

**Innocenti Working Paper**

**THE ROLE OF CIVIL SOCIETY IN  
IMPLEMENTING THE GENERAL  
MEASURES OF THE CONVENTION  
ON THE RIGHTS OF THE CHILD**

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**IWP 2010-18**

**JUNE 2010**

## Innocenti Working Papers

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June, 2010

ISSN: 1014-7837

This paper examines the particular role and impact of civil society in implementation of the general measures of the Convention on the Rights of the Child. It provides insights into the experience and actions of a number of organizations and countries involved in the promotion and protection of children's rights and gives recommendations for further engagement of civil society in these endeavours. The research reported here was generously funded by the Government of Italy.

*For readers wishing to cite this document, we suggest the following form:*

Vučković Šahović Nevena (2010), 'The Role of Civil Society in Implementing the General Measures of the Convention on the Rights of the Child', *Innocenti Working Paper* No.2010-18. Florence: UNICEF Innocenti Research Centre.

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# The Role of Civil Society in Implementing the General Measures of the Convention on the Rights of the Child

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**Summary:** This paper examines the role of civil society in the process of implementing the general measures of the Convention of the Rights of the Child, as defined in article 4 of the Convention and its General Comment No.5 (2003). While it is established in international law that States parties are the primary duty bearers to promote and protect children's rights, the Committee on the Rights of the Child has also recognized that other actors, including children, have a right and need to be engaged in this process. An examination of the variety of definitions provided of 'civil society' reveals that it includes, *inter alia*, non-governmental organizations (NGOs), community groups, women's groups, environmental movements, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations and advocacy groups.

Drawing on the author's experience in civil society organisations and her membership on the Committee on the Rights of the Child (2003-2009), **the findings show that civil society plays an important role in the implementation of the CRC, and that NGOs, in particular, play a vital role. NGOs operate in** different legal, economic, social and political settings, which results in varied modalities of work and impacts.

The paper draws attention to the wide issues and challenges affecting civil society today, including financial crises, poverty, globalization, and varying levels of political commitment. Based on the examples provided, many of which draw on the concluding observations of the Committee on the Rights of the Child and case studies of civil society activities, the paper lists recommendations for follow-up by key actors. In so doing, this paper seeks to provide concrete recommendations to government, the Committee, and actors at national, regional and international level.

**Keywords:** Convention on the Rights of the Child, civil society, NGOs

**Acknowledgments:** The process of producing this Innocenti Working Paper began in July 2009. It has been greatly informed by my long engagement with civil society in Serbia, in particular, and Central and Eastern Europe, more broadly. In addition, my previous membership in the Committee on the Rights of the Child, and the work I was able to carry out in this capacity and with civil society informed the drafting of this paper.

I am very grateful to Yanghee Lee, the current Chairperson of the Child Rights Committee, who, in addition to her constructive feedback, was a great supporter of this study from the very beginning. Further, I wish to thank the peer reviewers, Eva Geidenmark (Save the Children Sweden), Enakshi Ganguly Thukral (Haq: Centre for Child Rights), Birgitta Jansson (Sida), Dan O'Donnell, and Vanessa Sedletzki (UNICEF IRC) for their substantive comments and feedback.

This paper would not have been possible without the commitment and support of a number of colleagues from the UNICEF IRC, including; the former director, Marta Santos Pais, Susan Bissell and Lena Karlsson. It also benefits from discussions, comments and inputs provided by David Parker, Saudamini Siegrist, Karin Heissler and Susanna Nordh. I wish to also thank Claire Akehurst, for administrative and logistical support.

This report also benefits from informal consultations and discussions held with the NGO Group for the Rights of the Child, CRIN and many national coalitions and NGOs. A timely and constructive event which occurred during the development of this paper was my visit to Sida in Stockholm, in December 2009, where I presented an early version of this study. I thank the organizers for the opportunity to exchange views on this important subject.

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# 1. INTRODUCTION

The Convention on the Rights of the Child (CRC) is the most comprehensive human rights instrument for the promotion and protection of the rights of the child. It is the first international instrument to include the economic, social, cultural and civil rights of children. It is also the most widely ratified of international human rights treaties. Its broad reach and wide ratification and accession make it a unique and important tool for the advancement of children's rights. Nevertheless, more than 20 years after its adoption, three key questions may be asked: How much impact has the CRC had on children's daily lives? How far has the enjoyment of their human rights been advanced? And, what role has civil society played in this process?

With these questions in mind, this paper examines the impact of civil society on the implementation of the Convention on the Rights of the Child.<sup>1</sup>

## 1.1 Background and Aims

International law identifies States as primary duty bearers, including in the promotion and protection of children's rights. However, other important actors also play a role as duty bearers, such as inter-governmental organizations, international and national non-governmental organizations (NGOs), parents and other individuals who have responsibility, be it legal, social or moral. In this regard, civil society (defined in section 2) has played an important role in the implementation of the Convention.<sup>2</sup> This paper focuses on the role of civil society in ensuring the effective application and enforcement of the provisions of the CRC.

This paper analyses and reflects on the positive experiences and challenges facing civil society in its endeavours to assist States and other actors in implementing the CRC and to advocate for those efforts. The study does not assess the performance of individual States parties with regard to child rights. Rather it is intended to provide insights into the experiences and actions of a select number of countries that have recently been considered by the Committee and other examples collected as part of this research.

The findings are expected to be of relevance to governments, the Committee and actors at national, regional and international levels as they work to further this important agenda and support civil society in its key role. The paper also provides civil society, including children and adolescents, with examples that demonstrate how they can engage in CRC implementation.

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<sup>1</sup> The paper draws on the author's two-plus decades of research and practice in human rights and the promotion and protection of child rights, notably in civil society building efforts, and her membership on the Committee on the Rights of the Child (the Committee) from 2003 to 2009.

