lobbying activities);

- Administration and Development Department (fund raising and personnel);
- Leadership Development Department (a new department which will develop training programmes in child advocacy work).

Children's Focus

Our method is to view the provision of social services from the perspective of **preventive** investment in children. We believe that it is more humane and more cost-effective to invest in children before they get sick, before they drop out of school, before they get in trouble - and require more expensive remedies. We ask what the cost is of **not** doing things for children. For example:

- When we talk about the Women, Infants and Children programme (WIC), a very expensive federal programme which provides supplemental food and clothes to hundreds of children, we point out that \$1 invested in this programme saves \$3 in short-term hospital costs because children are less likely to get sick if they're well-nourished and clothed.
- When we talk about public funding for day care, we emphasize that providing full public support for child care for a low-income child costs only a third of what it costs to support a mother and child at home on welfare, food stamps, etc.
- When we talk about the Head Start programme, a federally funded preschool programme for low-income 3- to 5-year-old children, we stress that \$1 invested in Head Start saves \$4.75 because children who have benefitted from this programme are less likely to need remedial education when they get to school, less likely to repeat grades, more likely to graduate from high school and go on to higher education.

We say spend money now on children so that society can save money later. This emphasis on costs does not signify that we do not recognize the moral dimension of the problems our nation faces: it is merely much more effective to approach Congress with money issues than with moral issues.

We do not talk to children as part of our organizational function. Many people who work at CDF do volunteer work with children in their free time. Unfortunately, there isn't an institutional connection with children at all.

In the United States advocacy groups have to deal with 'survival' issues because more than 12 million children live in poverty. One in five of all American children - or one in two of all black American children - is poor. We rank 18th in infant mortality (if the black population in America were counted separately, we would rank 28th). We rank 15th in immunization coverage. We have no national health insurance: 35 million Americans, mostly women of child rearing age and children, are uninsured. We have no federal laws requiring employers to pay children's allowance or maternity leave.

Why do we focus on children's issues? This focus was decided by Marian Wright Edelman, our founder and Director. She and other members of the CDF staff were very involved in the Civil Rights and other poor people's movements in the 1960s. By the end of the decade she realized some of the limitations of those movements: they were starting to fall apart and there was a growing backlash against them. To continue to make advances for poor and non-white people in America, she decided to work through children. In the eyes of policy makers, hispanic, black and poor children are much less threatening than hispanic, black and poor adults. Her understanding of the American mythology around children and childhood and her ability to manipulate these sentiments have enabled CDF to modify public attitudes and ultimately make changes in public policy which reach beyond children.

Federal Focus

We focus on the federal level because we do not have staff or money enough to create CDF offices in all 50 states. Another reason for this choice is the existence of other state and local children's groups which already do the kind of advocacy work we would do. There is no need for us to duplicate their efforts.

Strategical and Tactical Choices

Changes in the political climate and advances in 'technology' during CDF's 17-year history have led to a 'layering' of skills, strategies, mandates and messages:

- **Research and publications:** When it began in 1973, CDF was largely a research and publications organization. Its staff naively believed that people would change the way they treated children if they were

shown the facts and given enough information. But publication after publication brought no change.

- **Implementation and litigation:** Then CDF decided that it could make more of a difference for poor children if it concentrated on the implementation and enforcement of laws. During the Johnson and Nixon administrations legislation existed, but it was not fully implemented. Some states were not upholding the law. CDF entered into litigation to enforce laws. Its most celebrated piece of litigation was suing the State of Mississippi because they refused to implement a Head Start Programme. Using Civil Rights compliance requiring the state to serve black children in the programme as its main argument, CDF won the suit and the children in Mississippi got a Head Start Programme. Increasingly, CDF has held back from litigation activities because it does not believe that they are as productive as they once were. Also, litigation requires a lot of technical assistance and costly legal services.
- **Administrative and legislative monitoring and lobbying in the federal budget process:** In 1981, the federal budget became the battle ground for children's issues because many programmes for children were being defunded. We began to lobby very heavily in the budget process and to push very strongly for more money for children. Our publication, *A Children's Defense Budget*, originated at this time. This is put out every year, generally in March, directly after the President submits his budget to Congress. We analyze the president's budget and usually say he has not allotted enough money to education, child care and health and has budgeted too much money for defense. *A Children's Defense Budget* has become a very useful tool: media and members of Congress have learned to depend on it as a sort of institutionalized bench mark to indicate how well the nation is doing on children's issues.
- **Public education and media work:** As part of our lobbying strategy we have learned to be good at media work. I concur that media is very important, but you have to be careful about what you expect from it. Media is very effective in creating public opinions and a climate for change, but you cannot rely on it to make things happen. It does **not** create mobilization and action; it only gives you a context in which to move. For a group with a budget like ours, we do a great deal of media work. We are fortunate that a major advertising firm has agreed to design all our posters and TV and radio advertisements for free.
- **Establishment of state offices:** It was also during the early 1980s that we established our offices in Texas, Minnesota and Ohio. Although most of our work remained centred in Washington and our main focus was still the federal budget, we realized that Mr. Reagan had placed limits on the federal government's role in providing services for children and had shifted a great deal of power to state governments. Initially we thought of the offices as laboratories which would enable us to learn how changes were brought about at the state level. We hoped to be able to transfer the lessons we learned and to develop packages of campaigns for distribution to other states. Unfortunately, we have found that what works in Texas does not necessarily work in Louisiana.
- **Grass-roots organizing:** Four years ago we began to do substantial grass roots organizing, involving extensive travelling, telephoning and faxing. Grass-roots networks are especially important because they are very good at exerting influence on members of Congress. Members of Congress like participating in CDF-sponsored events in their home state; they like taking bows on doing well on children's issues. We have no stick to influence them, we're not yet a threat, but we do have a big carrot to offer which is "go home and keep up the good work: the press will love you and the kids will too."
- **Electoral activity:** The book *Children 1990: a Report Card, Briefing Book and Action Primer* is updated every two years to coincide with the congressional election cycle. It is useful for getting candidates to commit themselves to children's issues while they are campaigning, and then for making them stick to these commitments after they have been elected. We have interviewed several candidates this year, asking them how they would behave on children's issues if they were elected. We intend to become more and more involved in electoral activity, but to do so we will have to create another organization because of tax laws.

Issue Choices

CDF has no formal mandate. As a result, it is very flexible, with a highly-developed ability to respond to changing needs and climates. This does not mean that the institution is free-floating: it does have a very strong moral compass directing its staff and board. When deciding how to direct our advocacy and monitoring efforts, we consider three factors:

1. *How do issues and policy areas effect low-income, non-white and handicapped children?* If the issue has no impact on these groups, we do not handle it. There are many children's issues that do not effect low-income children. For example, unpaid parental leave does not really help low-income children because their parents can not afford to take it. Regulating private and parochial schools is a big topic right now in the United States. We will not get involved in this controversy because poor children can't afford to go to private schools.

2. *What contributions can CDF make? Are other groups already working on the issue?:* CDF, for example, does not get involved in nutrition issues because there is an excellent and very influential group in Washington already working on the subject. Why replicate something that someone else is already doing well?
3. *Is there an identifiable and achievable solution?:* Until a solution can be articulated, CDF does not intervene. We have to let many important issues go by. One of these is education. Public education is in a very unsatisfactory state, but no one has devised a feasible way to improve it. Our policy department is looking at education, but until there is a solution that we can promote and that the public can understand, we will not start work on the issue.

Achievements and Results

This has been an incredibly successful session of Congress for low-income children:

1. passed a bill that will provide \$1 billion annually in child care funding to low-income families. This is the first national child care policy in the United States since World War Two.
2. It voted to expand tax credits for low-income families. This negative income tax will put an estimated \$5 billion annually into the pockets of low-income families.
3. It expanded the Head Start program from the 20% of the eligible children in the nation it currently serves to a projected 100% of all eligible children in America by 1994.
4. It expanded the Medicaid program from children under six to children up to age 18 by the year 2000.

These results are the harvest of years of work. What is behind CDF's success? Some of the **external factors** which have made progress easier are:

- **Popularity of children's issues:** Children and children's issues are enormously popular, at least rhetorically, with politicians and the media. Everyone who is running for office likes to talk about children. The media is also very sympathetic to children's issues, in part because reporters in the United States tend to be young and to have children themselves. Elected congressmen really began talking about children's issues in the 1988 national campaign and they made many promises. As the 1990 re-election campaign approached, we organized campaigns at the grass-roots level and obtained good media coverage. The public held Congressmen to the commitments they had made two years earlier. They had to deliver, and days before their reelection they passed landmark bills.
- **Economy:** Americans are increasingly uneasy about their future economic security. The economy is bad. The child population is dwindling while the elderly population is growing fast. This will signify a shrinking labour pool in the future. People, especially in the business sector, are beginning to understand that if children are not taken care of and trained now, the productivity of the nation will be severely compromised by the year 2000.
- **Competition for domestic issues:** Political parties are competing to be identified with, and control, domestic issues, and children are the most popular domestic issues.

Internal factors which have determined CDF's effectiveness include:

- **Reputation:** CDF has become known, both inside and outside of Washington, as a group that can be believed.
- **Persistence:** We do not take 'no' for an answer. If the door is closed, we push. If it still will not open, we push harder. We do not give up. We worked on the child care bill for five years and it had been defeated twice before it was finally passed. Most people told us we were throwing money away by pursuing this issue, but we did not stop.
- **Willingness to take political risks:** We offend politicians and we don't hesitate to tell them when they are wrong. As a general principle, we avoid getting too involved with politicians.
- **Reliability of research and data:** CDF is often the sole source of data and we are regularly contacted by the press and policy-makers for information.
- **Thoroughness of work.**
- **Pro-active and quick to respond:** Even for an organization as large as we are, we remain nimble. We can make decisions quickly because there are no lengthy procedures involved: we do not have a membership to poll or a Board which has to clear our actions. If Congress says something one day, we can respond to it the next day. This has contributed greatly to our success.
- **Internal creative tension and collaboration between staff:** The different backgrounds of our staff - lawyers, lobbyists, media people, specialists in child care, etc. - create a tension which leads to better

results. For example, the media group might demand a 1-page fact sheet of a 45-page paper prepared by the policy group. This improves the quality of both the fact sheet and the 45-page report. Our lobbyists have to maintain good relationships with members of Congress, while field people tend to be hard on them. We have to let the people in the field handle their own Congressmen. There are many arguments in the staff, which is positive. Priorities are decided by cross-departmental discussions. The staff tries to work by consensus, but it is not always possible.

Limitations

- **Lack of history of a welfare state:** There is a wary attitude in the United States towards government intervention in families. This is coupled with the tax payer's hostility towards, and unwillingness to spend tax dollars on, low-income people.
- **Money:** \$7 million is a lot of money, but it is not enough, and at the same time it is too much: we are getting so big that many old founders do not want to give us money. They are more interested in funding small, experimental groups. We have to look for new sources of income.
- **Lack of data:** The data on the status of children in the USA are poor and it is difficult to make a case for investment in children when you cannot show people numbers. We know more about the number of trout in our streams than we do about the number of children in day care.
- **Management changes:** In five years, the number of staff has doubled from 45 to 90. In the past, we had tended to operate in a very informal way. With 90 people you cannot. CDF has become more bureaucratic, and advocates do not respond well to bureaucracies. We are having growing pains.
- **Government-imposed limits:** Nonprofit organizations are limited to spending up to 20% of their budget on lobbying and electoral activities. If they exceed this amount, they lose their tax-exempt status.
- **Existence of state and local children's organizations which may not share our views:** We had, for example, an excellent plan of action in response to regulations passed by the state of Oregon limiting eligibility to Medicare and affecting many poor families. Local groups had other strategies. We cannot intervene unless local advocates invite us to do so, which, in this case, was unfortunate for many low-income families in Oregon.
- **Limited public attention:** We are not the only 'good works' group in the United States. There is intense competition to capture the public's attention. Faced by so many appeals, the public can reach saturation point.
- **Economy:** There is limited public and private funding for policies, and intense competition for that funding.

JERUSALEM: PILOT PROJECT OF AN OMBUDSMAN FOR CHILDREN & YOUTH

Menachem Horowitz

Reasons for Establishing the Office

The institution of an Ombudsman for Children has at least three roots. Discussion of children's rights has developed as a 'fad' or 'fashion' phenomenon or perhaps as a social movement, similar to the battles for the rights of ethnic minorities and women. Yet children's rights are not as new as we think: Freeman quotes an article on children's rights, written by Slovak in 1852 and published in Knickerbocker 36. The UN efforts to promote the Convention on the Rights of the Child and its subsequent entry into force are outward signs that rights of children have attained 'adult status'.

Ombudsman for Children and Youth
c/o The Hebrew University of Jerusalem
Faculty of Law
P.O. Box 24100
Mount Scopus, Jerusalem 91905
Israel
Telex: 26458

Population	4,800,000
Children under 18	1,900,000
Number of staff	2

A second root is, in part, probably the result of a process of democratization. There is a spreading of what Hill called 'ombudsmania' in many areas of life: hospitals, prisons, newspapers. Israel is considering appointing an ombudsman for the elderly.

A third aspect is the public's need to seek alleviation from sufferings caused by bureaucracies, which are considered to be inaccessible, inefficient, and inhumane.

The Pilot Project

Ombudsmen are supposed to right individual wrongs, humanize administrative relationships, bring about administrative reform, serve as a watchdog against abuse, and suggest changes in legislation.

In Israel, the first and only Ombudsman was appointed in the late summer of 1986 by the Mayor of Jerusalem within a public council for children, and was financed by the Van Leer Foundation. The appointment was at first for an exploratory period of two years, and was later extended until February 1990. The questions to be asked are:

1. Why is an Ombudsman needed?
2. What are the parameters of his activities?
3. Does he need legal powers?
4. To whom is he responsible?

The advantages of being a 'freelance' ombudsman for an experimental period are considerable. It is possible to investigate, and deal with, all complaints without constraints. For example, I established two principles for myself. I considered each complaint to be genuine until proven otherwise. Of course I knew that I might be used, exploited or manoeuvred. I dealt with every small complaint - no drama, no headlines - because this was a real, modest contribution to the quality of life. If all small complaints could be dealt with successfully, there would be fewer big complaints. Maybe this is not just an interesting hypothesis. My second principle was that the ombudsman can learn first-hand, through the complaints reaching him, what the problem areas of children and youth rights are, and define practice-based proposals for changes in policies and legislation. At least in the case of Israel, most social legislation is based on ideologies (a cluster of ideas resistant to change), sometimes on theories, and very seldom on experience.