<sup>2</sup> See for example UNICEF website on the 20 years of the Convention on the Rights of the Child, available at: [www.unicef.org/rightsite/237\\_241.htm](http://www.unicef.org/rightsite/237_241.htm), accessed on 3 June 2010.

## 1.2 Methodology

The study involved a review of States parties' initial and periodic reports considered by the Committee between 2007 and 2009, together with its concluding observations. An examination of more than 400 reports submitted to the Committee so far is beyond the scope of this study, and it has been necessary to limit the number of countries for review. The scope, countries and the period of consideration was chosen to be representative, though the paper also reflects some promising examples reported before 2007.

As a result the case studies and examples presented may not be universally representative or replicable, and the findings are not always based on evaluations or broader impact assessments.

This paper has also been informed by research undertaken by the UNICEF Innocenti Research Centre (IRC) on the general measures of implementation of the CRC.<sup>3</sup> In addition a desk review was carried out of materials submitted to or documents issued by the Committee, including:

- Documents submitted by State parties to human rights treaty bodies;
- State parties' replies to issues raised by the Committee before oral examination of their reports;
- Summary records of Committee meetings;
- Alternative reports submitted to the Committee;
- Statements or briefings to the Committee by United Nations agencies;
- Concluding observations of the Committee;
- Committee's General Comments;
- Days of General Discussion and other recommendations adopted by the Committee

Materials prepared in the context of major international child rights conferences and movements have likewise been reviewed. Information was also gathered from reports of other human rights treaty bodies to the Committee and documents on children developed by United Nations agencies, such as UNICEF country office annual reports and country profiles by the Office of the High Commissioner for Human Rights. Information gathered from civil society and web pages of these organizations further informed the work.

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<sup>3</sup>The United Nations Children's Fund Innocenti Research Centre publications consulted in this study include: United Nations Children's Fund Innocenti Research Centre, *The General Measures of the Convention on the Rights of the Child, The Process in Europe and Central Asia*, Florence, 2006; United Nations Children's Fund Innocenti Research Centre, 'Law reform and Implementation of the Convention on the Rights of the Child', *Innocenti Insight*, Florence, 2007; United Nations Children's Fund Innocenti Research Centre, *Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*, Florence, 2009; United Nations Children's Fund Innocenti Research Centre, *Summary report of the study on the impact of the implementation of the Convention on the Rights of the Child*, Florence, 2004; United Nations Children's Fund Innocenti Research Centre, 'Reforming Child Law in South Africa: Budgeting and Implementation Planning', *Innocenti Case Studies*, Florence, 2007; United Nations Children's Fund Innocenti Research Centre, 'Independent Institutions Protecting Children's Rights', *Innocenti Digest*, Florence, No. 8, June 2001; Alston Philip, and Tobin, John, 'Laying the Foundations for Children's Rights - An Independent Study of some Key Legal and Institutional Aspects of the Impact of the Convention on the Rights of the Child', *Innocenti Insight*, Florence, 2005.

This paper examines the role of civil society in implementation of the Convention on the Rights of the Child, but not of the two Optional Protocols to the CRC (the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography).<sup>4</sup> Nevertheless, given the indivisibility of human rights and the value of a holistic approach, many civil society organizations do not separate their work on the CRC from that on the Optional Protocols.

The CRC and its Optional Protocols are not alone in formally acknowledging the role of civil society in protecting and promoting human rights. The list of the treaties that acknowledge the role of civil society is extensive. For example, The Statute of the International Criminal Court: Article 15 (2), Article 44 (4); The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: Article 74 (4); United Nations Convention on the Rights of Persons with Disabilities, Articles 32 (1), 33 (3). States parties are therefore obliged to promote civil society and to cooperate with its various types of organizations, though it is not within the scope of this study to assess the role of civil society in implementing those instruments.

While it may not be possible to argue that civil society has had a direct and distinct causal effect on implementation of the CRC, the analysis in this paper suggests how and in what ways it is reasonable to attribute partial causality. Moreover, it is possible to observe and comment on trends regarding civil society involvement in implementation. In addition to providing analysis, this study will also show that more research is required, particularly on trends regarding implementation of each of the general measures. Also needed is more systematic evaluation of the impact of civil society actions on the lives of children.

## **2. WHAT IS CIVIL SOCIETY?**

‘Civil society’ has many definitions. The United Nations Development Programme (UNDP) defines it as “a third sector existing alongside and interacting with the state and private industry”.<sup>5</sup> UNDP takes a broad view of the term, considering Non Governmental Organizations as an important part of civil society.

The working definition of the London School of Economics Centre for Civil Society is also noteworthy:

Civil society refers to the arena of uncoerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power.

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<sup>4</sup>As in the case of the drafting of the CRC, NGOs participated in the drafting processes as well in monitoring, implementation and raising awareness on the issues covered by the two Protocols. See for example, United Nations Children’s Fund Innocenti Research Centre, *Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*, Florence, 2009.

<sup>5</sup>United Nations Development Programme (UNDP), *Engagement with Civil Society*, and information available at: <[www.undp.org/partners/civil\\_society/](http://www.undp.org/partners/civil_society/)>, accessed on 25 May 2010.



Civil societies are often populated by organisations such as registered charities, development non-governmental organisations, community groups, women's organisations, faith-based organisations, professional associations, trades unions, self-help groups, social movements, business associations, coalitions and advocacy group.<sup>6</sup>

Development cooperation agencies have also formulated working definitions of civil society. For example the Swedish International Development Cooperation Agency (Sida), defines it as “an arena, separate from the state, the market and the individual household, in which people organize themselves and act together to promote their common interests”.<sup>7</sup> According to Sida, civil society organizations include NGOs, community groups, women’s groups, environmental movements, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations and advocacy groups.