There are of course disadvantages to being a 'freelancer'. Legal status is lacking. Cooperation is, to a large extent, voluntary. The 'sex appeal' of the institution and moral power do not always work. "Love is not enough" (Bettleheim). Bureaucracies do not like outside intervention and prefer to investigate complaints relating to their performance by themselves, if they can help it, and rationalize why this should be so.

My legal status was rarely questioned, but I knew that I had no power, for example, to visit public or private child welfare institutions, or to examine their files, without prior consent. I found a lot of cooperation at the top

of bureaucracies (Ministers, director generals) and on the part of workers in the field who saw me as an ally working to bring about change. Resistance came, if at all, from supervisors in the child welfare and education system. They considered themselves as mini-ombudsmen and saw the intervention of an 'outsider' as a signal of failure in their own functioning.

Functions and Initiatives

During the first 30 months, I received 800 complaints, 30% from Jerusalem. I do not know what part of the universe of complaints these represented. I can only affirm that numbers are a function of publicity: the more publicity, the more complaints. Shall we encourage complaints as a matter of public policy or only inform the public that we are at their disposal?

What does a youngster do if he has a complaint? Like an adult, he has several options, depending on his cultural context. As patterns of complaints differ, so do channels of complaints. (I am not sure you can compare Norway, Costa Rica and Israel, for example.) These are the options as I see them:

- Do nothing, 'eat yourself' and perhaps develop psychosomatic symptoms, such as an ulcer.
- Revolt against society which has given you a bad deal by permitting delinquency, violence, vandalism. (Often cases of vandalism in schools can be explained by concrete complaints.
- Use formal channels: Supervisors, complaint boards within organizations, visitors boards, local authorities, government agencies, ombudsmen, etc.
- Organize petitions and demonstrations.
- Appeal to mass media: Newspapers, radio and T.V.
- Appeal to members of Parliament, also 'mini-ombudsmen' or full official ones as in West Germany.
- Use informal channels based on 'connections', family or ethnic groups, religious groups or professional organizations. Use social or political pull (or 'protektzia' in Israel). The Mayor of Tel Aviv related an anecdote about a young American woman who had just immigrated to Israel. "I have never heard about 'protektzia'. Could you explain what it is and how I could get some?" Reply: "In the north of the city they pick up the phone, in the south they pick up chairs. The step from pull or "protektzia" to illegal means (bribes, illegal favours) to obtain redress is often a short one.

What people essentially want is to set right what is wrong. They want relief from inequity and injury. They are not always seeking justice but often some form of satisfaction - not necessarily material compensation, perhaps only an apology.

As far as I know, no research has been done on what channels of complaints are used by which people, for which complaints, under what circumstances.

Most of the complaints that I received were against education authorities and the schools; fewer involved welfare, consumer affairs, the police, traffic authorities, etc. They can be grouped as follows:

- **Violations of existing laws, ordinance and administrative orders:** Specific complaints were against the publication of identifying details identifying children involved in court proceedings; the transportation by school buses of children in numbers forbidden by law; body searches by authorities of children suspected of shoplifting; the body search by a teacher of a 12-year-old girl suspected of stealing money; assault on children by policemen; expulsion from school without justification; fraud of children in lotteries; child labour; and sexually abused or battered children (whose numbers are increasing).
- **Policies:** People protested against the abandonment of newborn retarded children in hospitals, the lack of supervision of foster parents and child care institutions, and the fees charged by schools for special services.
- **Children's rights:** Young people contacted me to appeal for additional rights, such as the right to participate in committees concerned with children's affairs, the right to open bank accounts, the right to have an abortion without parental consent, and the right to participate in the selection of textbooks that they will have to use.
- **The behaviour of adults (and especially teachers) towards children:** Students contacted me to complain about the interference of teachers in their private lives (the case of a religious girl who was dating a non-religious boy) or about the insensitivity and seemingly deliberate cruelty of teachers (a teacher who confiscated and read out to a mixed class a note from a 12-year-old girl to a friend asking for a sanitary pad as she had started her first period, or a teacher who tells students who cannot afford to go on a planned two-day outing to "go to the welfare bureau".)

Other Ombudsman functions included acting as a mediator between children, mostly adolescents, and their teachers, employers, social workers and public and private agencies; acting as a 'pusher' of agencies to provide more effective, or quicker services (as when a nine-year-old boy with a very acute problem was put on a three-month waiting list without evaluation of his problem); listening and giving advice, not really an ombudsman function, but people appealed to me and, when necessary, were referred to other agencies; and assisting children in divorce proceedings, especially with regard to rights of access.

Examples of initiatives I carried out as Ombudsman include:

- providing legal aid to children arrested by the police on criminal charges (95% of all children who appear in juvenile courts are not represented by a lawyer; 90% admit the offence);
- initiating a campaign against the participation of children in lotteries;
- focusing public attention on the sale of alcohol to youngsters under 18 in violation of the law.

I would say that 60% of the complaints I received were justified, 30% were not and in the remaining 10% it was impossible to decide.

Philosophy

- We have to give priority to children's rights, because usually children cannot protect their own rights: they have no part in the political process, are powerless, and often do not understand decision-making.
- If the interests of grown-ups and children clash, children tend to be the losers. In some parts of our society, children are objects of care and protection, and not individuals who have rights (for example, the right to privacy or the much-debated right to be represented independently in court proceedings). They have the right to be different. "Children are more grown-up than we think." (Frank Musgrove)
- Do parents have the right to bring up their children as they think fit, as long as they observe the laws of the land? Are our own values irrelevant? When is the State entitled to interfere in the autonomy or privacy of the family? This brings us to the question of investigations of child abuse. The message now heard in many countries is, "When in doubt, don't wait: act!" Should we judge according to our own moral standards in, for example, matters such as the sexual behaviour of adolescent girls, including the pill and abortion as birth control measures? Most legal codes, at least in Israel, leave much to the interpretation and judgment of those appointed to start proceedings and apply the law: the police, social workers, probation officers and judges.
- Most advocates of children's rights do not concern themselves with children's duties and obligations. Is there any connection between rights and duties? For example, criminal responsibility starts in Canada at the age of twelve and in Israel at thirteen, but in neither country are youngsters at the same age permitted to open a bank account without parental consent. The UN Convention on the Rights of the Child does not, perhaps rightly, concern itself with the duties and obligations of children. It can be argued, however, that the availability of choice - if, where and when to complain - gives you control over your life and destiny: it is part of your freedom and your human rights.

Other aspects of social philosophy are the arguments between: not enough and too much state intervention; sometimes part of legislation, sometimes public policy. Examples are:

- Protection of children, victims of their parents.
- Protection of children from abuse of authority and power by public officials in care proceedings: for example, justice model versus welfare model in juvenile justice.
- Are we protecting children or their rights?
- What is 'in the best interest' of the child is often debatable!

The introduction of an ombudsman for children should not be a 'symbolic' scheme in order to wave with a 'progressive flag' and establish an 'ultra modern social institution'. An Ombudsman's handling of complaints should be pragmatic and intuitive, flexible and sometimes improvisational. The main criticism, of course, from a legal point of view, is that all of this may come at expense of the strict observance of the rules and regulations in the books.