For the United Kingdom Department for International Development:

‘Civil society’ broadly means the groups and organizations which occupy a position between the household, the state and the private sector. They include non-governmental organizations (NGOs) as well as think tanks, trade unions, faith groups, social movements and community groups.<sup>8</sup>

Concerning child rights organizations, Save the Children Sweden has defined civil society as:

...citizens who act collectively and voluntarily in an organized way in order to express or promote a common interest or opinion. Civil society is an organized sphere in the public space between individuals and their private households and the state along with its various institutions.<sup>9</sup>

Mindful of the breadth of these definitions, this study views civil society or civil society organizations broadly, as including NGOs and any other associations or organizations that are non-profit and independent from the State and that act in an organized way to promote common interests.

The growth of civil society has been seen as significant globally in recent years. UNDP notes that:

...over the last decade there has been a considerable increase both in the number of CSOs and in the scope of their activities and that they are playing an increasingly

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<sup>6</sup>Centre for Civil Society, London Schools of Economics, *What is Civil Society?* Information available at: <[www.lse.ac.uk/collections/CCS/introduction/what\\_is\\_civil\\_society.htm](http://www.lse.ac.uk/collections/CCS/introduction/what_is_civil_society.htm)>, accessed on 23 March 2010.

<sup>7</sup>Swedish International Development Agency (Sida), *What is Civil Society?* Information available at: <[www.sida.se/English/Partners/Civil-Society-/Civil-society-organisations/](http://www.sida.se/English/Partners/Civil-Society-/Civil-society-organisations/)>, accessed on 19 March 2010.

<sup>8</sup>UK Aid, Department for International Development, *Civil Society*, information available at: <[www.dfid.gov.uk/About-DFID/Who-we-work-with/1/Civil-society/](http://www.dfid.gov.uk/About-DFID/Who-we-work-with/1/Civil-society/)>, accessed on 25 May 2010.

<sup>9</sup>Geidenmark Eva, Section for Knowledge Management and Development, Rädda Barnen (Save the Children Sweden), *Thematic strategic framework 2009 – 2012: A Civil Society for the Rights of the Child and Human Rights*, Stockholm, 21 February 2008, p. 2.

influential role in setting and implementing development agendas across the globe. A strong civil society enables people, especially vulnerable groups, to influence public policies at national and local levels.<sup>10</sup>

According to the expert Salamon M. Lester, this growth is similar to that during the creation of nation states in the 19th century. Civil society organizations are sometimes considered the ‘third sector’, after government and business (respectively), in their influence on the political life of states. In the United States, for example, the most important social campaigns have originated in civil society, such as those for human rights, women’s rights, the environment and consumer protection.<sup>11</sup>

The broad development and growth of civil society is likely related to the decline in traditional forms of political participation, such as voting and membership in political parties and trade unions. This phenomenon is understandable given the diminishing confidence being expressed in traditional institutions. Many people increasingly believe it is their own responsibility to bring about change, even at the grass-roots level. Involvement in civil society organizations can support individual creativity and vision. Participation in an organization such as an NGO may provide opportunities for members to take initiative in specific ways, sometimes faster and with fewer bureaucratic impediments than could a government department. Such individual inputs therefore can play an important role in building civil society. Depending on the country or region, this participation may even open avenues towards greater political involvement, representation and democracy.

The development and growth of the Internet and other information and communication technologies has enabled unprecedented communication and opened new avenues for civil society to play a role in CRC implementation. Social networking sites can serve as a space for young people to exchange ideas, thoughts and information about upcoming events.<sup>12</sup> A Facebook search resulted in over 500 results for youth groups and organizations engaged in networking. An example is the Amnesty International Youth Program; in which Facebook members can join its Facebook membership group.

In some less democratic political environments, civil society organizations have played an important role in their nation’s history and transition to democracy. For example, civil society groups flourished in Eastern Europe after massive political transitions in the late 1980s, when opportunities opened for individual initiative as an essential ingredient in democratization. Civil society organizations also contribute to maintaining established democracies.<sup>13</sup> They have played an important part in promoting and protecting children’s rights. International NGOs such as Plan International, World Vision, Amnesty International, Save the Children and Defence for Children International, along with many international campaigns, coalitions

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<sup>10</sup>United Nations Development Programme, *What is Civil Society?* Information available at: <[www.undp.org/partners/civil\\_society/](http://www.undp.org/partners/civil_society/)>

<sup>11</sup>Lester, M., Salamon, ‘The Rise of the Non profit Sector’, p. 109, *Foreign Affairs*, July/August 1994, NO. 73411, New York.

<sup>12</sup>Information available at: <[www.facebook.com/group.php?gid=2227663820](https://www.facebook.com/group.php?gid=2227663820)>, accessed on 22 April 2010.

<sup>13</sup>This trend is observed in States parties reporting to the CRC Committee, in particular with regards to cooperation with civil society.

and initiatives have advocated for States to comply with their obligations as signatories to the CRC and other human rights treaties.

It would be an impossible task to list all of the tens of thousands of child rights organizations around the world, although some data are collected, for example, in the Yearbook of International Organisations.<sup>14</sup> Lists of child rights organizations are provided by the Child Rights Information Network (CRIN), which links more than 2,100 organizations in 150 countries<sup>15</sup>, and the NGO Group for the Convention on the Rights of the Child, a network of 80 national and international organizations.

This paper focuses on the positive role that civil society plays in implementation of the CRC. Yet not all civil society organizations are independent of government, democratic, well-organized or well-intended. They may also compete with other groups in the same area of work, for funding or for government endorsement. Some examples will be discussed in which civil society may not have been effective in promoting and protecting children's rights or where there may be risks or obstacles.

## 2.1 Modes of work

Civil society groups working for child rights operate at local, national, regional and international levels through diverse modalities. They provide services (such as non-formal educational activities), raise awareness and perform advocacy and/or research, so their role in supporting implementation of the CRC takes a number of forms. Some activities identify and expose problems and setbacks in implementation of the CRC; in these cases such groups may represent a challenge to States by revealing realities that governments would rather conceal.

Some organizations have a specialized focus. They might address the rights of children with disabilities, refugees, or victims of violations such as sexual abuse. Some of these organizations are interest groups such as women's groups, parents' associations, organizations of people with disabilities, indigenous people's groups and associations of paediatricians or attorneys.

Civil society groups also work at regional and sub-regional levels. The African Child Policy Forum, for instance, is a pan-African policy advocacy centre based in Addis Ababa that works on knowledge, advocacy, policy development and capacity-building.<sup>16</sup> Some civil society organizations are national, such as the Child Rights Centre Belgrade (Serbia), the Child Rights Information and Documentation Centre in Malawi and the Korea Council of Children's Organizations.<sup>17</sup>

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<sup>14</sup>*The Yearbook of International Organizations* provides the most extensive coverage of non-profit international organizations available today. Directly reflecting a dynamic international arena, it contains entries on 60,000 CSOs in 300 countries and territories, in every field of human endeavor, see: <[www.uia.be/yearbook](http://www.uia.be/yearbook)>, accessed on 25 May 2010.

<sup>15</sup>Information available at: <[www.crin.org/about/index.asp](http://www.crin.org/about/index.asp)>, accessed on 25 May 2010.

<sup>16</sup>Information available at: <[www.africanchildforum.org](http://www.africanchildforum.org)>, accessed on 25 of May 2010.

<sup>17</sup>Information available at: <[www.kocconet.org.kr](http://www.kocconet.org.kr)>, accessed on 25 May 2010.

NGOs often form coalitions, either permanently or temporarily, for a specific issue or activity, such as elimination of corporal punishment or juvenile justice reform. National permanent coalitions may also engage in joint efforts across borders. For example, Argentina, Paraguay, Brazil and Uruguay held an audience before the Inter American Commission for Human Rights regarding juvenile justice.<sup>18</sup> The process of alternative reporting to the Committee on the Rights of the Child has encouraged NGOs to build coalitions to draft alternative reports on CRC implementation and to monitor implementation of the Committee's recommendations.<sup>19</sup>

International NGOs play an important role in supporting the implementation of the CRC. Some work both internationally as well as domestically, such as Save the Children Sweden, which works in eight regions, while also being very active in Sweden. Save the Children Sweden is also part of Save the Children Alliance.<sup>20</sup>

Some human and child rights NGOs work only internationally, such as the International Service for Human Rights or World Organization against Torture. Both are based in Geneva and regularly follow the work of the Committee. The World Organization against Torture also submits alternative reports on children to other treaty bodies, such as the Committee against Torture and the Human Rights Committee.<sup>21</sup>

Some international and national organizations form strategic coalitions in a range of areas, such as to push for the implementation of the CRC and other international treaties or for particular provisions in a convention. As mentioned above, the NGO Group for the Convention on the Rights of the Child, for example, is a network of 80 international and national NGOs working together to facilitate CRC implementation. It was formed in 1983 during drafting of the Convention; since that time, it has supported monitoring and implementation of the Convention and its Optional Protocols.<sup>22</sup>

Child Rights Information Network (CRIN), a global network for children's rights, undertakes advocacy campaigns and leads international children's rights coalitions, striving to make human rights enforcement mechanisms accessible for all.<sup>23</sup>

Many human rights organizations have extended their mandates to include a specific focus on implementation of the CRC. For example, Human Rights Watch has become active in child rights,<sup>24</sup> and Amnesty International works to end recruitment of children into armed forces and to stop discrimination against vulnerable children, such as Roma children.<sup>25</sup>

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<sup>18</sup>Information available at: <[www.colectivo infancia.org.ar/V2/es/audiencia-cidh-2008.php](http://www.colectivo infancia.org.ar/V2/es/audiencia-cidh-2008.php)>, accessed on 25 May 2010.

<sup>19</sup>For country by country information on the NGO coalitions and their reports on the implementation of the CRC, information available at: <[www.crin.org/about/index.asp](http://www.crin.org/about/index.asp)>, accessed on 25 May 2010.

<sup>20</sup>Information available at: <[www.savethechildren.se/About-Us/](http://www.savethechildren.se/About-Us/)>, accessed on 24 June 2010.

<sup>21</sup>Information available at: <[www.omct.org](http://www.omct.org)>, accessed on 25 May 2010.

<sup>22</sup>Information available at: <[www.childrightsnet.org](http://www.childrightsnet.org)>, accessed on 25 May 2010.

<sup>23</sup>Information available at: <[www.crin.org/about/index.asp](http://www.crin.org/about/index.asp)>, accessed on 25 May 2010.

<sup>24</sup>Information available at: <[www.hrw.org/en/category/topic/children%E2%80%99s-rights](http://www.hrw.org/en/category/topic/children%E2%80%99s-rights)>, accessed on 25 May 2010.

<sup>25</sup>Information available at: <[www.amnesty.org/eng/children](http://www.amnesty.org/eng/children)>, accessed on 25 May 2010.