When children and youth complain, or their problems are the issue, the time factor in dealing with them is all important in my experience. I tried to show a 'non-bureaucratic' face. If a complaint was received by phone, I returned the call within 24-48 hours. I gave interim information about how I intended to deal with the

complaint. I am as accessible as possible. Citizens and youngsters very often have bad experiences in dealing with bureaucracies in this respect.

Some argue that rights without services are meaningless. (Paulsen, in a remark about child abuse). "No law can be better than its implementation. No implementation can be better than resources permit." I would argue that legislation of children's rights can be a driving force to establish better services and secure resources. In Israel it is not so much that legislation is lacking, but that it is not enforced. Roscoe Pound once remarked, "altering the laws in the books achieves nothing if the law in action is not altered".

It may be, in my country and perhaps in yours, that if we enforced all existing laws all of the time, life would be insufferable. The solution to the population explosion in legislation could be: for each new law, the legislator will be required to abolish an old one.

Finally, the social philosophy of a country towards its children will decide what kind of complaints an ombudsman receives. Is his role preventive, a form of limited intervention, a cure of all injustice to children, a spokesman for children? I don't know the answer today - hopefully tomorrow.

SOUTH AUSTRALIA: THE CHILDREN'S INTERESTS BUREAU

Sally Castell-McGregor

Reasons for Establishing the Office

Like most concepts, the idea of establishing an independent bureau to protect children's interests has evolved gradually. As part of the general background, it must be pointed out that there is a long tradition of 'firsts' in welfare and law reform in South Australia - for example, votes for women, homosexual law reform, etc. South Australia was the first State to return massive tracts of land to Aborigines.

Children's Interests Bureau

68 Grenfell Street
Adelaide SA50000
Australia
Tel: 2267052

Population		1,345,945
Children under 19		410,662
Number of staff		9
Public funding	US\$	288,350
Other funding		Nil
Total budget	US\$	288,350

In the early 1970s, there was an immense Renaissance of social reform. This included a complete revolution in juvenile justice. A consensus was reached that it was not right to just lock up young people, and this concept was subsequently reflected in legislation. It was felt that there was a need for assessment, - that is, to probe the reasons that led to a child getting into trouble and to evaluate his or her best interests when determining the nature of the sentence.

The first recommendation for an independent office for children came from Professor Leon Mann, who had conducted a review of client views of welfare services in 1978. While he did not speak with children, he made the point that children were the 'involuntary consumers' of welfare. He argued that children subject to state intervention needed an independent advocate to protect their interests. This concept was taken on board by all political parties and the International Year of the Child in 1979 gave the view an added impetus.

Mandate of the Office

The Children's Interests Bureau became a reality in May, 1983. It consists of a permanent staff of 9 and ministerial appointments to the Bureau. Our backgrounds are varied and include experience in welfare service delivery, academia and policy analysis. The appointed members, taken as a group, represent a range of experience and expertise in education, law, welfare, health, trade unions, community work, etc. The Bureau serves South Australia, which has a population of 1.3 million, with one million people living in Adelaide alone. The population is mixed - Irish, Greeks, Italians, Vietnamese, etc.

Under Section 26 of the Community Welfare Act, the Bureau has the following functions and duties:

- to increase public awareness of the rights of children, and of matters relating to the welfare of children, by the dissemination of information, or by any other means the Bureau thinks appropriate;
- to carry out research or conduct inquiries into such matters affecting the welfare of children as the Bureau thinks fit or the Minister directs;
- to develop within the Department such services for the promotion of the welfare of children as the Minister directs;
- to monitor, review and evaluate the policies of the Department in relation to children;
- to carry out such other functions as the Minister may assign to the Bureau; and
- to report in writing to the Minister, in accordance with his directions, on the work carried out by the Bureau.

In carrying out its specified functions, the Bureau is partly subject to the direction of the State Minister of Family and Community Services, to whom it is responsible and from whom it is partly independent. While strict interpretation of the Act confines our role to 'welfare', the Bureau in fact tackles almost anything *provided* there is a rights issue involved. The Bureau assumes it can effect changes and has taken up matters involving health, education, the environment and family law.

Recent amendments strengthen the Bureau's advocacy role further. An independent review of child care law in South Australia prepared in 1986 echoed the Bureau's views that there was a need for clear professional guidelines and practice principles to monitor the issue of reunion of children with natural parents after long periods in foster care. It was clear that legal powers were needed to provide an independent child's rights focus separate from that provided by the Department for Family and Community Services which had to balance other competing interests. The culmination was the decision by the government to establish, by law, the Child Advocacy Unit, within the Bureau. This Unit came into being in March 1988. Its primary role is to monitor critical intervention points when 'In Need of Care' proceedings are contemplated, and to be present at reviews of children in care, particularly where there are significant changes proposed, such as variation of access, placement or return home. The Unit provides independent advice to the Minister of Family and Community Services in respect of any child 'In need of Care' or who is under State guardianship. In addition, it provides a consultancy service to other professionals and lawyers acting for children. This is quite a unique approach - combining some aspects of the guardian *ad litem* concept with ongoing external monitoring and reviewing powers.

The Children's Interests Bureau provides an independent voice for children, particularly those in the health, education and welfare systems. It is approached by individuals for assistance in many different circumstances. A common denominator of many of the cases we handle is the powerlessness of children when they come into contact with the institutions set up ostensibly to assist them. They are not often consulted about major decisions affecting them and have little redress when systems fail them. Children's interests are often subsumed by adult demands or adult views.

Children can be physically punished in the private school system - abolition of corporal punishment, where it has occurred, applies only to state schools. They can be victims of teacher's behaviour management problems. Children are disadvantaged when they allege abuse. Legal processes there to ensure 'justice' simply do not extend to accommodate children. Children in State care can be moved at adult will from place to place, and racial ideology can interfere with children's emotional and physical well-being. Children can be subjected to methods of treatment and control to which they cannot or do not consent. Even though access to a parent is regarded as a child's right, courts remain reluctant to deny a parent access, even when this action is justifiable.

Children and their parents or carers need somewhere away from the bureaucracy (which they mistrust or feel let down by) where their perceived injustices can be listened to and acted upon. Last year 1300 individuals contacted us for assistance with their problems. There is no question that this is one of the most important functions of the Children's Interests Bureau.

Results

The Bureau has raised awareness of developments in children's advocacy both nationally and overseas. It has put children's rights on the national map by commenting publicly or in submissions on issues affecting children. Its representation on key groups and committees, nationally and locally, provides the opportunity to influence and educate in a number of areas. Examples are:

- Save the Children Fund Board
- National Advisory Group on Paediatric Aids
- South Australian Council on Reproductive Technology
- Australian Early Childhood Association
- Ethics Committees
- Human Rights Commission: National group to monitor how Australia meets standards set in the UN Convention.

Some major achievements in three key areas of the Bureau's activities are outlined below:

1. **Law Reform:** The Bureau has had a major impact on law reform in South Australia and is deeply committed to seeking change in legal systems which disadvantage children. It made major submissions to the review of the child welfare law in South Australia, many of which were adopted fully. We were represented on the South Australian Government's Task Force into Child Sexual Abuse and its subcommittees, and our presence continues on the State Council on Child Protection and its committees. Advice was provided to the Attorney-General during the debate on changes to the Evidence Act and the Children's Protection and Young Offenders Act and Community Welfare Act. We urged changes to the

Justices Act in the wake of the distressed calls from parents about children's declarations not being accepted.