A review of State party and alternative reports to the Committee reveals that service provision is the most common activity undertaken by civil society organizations, in particular those working on a grass-root level. For example, with regard to the Moldova Report, the Committee noted the:

...active participation of the NGO community in providing social services to families as well as the collaboration between governmental institutions and NGOs, including through cooperation in the area of juvenile justice.<sup>26</sup>

Advocacy preoccupies many civil society organizations, and is carried out in many forms, from village campaigns to global movements. Such organizations need to build their skills to become strong advocates for child rights, in terms of both thematic knowledge and organizational skills. NGO involvement in CRC implementation also includes monitoring, research and data collection.

International and national organizations in many countries work to develop and train civil society, enabling state-wide participation in implementation of child rights. For example, Save the Children organizations work in many countries in cooperation with national and local groups. Over the 2009-2012 period it is supporting mobilization of civil society actors and states, from:

...working in conflict and disaster situations to further [...] engaging community-based groups, non-governmental actors, informal networks, etc and strengthening their capacities to claim their rights.<sup>27</sup>

The past decade has seen growth in children's organizations, some established and run by children and adolescents themselves. Awareness has been growing that children can play a key role in realization of their rights.<sup>28</sup> In General Comment No. 12 (2009) on 'The right of the child to be heard', the Committee called on States parties to enable children to form groups and organizations so that they can express their views on matters affecting them. The Committee also asks States parties to listen to children, including when they speak collectively. States parties should enable continuous participation of children in decision-making processes through organizational structures such as student councils and representation on school boards and committees. The Committee underlined the important role of NGOs in developing practices to support children in such a way as to safeguard transparency of representation and counter the risk of manipulation or tokenism.<sup>29</sup>

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<sup>26</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Moldova, CRC/C/MDA/CO/3, Office of the High Commissioner for Human Rights, Geneva, 20 February 2009, para. 23.

<sup>27</sup>Geidenmark Eva, Section for Knowledge Management and Development, Rädda Barnen (Save the Children Sweden), *Thematic strategic framework 2009 – 2012: A Civil Society for the Rights of the Child and Human Rights*, Stockholm, 21 February 2008, p. 1.

<sup>28</sup>Such growth of children run organizations is visible in States parties' reports to the CRC as well as in alternative reports, for further information see: <[www2.ohchr.org/english/bodies/crc/](http://www2.ohchr.org/english/bodies/crc/)>.

<sup>29</sup>United Nations, Committee on the Rights of the Child, General Comment No. 12 (2009) 'The Right of the Child to be heard', Office of the United Nations High Commissioner for Human Rights, CRC/C/GC/12, Geneva, 20 July 2009.

States parties are encouraged to consult with civil society, including children and adolescents. When they do not, programmes for children and young people may be less effective. Still, civil society organizations may disagree with governments about the means by which they seek to fulfil children's rights and cooperate with civil society. States retain their primary responsibility for realizing child rights. Nevertheless, States are increasingly handing over core child-related work to civil society organizations. In such cases the organizations need to be supportive of the State but not replace it. As the Committee itself made clear in General Comment No. 5, implementation is an obligation of States parties:

When a State ratifies the Convention on the Rights of the Child, it takes on obligations under international law to implement it. Implementation is the process whereby States parties take action to ensure the realization of all rights in the Convention for all children in their jurisdiction.<sup>30</sup>

### **3. CIVIL SOCIETY AND OTHER PARTNERS IN CHILD RIGHTS**

When the CRC came into force, it inspired formation of civil society organizations and influenced some human rights groups to add a specific focus on child rights. Another trend among organizations working on behalf of children has been the adoption of a rights-based approach, comprising the principles of non-discrimination, participation and accountability,<sup>31</sup> with a stronger focus on advocating with governments to fulfil their responsibilities to children. Adoption of the CRC coincided with dramatic political changes, particularly the collapse of the Soviet Union, and this also contributed to the growth of rights organizations. Thousands of organizations were founded in Bulgaria, Hungary and Poland within a couple of years after 1989, the year the Iron Curtain fell.<sup>32</sup>

#### **3.1 State Accountability**

A review of State party reports and concluding observations indicates that implementation of legal standards remains the weakest area among the general measures of CRC implementation. For example, the right to be protected from violence or exploitation cannot be enjoyed in the absence of an independent, professional and child-sensitized judiciary, which few countries have. Executing administrative or court orders and decisions remains a major challenge in many States, and civil society plays an important role in advancing this issue. An example of this work is the Centre for Justice and International Law, an NGO with consultative status before the Organization of American States and the United Nations and observer status before the African Commission of Human Rights. The centre focuses on the defence of human rights before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. As the organization indicates:

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<sup>30</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003), 'General measures of implementation for the Convention on the Rights of the Child' (CRC/GC/2003/5), Office of the High Commissioner for Human Rights, Geneva, 3 October 2003, para. 1.

<sup>31</sup>One example is the Save the Children Sweden manual on child rights programming 'An Introduction to Child Rights Programming – Concept and application', Stockholm 2004.

<sup>32</sup>Save the Children Sweden, *An Introduction to Child Rights Programming – concept and application*, Stockholm, 2004, p. 111.

...the lack of justice, attention and adequate responses by the state authorities in dealing with the critical situation of children has necessitated the use of regional and international arenas and mechanisms to promote respect for children's human rights in Latin America.<sup>33</sup>

Another example is the Centre for Child Law, based at the Law Faculty of the University of Pretoria (South Africa), which focuses on education, research, advocacy and litigation. Through its Children's Litigation Project, the Centre has undertaken 'impact litigation' in the High Court, the Supreme Court of Appeal and the Constitutional Court in the areas of both civil and criminal law in order to:

- Push forward boundaries of the law relating to children;
- Establish the content of legal rights and protection of children;
- Set precedents, thereby changing the attitudes of the courts;
- Hold government accountable on their responsibilities towards children;
- Build experience and knowledge in litigation on children's behalf.<sup>34</sup>

The Convention states clearly that States have the primary obligation to implement the CRC. That includes measures related to the justiciability of rights (meaning capable of being brought to and considered before a court). In addition to ensuring implementation of legal standards, the State has the obligation to make sure child victims are compensated, rehabilitated and reintegrated into society and that perpetrators of crimes against children are brought to justice. While civil society organizations often play an important role in providing services for rehabilitation and reintegration, they must not take over the States' role as the primary duty bearer.

### **3.2 Inter-Governmental Organizations**

Civil society is often an indispensable partner to inter-governmental organizations. For example, the United Nations describes its link to civil societies as follows:

More and more, non-governmental organizations (NGOs) and other CSOs are UN system partners and valuable UN links to civil society. CSOs play a key role at major United Nations Conferences and are indispensable partners for UN efforts at the country level. NGOs are consulted on UN policy and program matters. The UN organizes and hosts, on a regular basis, briefings, meetings and conferences for NGO representatives who are accredited to UN offices, programs and agencies.<sup>35</sup>

In addressing the World Economic Forum in Davos in 2009, the United Nations Secretary-General Ban Ki-Moon stated:

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<sup>33</sup>CEJIL's central office is located in Washington, D.C., headquarters of the Organization of American States and the Inter-American Commission on Human Rights. The CEJIL/MESOAMÉRICA office is located in San José, Costa Rica, headquarters of the Inter-American Court of Human Rights. CEJIL/BRASIL is located in Rio de Janeiro and CEJIL/SUR is located in Buenos Aires and it comprises of a representative in Chile. Information available at: <<http://cejil.org/en/front>>, accessed on 19 March 2010.

<sup>34</sup>Information available at: <[www.childlawsa.com/](http://www.childlawsa.com/)>, accessed on 11 May 2010.

<sup>35</sup>Information available at: <[www.un.org/en/civilsociety/index.shtml](http://www.un.org/en/civilsociety/index.shtml)>, accessed on 25 May 2010.

Our times demand a new definition of leadership – global leadership. They demand a new constellation of international cooperation – governments, civil society and private sector, working together for a collective global world.<sup>36</sup>

As a specialized agency of the United Nations, UNICEF works with governments and civil society to promote and protect children's and women's rights, recognizing that building a world fit for children requires partnerships with diverse sectors, including children and young people themselves. Collaboration with NGOs takes place at global, regional, national and community levels. Civil society is also consulted at headquarters level during formulation of UNICEF policy.<sup>37</sup>

### **3.3 Other Non-State Actors**

The private sector and the media are also important stakeholders in achieving realization of children's rights. The private sector's impact, both positive and negative, on realization of child rights is growing rapidly, particularly in the context of economic globalization, privatization and decentralization. As part of corporate social responsibility, private sector entities are increasingly engaged in activities for the promotion and protection of child rights. For example, the Norwegian telecom company Telenor and its Telenor Foundation granted 12 scholarships for students pursuing a master's degree in children's rights at the Faculty of Law of Union University in Belgrade in 2007 and 2008, with the aim to recruit more professionals to aid realization of child rights in Serbia.<sup>38</sup>

Yet there can be contradictions in private sector initiatives. A corporate social responsibility programme may support innovative programmes for children while the company's practices and means of operation may undermine rights, such as by polluting the environment or forcing employees to work excessive hours for little pay in harmful working conditions.

The United Nations recognizes the important role of private enterprises in realization of human rights, but it also notes that the private sector has been responsible for human rights violations. More efforts are needed to expand the positive role of the private sector and improve accountability. In Resolution 2005/69, for example, the former Commission on Human Rights (now the Human Rights Council) requested the United Nations Secretary-General to appoint a special representative on human rights and transnational corporations and other business enterprises. Mr. John Ruggie (from the United States) was appointed the first Special Representative for an initial two-year period.

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<sup>36</sup>Information available at:

<[www.unep.org/Documents/Multilingual/Default.asp?DocumentID=560&ArticleID=6059&l=en&t=long](http://www.unep.org/Documents/Multilingual/Default.asp?DocumentID=560&ArticleID=6059&l=en&t=long)>, accessed on 25 May 2010.

<sup>37</sup>Information available at: <[www.unicef.org/about/partnerships/index.html](http://www.unicef.org/about/partnerships/index.html)>, accessed on 25 May 2010.

<sup>38</sup>This program includes studies of international law in the field of children's rights, political, pedagogical and legal practices in this field, relevant national legislation and its compliance with the international law, and international and national systems for the monitoring and protection of these rights. Lecturers, who come from different fields of expertise, use the interdisciplinary approach to enable students to understand the children's needs, protect their rights and undertake measures, i.e. institute procedures for their protection. Information available at: <[www.telenor.co.yu/?section=about&page=6223&pn=1](http://www.telenor.co.yu/?section=about&page=6223&pn=1)>, accessed on 25 May 2010.