The Bureau has prepared policy submissions on a number of matters, including access in child sexual abuse allegations, homeless children, young people and prostitution, the family support scheme, adoption and the Aboriginal placement principle. It has influenced law reform in such areas as Family Law (Federal), Children's Evidence, and State Child Welfare Law. It led a national debate on the interests and rights of children with AIDS in 1986-87 and took part in policy development in this area. It spearheaded a campaign to have corporal punishment prohibited in South Australian schools: it is to be banned in 1991.

2. **Information:** The Bureau has been identified as a place with information about children's rights locally, nationally and internationally and it cooperates with universities, colleges and schools, providing a specialist library to encourage projects, etc., on advocacy for children. Working in conjunction with the legal studies curriculum advisers in the South Australian Education Department, information packages are being prepared for use in legal and social studies courses.

One of the Bureau's principal duties is to increase public awareness of the rights of children. There has never been any question in the Bureau's mind that a constructive and mutually useful relationship with radio, press and television is essential if we were to achieve this aim. The Bureau's media profile has increased concurrently with its reputation as a source of informed comment about a number of children's interests matters and as a source of information about overseas developments and current research. Virtually every media outlet in South Australia and several major interstate newspapers have approached the Bureau as a source of immediate information. This can be in connection with a current newsworthy item, feature articles or education programmes. The Australian Broadcasting Corporation, for example, used Bureau expertise in its national programme "Young People and the Law". We have been asked about a number of issues affecting children - divorce and access, child suicides, child abuse, corporal punishment, segregated schooling for Aboriginal children, child welfare law and teenage pregnancies. National television programmes on child abuse have used the Bureau as a consultant on content and post-programme counselling for viewers.

While the Bureau enjoys a positive relationship with the media, it also adheres to the principle that 'freedom of the press' must carry with it a degree of accountability and responsibility. This is particularly the case in any reporting involving children who have little or no say in what is said or written about them. The Bureau has taken up the issue of ethical reporting with several media outlets and the Australian Broadcasting Tribunal. The way certain 'human interest' stories involving children are sensationalized under the guise of social concern is something that concerns us. We have protested about such matters as children being interviewed and identified when they are victims of abuse or caught up in circumstances over which they have no control.

The Bureau organizes seminars on topical matters affecting children. These have included "Children, the Media and Standards", "International Law and How it Affects Children's Rights" and "Children as Witnesses". Its members do a lot of public speaking, especially in meetings organized by schools, political parties, and parents' groups. We led public debate on the Convention on the Rights of the Child.

The Bureau also produces quality publications for parents and children, such as a guide in simple language on how the law in South Australia affects children, guidelines on handling access in the wake of parental separation, baby-sitting guidelines and practical information to children whose parents have separated entitled "When Mum and Dad Split Up". Our most recent publication is a guide for abused children who have to give evidence in court.

3. **Research:** Co-operative academic research with university and professional colleagues has resulted in publications on family law, doctors' knowledge of child sexual abuse recognition, professional liaison in child sexual abuse management, to name a few. A major policy document on female circumcision has been accepted by all State social welfare departments as the basis for a uniform policy. Our policy paper on the management of paediatric AIDS has likewise provided the basis for a national policy.

What is Not Working So Well?

One of the things I have always felt was not working well were the limits imposed by the fact that the Bureau was established under the Community Welfare Act. The South Australian Government has now agreed to establish the Bureau under separate legislation. This will be introduced into the South Australian Parliament very soon. Because of the legal restraints of being responsible to the same Minister as the Statutory Welfare Department, we have no independent voice in the Children's Court should we disagree with statutory authority plans for a child. Our contact with young people should be improved.

Important Principles

Why has the Children's Interests Bureau been so successful in fulfilling its mandate? Some of the reasons are:

- **Legal 'teeth':** The Bureau is established under an Act. Its legislative basis gives it - for want of a better word - some guts and a degree of independence from the government.
- **Credibility:** The public and professionals quickly identified the Bureau as a place to go with 'rights' questions in whatever area (law, ethics, welfare, mediation, complaints). Through that most important tool - word-of-mouth - it was soon realized that the Bureau would **act**.
- **Staff:** A committed and hard-working staff team, supplemented by a talented and respected independent group of Advisors appointed by the Minister, has enhanced the public's view that this is a highly skilled group made up of people with reputations of excellence in their field and a known commitment to children.
- **Focus:** The bureau has a unified philosophy and a single focus - children and young people.
- **Resistance and determination:** We will not give up if we think an injustice has been done or is about to be done.
- **Cooperation:** We are not experts who fix everything. Cooperation is our preferred way of working. There are a number of other organizations in child advocacy whose efforts we back. There is no need to duplicate. We have also been very fortunate to work in a climate of genuine concern. All the statutory authorities with whom we have contact (notwithstanding that we have no investigative mandate) have been responsive to our suggestions. There is the political will to support the Bureau's work both financially and on a personal level, from our Minister (and our previous Minister), from the Government and from the opposition parties.

Conclusion

I hope that the discussion in this paper illustrates how one State has taken action to promote children's rights within one framework. Advocacy for children takes many forms and we have, by design or circumstances, taken a particular focus. Most advocacy groups for children in Australia and overseas are voluntary (though most receive government funds). A few, like ourselves and the Norwegian Ombudsman for Children, are statutory. From my experience working close to government, taking up politically sensitive matters involving children (particularly when there is a perceived conflict of rights), I am convinced that inroads into government processes and decision-making are essential to effect genuine reform and change. We have chosen to work for reform from within the system, rather than pursuing other means - like public exposure - which may gain headlines for five minutes but do little to educate and change.

A common trait shared by all advocacy groups is a fundamental commitment to seeking a better and fairer deal for children. Yet good will is not enough. - More is needed to ensure that children are treated fairly, throughout Australia, for advanced reforms in one state do not necessarily translate across borders. What sort of national impetus will achieve this?

- There must be greater recognition of the importance of the family as the primary institution which nurtures children. This means adequate financial support, housing and health care. Organizations like the Australian Council of Social Services and the Institute of Family Studies are tireless advocates for equity in resource allocation for families.
- We need a Ministry for Children at a national and state level, which has direct responsibility for matters concerning children. Too often children's needs are lost at the political level, subsumed by other interest groups. Western Australia should be congratulated as it alone has taken this path and has a Minister for the Family.
- We need statutory offices - maybe along the lines of the Norwegian Ombudsman for Children - which have a focus on children's rights and can investigate complaints. They should have the power to recommend to the Ministry for Children such measures for law and policy reform as their investigations reveal.
- All government institutions concerned with children should prepare a Charter of Rights and Responsibilities for Children. This should be developed hand-in-hand with complaint procedures. The many educational issues raised with the Bureau demonstrate this need, particularly in the private school sector where there is no redress and no proper mediation system.
- All groups involved in advocacy for children need to maintain links. We find these local, national and international links very helpful in the pursuit of a common goal.

- We need specialist lawyers who can act for children in the courts and uphold their basic human rights. Part of this drive includes recognition of child welfare law as a respectable study in Law Schools and postgraduate training for lawyers wanting to act for children, together with a campaign for network of children's legal centres such as the highly effective example in London.

Yet, none of the above will ultimately matter unless there is political will - a willingness to value children and respect each child as "a person and not an object of concern".

Reasons for Establishing the Office

Our Ombudsman-like institution has been working for a little over one year. It is part of a tradition of established in each of the provinces to deal with patient-hospital relations and consumer affairs. There is also a general commissioner for people who have conflicts with the public administration, the so-called *Volksanwalt*. A general characteristic of all of these offices is that they are critical towards the decisions of the administration and other official bodies.

Kinder-und Jugenanwalt
Sobieskigasse 31
Vienna, Austria
Tel: (222) 341556

Population	1,500,000
Children under 19	270,000
No. of staff	2
Public funding*	100%
Other funding	Nil

*Funding consists in salaries of two civil servants

During the last few years, there seems to have been a steady increase in the public's interest in the situation of children. Perhaps we are beginning to have a sense of remorse about the heritage we will leave behind. One sign of this growing interest is that the media are taking up children's issues with greater frequency: practically every week we have reports on abuse, neglect, youth gangs or drug addiction. The publication of the Convention on the Rights of the Child, which Austria has not yet ratified, has also led to a greater focus on children. A social movement has crystallized around the Convention, creating a great deal of public discussion of children's issues.

One result of this climate was the enactment, after years of discussion, of a new national Youth Welfare Law which contains improvements for foster parents, provisions for research and, in general, more regard for the needs and opinions of children. This law includes one small paragraph which introduces for the first time the concept of a *Kinder-und Jugenanwalt* (KJA), which literally translated means a solicitor or lawyer for children, and which can be roughly translated as 'ombudsman'.

With regard to the legal position of the KJA, we are confronted with a typically Austrian approach. Legally, we have very little competence, but politicians decided to allow us to function freely, to evaluate this experiment and then to decide whether to expand the functions and competence of the Office. The advantage to this approach is that the Office will be defined by practical experience and not vice versa. One disadvantage is that the present 'provisional' structure could become a permanent solution.

Functions

Under the terse provisions of the Youth Welfare Law, the KJA is allowed to give counsel and assistance to young people under 18 and to their parents in cases of disagreements with the welfare and education system. The law limits us to dealing only with single cases, and not with broad issues.

With the introduction of this law, the Head of the provincial Office of Youth and Family decided to open a two-person office. Our activity is confined to Vienna. Actually, each of the nine provinces in Austria has had a year to decide how to implement this law. This has given us time to influence others - policy-makers, social workers and child advocates in Vienna and the other provinces - and to work out a proposal based on our experiences and on international models.

After one year, reactions from the provinces have varied greatly. Tirol, which is conservative, has decided to abolish the position of KJA. Salzburg, on the other hand, is examining the possibility of an expanded model which would consist of an Ombudsman, an advisory panel with representatives from all welfare systems, and a Children's Commission with representatives of each of the four political parties. The main function of the Children's Commission would be to review proposed and existing legislation to determine if it is consistent with the interests of children.

Despite our size and lack of legal competence, therefore, politicians and experts in various fields are very interested in the Vienna office and have, in general, accepted it. In the meantime, we are making the best of this Austrian system, trying to help create KJAs in other provinces and waiting for reactions.

Politicians are establishing regional or provincial Ombudsman offices first and, on the basis of this experience, will decide whether to establish a national Ombudsman for Children. There is a 'wait and see' attitude.

Initiatives and Results

I am by profession a psychologist/psychoanalyst and my colleague is a social worker with a law degree, a combination of backgrounds we find very useful. Our salaries are paid by the Youth and Welfare Office but we have no discretionary funds for research, equipment, etc. Thus, we have a two-person office in Vienna, - sometimes a secretary - and no budget. What can two people do, or not do, under these circumstances?

The moment we introduced our office to the public, the name itself began to work to an extent which we had not foreseen. We were flooded with calls. On the whole, people understood the concept and had confidence in the Office. There were, however, some misconceptions. Parents who sought our advice regarded us as a non-bureaucratic institution, although it was evident that we were part of the Magistrate's office. Some, attracted by the name, thought we were lawyers, some sort of solicitors for children. Others found it difficult to understand that our mandate did not include broad children's issues, but was limited to specific cases. Many children and parents felt that we ought to be responsible for the general needs of children. Their many requests for a wider intervention than permitted in our mandate have helped us to develop a better concept of an Ombudsman.

Single cases are, thus, the basis of our work. Many complaints involve the Office of Youth and Families to whom we are directly responsible. We provide information enabling people to negotiate the huge and extremely complicated bureaucracy in Austria - the welfare system alone has more than 6,000 employees. We are contacted for clarification of specific laws, for advice on visitation rights and especially for information on questions relating to guardianship. Some cases can be very complex, for example, decisions made by the Welfare Office to separate children from their parents. If we feel the decision does not represent the best interests of the child, we may dedicate a lot of time to following up the case.

We are also confronted with problems which have nothing to do with the youth welfare system: mainly problems faced by urban children, such as traffic and lack of playgrounds. We have also been contacted about the specific problems of refugee children. It has become increasingly clear to us that the Office should not be attached to one department of the welfare system, but should have a broader mandate.

We have a children's help line in our office. This line is manned by volunteers who provide information about school and leisure, whereas problems involving the welfare or judiciary systems are passed on to us. 83% of the calls received are from adults, 17% from children. We are not satisfied with this ratio and are seeking ways to develop greater contact with children.

We are especially concerned with violence (bodily and structural) towards children. It has become evident from calls we receive that there is practically no one in charge, that no one can really help in cases of abuse. Social workers, if informed, are required to file police reports. A purely therapeutic approach, moreover, gives no guarantee that the abuse will not continue. We felt that it was within our monitoring competence to press for an independent centre for children who are victims of abuse - a so-called *kinderschutzzentrum* - where children and parents can go without fear of being reported to the police and where they can stay, even for long periods of time. We organized a panel of experts, including therapists, paediatricians and paediatric nurses. Our main task was to convince the Magistrate to finance the project, at least in part, and to agree to it being set up as an independent enterprise, and not as another section of the official welfare system. Because of contacts with the media and good relations with politicians, we were successful: the Centre will be established in January 1991.

We also decided to pay particular attention to sexual abuse, which is a very emotionally-loaded issue. There is a lack of information on the subject and a need for greater coordination of therapists. There is also a need to set standards for court proceedings which sometimes make matters worse for the sexually-abused child. To address these problems, we organized three different workshops. One group - composed of social workers, psychologists and therapists - meets regularly to discuss their practical experiences in the treatment of sexually-abused children. A second group is preparing information packages to advise people who are directly confronted with sexual abuse on what to do, where to go, and who to talk to. A third group - which includes lawyers, judges, public prosecutors, social workers and an official from the Ministry of Justice - deals with the problem of legal proceedings which are often embarrassing and degrading for the child.

We have also organized a conference on sexual abuse, to be held in December 1990. Its purpose is to try to define the socio-political background of sexual abuse and to examine the specific problems men have which lead them to violate children sexually.

Complaints concerning playgrounds - insufficient or damaged equipment, dogs, no space or no playgrounds at all in certain areas - have led to another working group. We have invited mothers from several districts to discuss these issues regularly in our office. Our first task has been to clarify the general situation of playgrounds in Vienna. We will then make a list of actual problems and specific complaints which we will present to decision-making bodies. Two psychology students have offered to carry out relevant research, including surveys of children and mothers in playgrounds.