In 2002, the Committee on the Rights of the Child devoted its day of general discussion to the theme of ‘the private sector as service provider and its role in implementing child rights’. Representatives of United Nations organizations and specialized agencies were present, as were NGOs, research and academic organizations, and individual experts. In the resulting recommendations, the Committee encouraged “non-state service providers, particularly for-profit service providers, as well as the media, to engage in a continuing process of dialogue and consultation with the communities they serve”. The Committee expressed the view that such partnerships are important for implementation of child rights and facilitate inclusion of community groups in decision-making and service provision. Regarding accountability, the Committee sent a clear message that governments should retain sole responsibility for ensuring realization of child rights, even if the private sector participates in providing services. The establishment of a code of conduct for non-State actors was emphasized, along with the need to monitor it.<sup>39</sup>

Another influential non-state actor is the media, which plays a key role in informing societies about child rights and facilitating debate. At its thirteenth session, in 1996, the Committee devoted a day of general discussion to ‘the child and the media’. The media often plays a positive role in promoting introduction and functioning of the measures to implement rights of the child. Yet a 2007 UNICEF IRC study, *Law Reform and Implementation of the Convention on the Rights of the Child*, pointed out that sensational media treatment of issues relating to children can be a major obstacle to reform or trigger a reaction against child rights.<sup>40</sup> To address this issue, some NGOs provide training on children’s rights for the media, to inform them about child rights, teach methods of interviewing children and explain how to prevent unethical reporting. One example among many is child rights training provided by Save the Children Sweden for the regional Latin American news agencies network (*Red Andí América Latina*).<sup>41</sup> Civil society groups have also contributed to drafting codes of conduct for media when working with children. CRIN’s guidelines underscore the importance of considering children’s vulnerability in carrying out any journalistic activity and of maintaining the highest standards of ethical conduct in reporting on child rights.<sup>42</sup>

#### **4. CIVIL SOCIETY AND THE CONVENTION ON THE RIGHTS OF THE CHILD**

Civil society’s support of the CRC began during the drafting process, in which NGOs participated actively. After its adoption, civil society groups continued to cooperate in support to CRC implementation, including through their involvement in the process of State reporting to the Committee on the Rights of the Child on progress in implementation. Civil society groups also write alternative reports and form coalitions to participate in discussions with the Committee on the Rights of the Child. In addition such groups participate in drafting

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<sup>39</sup>United Nations, Committee on the Rights of the Child, ‘Day of General Discussion’, Office of the High Commissioner for Human Rights, Geneva, 5 October 2007, information available at: <[www2.ohchr.org/english/bodies/crc/discussion2008.htm](http://www2.ohchr.org/english/bodies/crc/discussion2008.htm)>, accessed on 28 May 2010.

<sup>40</sup>United Nations Children’s Fund Innocenti Research Centre, ‘Law Reform and Implementation of the Convention on the Rights of the Child’, *Innocenti Insight*, Florence, 2007, p. 108.

<sup>41</sup>Information available at: <[www.redandi.org/conheca\\_Rede.php5?L=ES](http://www.redandi.org/conheca_Rede.php5?L=ES)>, accessed on 6 November 2009.

<sup>42</sup>Information available at: <[www.crin.org/violence/search/closeup.asp?infoID=5572](http://www.crin.org/violence/search/closeup.asp?infoID=5572)>, accessed on 25 May 2010.

international treaties, making sure they include provisions relevant for child rights. They also participate in the debates, working groups and sessions of the United Nations and other international organizations. As already introduced, civil society is also heavily involved in the implementation of the CRC at national and sub-national levels.

#### **4.1 Drafting the CRC**

NGOs played a stronger role in the drafting of the CRC than they had in any previous treaty drafting process. Civil society became involved immediately after the Polish Government submitted a proposal for the treaty in 1978. Although these NGOs were not specifically oriented towards child rights, some of them focused on children in their activities. By 1983 enough NGOs had joined the process to set up the NGO Ad Hoc Group, which brought together human rights and child-focused organizations. By 1984, they were preparing joint proposals that reflected their increased organization and cooperation.

A working group established by the United Nations ECOSOC Commission on Human Rights was responsible for drafting the Convention. Government delegates formed the core of this group, which also included representatives of United Nations bodies and specialized agencies. NGOs could speak if invited, and were given the floor and included in task forces. A prominent participant in the NGO Ad Hoc Group stated, “A decade of re-drafting gave time and space for the children’s rights movement to develop within a human rights framework”.<sup>43</sup>

As a result of NGO participation in the drafting process, the CRC reflected a more negotiated, consensual understanding of the substance of the human rights of children, than might otherwise have been the case. NGOs also helped to shift the focus from needs-based to rights-based policy and action. The drafting process created an unprecedented NGO partnership and laid the foundation for even greater cooperation at international and national levels in implementation of the CRC.<sup>44</sup>

#### **4.2 Support to CRC ratification**

The Convention on the Rights of the Child entered into force on 2 September 1990. Most States were eager to ratify it, and NGOs supported them. In States that hesitated, NGOs pushed to accelerate ratification.

While the United States has not ratified the Convention, it has a vibrant civil society, and some organizations have pushed for ratification. The Campaign for US Ratification of the Convention on the Rights of the Child has very broad representation, involving academics, attorneys, child and human rights advocates, educators, members of religious and faith-based communities, physicians, NGO representatives, students and other concerned citizens.<sup>45</sup>

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<sup>43</sup>Nigel Cantwell’s Presentation at Presentation FICE 2008 congress, Helsinki 2008.

<sup>44</sup>For more on proposals of the NGO Ad Hoc Group search through Ek Simone, *Legislative History of the Convention on the Rights of the Child, Volume I and II*, Office of the United Nations High Commissioner for Human Rights, 2007.

<sup>45</sup>Information available at: <[www.childrightscampaign.org/](http://www.childrightscampaign.org/)>, accessed on 25 May 2010.

In August 2002, after the General Assembly Special Session on Children, a core group of child advocates convened the first meeting of the Campaign for US Ratification of the CRC, with leadership by the Child Welfare League of America, aiming to build a national coalition. In 2003, representatives from more than 50 NGOs met in Washington, D.C. for a two-day strategy session. This effort formalized the Campaign, which has grown to encompass members from 200 organizations and academic institutions. Its mission is:

...to bring about ratification and implementation of the CRC in the United States [...] through mobilizing their diverse network to educate communities on the Convention, thereby creating a groundswell of national support for the treaty, and by advocating directly with the government on behalf of U.S. ratification.<sup>46</sup>

### 4.3 Civil Society within the CRC

As a result of pressure from the NGO Ad Hoc Group, the CRC became the first international treaty to include civil society in its legal provisions. Article 45 addresses civil society as a partner to the Committee on the Rights of the Child (box 1).