Two months ago, we took up another issue. Incidents in refugee camps alerted us to the problems faced by refugees. The Ministry of the Interior is planning to send 7,000 Rumanian refugees back to their homeland and to a very uncertain future. Liberal politicians and the church are opposed to this solution. About 12,000 Rumanians have come to Austria (since the so-called revolt), including 300-400 unaccompanied youth who have been placed in camps, families, or have gone underground. Our Office, in collaboration with the UN High Commissioner for Refugees, will conduct a study on this group, collecting information on what made the adolescents flee, their physical and mental conditions and how they can be integrated into Austrian society.

Another activity of our office has been the provision of information through the media. We have established good contacts with the main newspapers, radio stations and television networks. Through these channels we have been able to have access to the public and to advertise our Office. The media have published information at our request.

We have also paid particular attention to networking, mainly by contacting officials right through the hierarchy of the extremely complex bureaucratic system of Austria and by keeping in touch with colleagues working for children at the 'grass roots' level.

Our Office has been strengthened beyond the expectations of the authorities by the collaboration of volunteers. As outlined above, we depend on them to assist us in many of our activities - the telephone contact line, workshops, surveys, studies, etc.

Constraints

We have no budget, we lack equipment and we are dependent on volunteers to work for us.

Our mandate is too narrow. We are limited by a single-case focus and by our connection to one administrative body. The KJA is an 'across the board' task involving various fields of work with children and should not be limited to one specific area of intervention. Moreover, because we are attached to the Magistrate's office, we have had to exercise considerable diplomacy to avoid unnecessary confrontation, particularly in cases involving this office directly. We have had to convince social welfare workers that our job is not to control their work, but to look at the structural defects behind a case.

We also need more independence. We must obtain prior clearance for contacting policy-makers or even for attending meetings. The length of time it takes to obtain formal permission can compromise our effectiveness.

Principles

Our work is guided by the following principles:

- Different requests require different solutions, and we must be flexible in our dealings with the public.
 - We always give a realistic picture of our position, informing people who contact us that we are not a decision-making body.
 - We always try to put the child's interest first and to see things from his or her perspective: parents often wrongly assume that their interests are the same as their child's.
- We seek the active involvement of children: they are able to articulate their needs and wishes, but will not contact anonymous institutions. By making our office accessible to children, we have taken a first step towards an efficient representation of their interests.

- We try to motivate callers to do something themselves: their readiness to act is often the best indication of the chances of success of a particular case.
- We always talk over possible approaches with 'clients' and obtain their consent before taking action.
- We try to be direct and non-bureaucratic. It is important not to speak abstractly, but rather to give concrete, well-founded opinions.

A trap we tend to fall into as beginners is to become over-identified with the job. Because of the Office's overall responsibility, one can take on a missionary character. In my opinion, the qualities most needed for an Ombudsman are dedication and flexibility.

Some Summary Impressions

Gary B. Melton

The UN Convention on the Rights of the Child is a statement, which should not be monumental, but which is - that children are people. It has a recurrent underlying theme - respect for the dignity of children - which unifies traditional child-protectionist ideology with concerns of self-determination by children. It offers a new, philosophically coherent, framework for making child policy that is applicable within developing and developed countries, as well as within ratifying and non-ratifying countries. If fully implemented, the Convention would transform the social order, not only politically, but even at the level of social relationships.

In terms of a discussion of monitoring, the Convention must also be seen as a document which activates political structures for the formulation and implementation of child policy. It need not be a document of the law to provide a framework. One possibility is having professional organizations adopt the Convention as a standard of principles which guide their relations with children. It can, in fact, reach the level of professional standards and therefore affect the customary law of a country without being enacted into national law.

I would like to suggest elements which would need to be accomplished within a complete programme of monitoring. Not all of them would have to be met by the same mechanism, and it may even be impossible to do so. The mechanism should ensure that:

- Children, parents, practitioners and policy-makers are informed about children's rights under the Convention.
- Children themselves are heard, that there is, in fact, a literal voice for children in identifying what their concerns are and what their own experience has been of the way the government in particular, and society as a whole, relates to them.
- Data relevant to child policy are gathered. Research would include the generation of descriptive social indicators - where children are and what is happening to them - as well as indicators concerning the status of children, their perception of their own status, and the limitations on children's rights. These limitations have often been based on myths about children, usually a presumption that children, and particularly adolescents, are less competent decision-makers than, in fact, recent research has established they are able to be.
- Results of research are made available to the public, policy-makers, and practitioners who deal with children.
- Mechanisms are created to ensure that this information is taken seriously both in policy and in practice.
- Information is gathered about the performance of policy-makers and practitioners who deal with children or children's issues. This information should not concern the positive or negative outcome of their actions as much as whether the process has respected a child's dignity. A moral message about their worth and status is communicated to children by the way they are treated. For example, children are very concerned about not being given feedback on what is happening when legal matters pertaining to them are pending. They must not only 'have a say', but also 'feel that they are being heard', that is, that they are being taken seriously, treated politely and with respect.
- Information is gathered about the quality of services that are actually delivered. In many cases, the services which are most likely to be paid for and delivered are those which are least likely to be effective. There is no relation between the service outcome research and the range of services that, in fact, is available.
- Such information does not stand in a vacuum, but is fed back to policy-makers and practitioners.
- Policy-makers and practitioners - particularly but not limited to those in the public sector - are held accountable for their behaviour. Where there is a discrepancy between what is supposed to be delivered and what actually is, someone will have to respond. Advocacy efforts themselves are evaluated, and information is communicated back to the advocates and to potential and actual users.
- Whatever mechanisms we create should ensure that knowledge is transferred in a manner which is comprehensible, useable, and consonant with the truth.
- The status of children is assessed at the neighborhood level.

There are three theories of human nature and law that could be applied to monitoring. One notion is that people are fundamentally nasty. In this case, the monitoring mechanism should offer carrots and sticks; it should, in other words, embarrass or punish politicians when they have not done the right thing. This approach is reflective of deterrence theory. Research has shown, though, that legal remedies generally are too remote to be very effective in altering behaviour. The second notion is that people are basically good. If people know what they are supposed to do, they will try to do it. According to this theory, a monitor should serve to educate citizens about norms within the community. The third notion, and the one I believe is most constructive, is that the law creates structures that make the community what it is. An example is the way urban streets are organized, with traffic lights and street signs placed so that people 'naturally' drive on the right side of the road. Following this approach, we should create structures that make it difficult to do anything but behave in a way that is consistent with children's dignity.

To follow the latter two theories in practice, formal monitoring mechanisms must accomplish two things. In the first place, they must establish a **set of standards** that remind people about their moral obligation to respect children. Secondly, they must create **structures** to ensure that children's interests are met. Much of what we are talking about here is the creation of structures that will themselves create structures, just as the Norwegian Ombudsman for Children resulted in the creation of a planning law that in turn results in consideration of children's interests at the local level.

When considering the task of monitoring, it is useful to distinguish between *case management* (often the focus of intra-governmental advocates) and '*humanization of administrative structures*' (activity directed toward transformation of societal response to children). Indeed, the scope of monitoring should extend beyond formal structures to the nature and level of community involvement by and on behalf of children. In that regard, planners must decide the level of activism to be incorporated in monitoring. When the monitor has gathered information about children's status, is the subsequent role one of information-giving or persuasion? Should the monitor seek to diffuse the information actively or should he simply make the information available to those seeking it? Whatever the precise scope of the monitor's work, the mechanism should be efficient.

What Have We Learned?

Where Do We Go From Here?

Frans Spiesschaert

"What have we learned?" is the first question I have been asked to deal with. Should I concentrate on models, as the title of the seminar suggests? I don't think so. Even the Norwegian model was in the balance all the time until it was finally established.

"Where do we go from here?" is the second question. We are indeed, after today, supposed to go to work in working groups. What kind of basis will I take with me from these two days? Is there a common base to be found for the three working groups? Let me try to point out some elements.

A first element could be the **aims** of the kind of activities that were presented. Those aims should certainly imply trying to affect policies on whatever level, and on all possible issues related to children, and criticizing them from the specific angle of children's interests. An advocacy office certainly cannot be only a social service where relief is sought in individual cases, although individual cases are an important source of information.

A second element concerns questions such as "Why that kind of office?" and "Why at this moment of history?" So this element concerns **backgrounds and motives**. These are the driving powers of the office. I placed them into four groups:

- First there is a **pragmatic** background. In practice, the principle of the 'best interests' of children - which is considered the most important and ultimate guiding principle on which authorities should base their decisions - does not work, because these decision-making processes are always influenced by well-organized and powerful pressure groups. If the interests of children really are to play a role, they need a separate voice. The lack of such a voice leads to all kinds of problems, as children remain mere objects of care.
- A second motive is rather of a **moral** kind. It is the simple fact that children are human beings. Therefore, their interests need to be taken into account as much as the interests of other human beings.
- In the third place, there is also a **theoretical** motive which has been mentioned several times. This refers to sociological as well as to psychological data, and it can be summarized as follows: children do have separate interests and are competent to give expression to them. Thus the need for contact with children themselves.
- In the fourth place, there is also an important **human rights** background. The UN Charter states that respect for human rights is the best guarantee for peace and democracy. Since the time the Charter was drafted, the content of human rights has been extended and the number of human rights instruments has been rapidly growing. Children are - as human beings - entitled to those human rights, including participation rights, and moreover, to special rights in order to guarantee that their special needs will be met. Besides their reactive function, i.e. preventing those rights from being violated, those rights have a pro-active function, which means a formal basis for questions such as "Can we do better and, if so, how?" Improving conditions for children, therefore, has become a permanent task and is closely related to a legal protection function. Preventing rights from being violated is closely related to a social control function.

A third element that I found important to recapitulate concerns some major **strategies** or, in other words, important **characteristics** of the actions of the office:

- Firstly, **authority** is of great importance and it seems that it can be created by not getting involved in individual family conflicts or in party politics; by focusing the level where the important decisions regarding children are taken; by being well-informed and reliable; by acting on single issues; by acting with persistence, etc. There are many factors that contribute to the authority of the office. Independence, about which much has been said, is one. It does not seem to be a formal characteristic but rather a characteristic of the functioning of the office. Motivations, therefore, need to meet high moral standards in the sense that children are the only point of reference for the office. Practical suggestions or solutions, on the other hand, need to be, above all, reasonable.
- A second important characteristic seems to be to pay a great deal of attention to the **creation of**

public awareness. Changes can be realized by law, but usually legislation is a reflection of changes in public awareness and public opinion. When legislation concerns children, it is indicative of a greater public willingness to take into account the interests of children. Different actions can stimulate a growing public awareness. Public discussions can be both a tool and an outcome.

- A third characteristic is the avoidance of isolation, or, in other words, the **creation of alliances** and networks with other actors in the field.
- Finally, another important characteristic is, in one way or another, **the creation of a sounding-board for the ideas and feelings of children themselves**, which permits children to become more visible, both as a strategy and as an effect.

These were some of the 'headlines'. Exchange of experiences is one of the goals of this meeting. Those experiences have been very rich, varied and coloured through local circumstances. Where do we go from here? The question seems to come up again. Let me finish with a few questions.

Is there incompatibility between working for the promotion of the interests of children and getting involved in a critical way in the monitoring process of the Convention? Should the monitoring process be carried out only by the State, which is officially responsible? This poses the problem of being judge and party at the same time. Is there - to find some inspiration in an idea which has already been realized in some countries - a need to set up watchdog committees of experts on all levels of decision-making within a country? Is there a need for separate structures for children themselves? Can Article 12 of the Convention, which gives children the right to express their views on all matters that affect them, be interpreted as a suggestion in that direction?

ANNEX 1: AGENDA

Venue: International Child Development Centre, Florence

Dates: 27 November - 1 December 1990

Purpose: To examine existing mechanisms for monitoring conditions for children, particularly in relation to children's rights. Analyze strengths and weaknesses. Focus on important principles for making models work effectively. Develop ideas from similar or new models, particularly in view of different countries and cultures.

Tuesday, Nov. 27 Morning Chairperson: Bilge Ogun

9:00 - 9:30	Welcome	J. Himes
9:30 - 9:45	Introductory Remarks	
9:45 - 11:15	Which conditions for children need monitoring most in our countries? Our experience. Three minute presentations from each participant.	
11:15 - 11:30	Coffee break	
11:15 - 12:45	The status of the Convention, ratification process and consequences for ratifying/non-ratifying countries of monitoring, surveillance, registration of conditions and rights for children. The Expert Committee on the Rights of the Child.	P. M-Olssen
13:00 - 14:30	Lunch	

Tuesday, Nov. 27 Afternoon Chairperson: Gary Mellon

14:30 - 15:30	The Norwegian Ombudsman for Children	M.G. Flekkoy
15:30 - 16:30	Costa Rica: El Defensor de la Infancia	M. Viquez
16:30	Coffee Break	
16:45 - 17:45	New Zealand: The Commissioner for Children	I. Hassall
17:45 - 18:30	Discussion of National, Statutory Ombudsmen for Children	

Wednesday, Nov. 28 Morning Chairperson: P. Quisumbing

9:00 - 10:00	South Australia Children's Interests Bureau	S. C-McGregor
10:00 - 11:00	Jerusalem: Ombudsman for Youth	M. Horowitz
11:00 - 11:15	Coffee Break	

11:15 - 12:15	The Viennese Ombudman for Children	M. Singer
12:15 - 13:00	Discussion of Regional Ombudsmen Offices	
13:00 - 14:30	Lunch	

Wednesday, Nov. 28 **Afternoon** **Chairperson: E. O'Kubasu**

14:30 - 15:30	Spain: El Defensor del Pueblo	J.R. Gimenez
15:30 - 16:30	A NGO Working for Children: The Children's Defense Fund	A. Wilkins
16:30	Coffee Break	
16:45 - 18:30	What have we learned? Where do we go from here? Preliminary Summing Up Discussion	G. Melton F. Spiesschaert

Thursday, Nov. 29

9:00 - 13:00	Workshops: Constraints and positive factors for establishing monitoring mechanisms in different countries at different levels. Which constraints can be overcome? How?
13:00 - 14:30	Lunch
14:30 - 18:30	Workshops: Guidelines or principles for establishing monitoring mechanisms. Are there guidelines which might be useful regardless of level of monitoring, or are some principles useful only for some types of mechanisms or in some countries, but not others?

Friday, Nov. 30

9:00 - 13:00	Workshops: Alternatives to existing models.
13:00 - 14:30	Lunch
14:30 - 18:30	Preparation of Workshop Summaries

Saturday, Dec. 1

Chairperson: M.G. Flekkoy

9:00 - 13:00	Reports from Working Groups Conclusions and Recommendations
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ANNEX 2: LIST OF PARTICIPANTS

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