#### **BOX 1**

##### **Article 45 of the Convention on the Rights of the Child**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications.

Further, in the concluding observations adopted as part of States parties' reporting procedures, the Committee regularly recommends that States continue or strengthen their cooperation with civil society in CRC implementation in general and on particular child

<sup>46</sup>Information available at: <[www.childrightscampaign.org/](http://www.childrightscampaign.org/)>, accessed on 25 May 2010.

rights issues. They also call for dissemination of the Convention with assistance from NGOs and participation by children.

An examination of the Committee's General Comments reveals frequent references to NGOs. For example, in General Comment No. 7 (Rev. 1), 'Implementing children's rights in early childhood' (2005), the Committee called on States parties:

... to ensure that all young children receive education in the broadest sense... which acknowledges a key role for parents, wider family and community, as well as the contribution of organized programmes of early childhood education provided by the State, the community or civil society institutions...<sup>47</sup>

Most of the other General Comments also refer to civil society.<sup>48</sup>

The Committee has also consistently highlighted the role of NGOs in its recommendations. For example, in its Day of General Discussion on the Rights of the Child to Education in Emergency Situations (19 September 2008), the Committee noted with appreciation the "valuable initiatives and programmes implemented on the ground for children in emergencies

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<sup>47</sup>United Nations, Committee on the Rights of the Child, General Comment No. 7 'Implementing child rights in early childhood Rev.1', Office of the High Commissioner for Human Rights, CRC/C/GC/7/Rev.1, Geneva, 2005, para. 30, accessed from:

<[www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf](http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf)>, on 2 June 2010.

<sup>48</sup>See for example, General Comment No. 10 (2007) 'Children's Rights in Juvenile Justice' (article 37 and 40 of the Convention on the Rights of the Child), where there are various references to NGOs found. The objective of General Comment No. 10 is to "encourage States Parties to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency based on and in compliance with CRC, and to seek in this regard advice and support from [...] **non-governmental organizations (NGO's) [author's emphasis]**, established by ECOSOC resolution 1997/30".

Regarding Prevention of juvenile delinquency States Parties should "fully promote and support the involvement of children, in accordance with article 12 the CRC, and of parents, community leaders and other key actors (**e.g. representatives of NGOs, [author's emphasis]** probation services and social workers), in the development and implementation of prevention programmes".

Article 37 of the CRC on Treatment and Conditions states: "The Committee draws the attention of States Parties to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty [...] the Committee recommends that the States Parties incorporate these rules into their national laws and regulations, and make them available, in the national or regional language, to all professionals, **NGOs [author's emphasis]** and volunteers involved in the administration of juvenile justice."

Regarding awareness raising and training the States Parties should "seek the active and positive involvement of members of parliament, **NGOs** and the media, and support their efforts in the improvement of the understanding of a rights-based approach to children who have been or are in conflict with the penal law."

References to NGOs and Civil Society can also be found in the following General Comments: General Comment No. 2 (2002) 'The role of independent national human rights institutions in the promotion and protection of the rights of the child', General Comment 3 (2003) 'HIV/Aids and the Rights of the Child', General Comment No. 4 'Adolescent health', General Comment No. 5 (2003) 'the General measures of implementation for the Convention on the Rights of the Child', General Comment No. 6 (2005) 'Treatment of unaccompanied and separated children outside their country of origin', General Comment No. 8 (2006) 'Corporal punishment', General Comment No. 9 'Disabilities', General Comment No. 11 (2009) 'Indigenous children and their rights under the Convention', General Comment No.12 (2009) 'The right of the child to be heard'.

by many organizations...” In addition to acknowledging the role of a number of United Nations agencies, it also mentioned a number of international NGOs.<sup>49</sup>

In its recommendations following the Day of General Discussion on “Resources for the Rights of the Child – Responsibility of States” (21 September 2007), the Committee underscored:

... the ways in which factors such as the level of decentralization, national and sub-national planning processes, executive discretion and the role of the **civil society [author’s emphasis]** greatly determine or influence the allocation of resources, as well as the ways in which those allocations actually reach children and advance their enjoyment of economic, social and cultural rights.<sup>50</sup>

#### **4.4 NGOs and the Committee on the Rights of the Child**

NGOs began working with the Committee shortly after the CRC entered into force. Over the past 20 years, the relationship has developed into a strong partnership. NGOs have participated in the reporting procedure, provided expertise in drafting general comments and been involved in events organized by the Committee, such as the Days of General Discussions or regional seminars.

##### **4.4.1 State party and alternative reports**

Monitoring of CRC implementation hinges on States party reports to the Committee on the Rights of the Child. States are required to submit an initial report to the Committee describing progress in implementation within two years after ratification. Subsequently reports are to be submitted every five years. The Committee has drafted guidelines for initial and periodic reports.<sup>51</sup> The Committee is interested in the general situation in a country, as well as the status of child rights issues.

To obtain an accurate picture of the situation of children, the Committee does not rely solely on state reports. For example, it receives information in the form of ‘alternative reports’ from national and international NGOs. These reports often contain information not mentioned in official country reports. Sometimes, it includes information that governments would prefer not to share. The NGO Group for the Rights of the Child helps NGOs with CRC reporting and has prepared a guide to support national coalitions to prepare and submit alternative reports.<sup>52</sup>

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<sup>49</sup>Information available at:

[www2.ohchr.org/english/bodies/crc/docs/discussion/RecommendationsDGD2008.doc](http://www2.ohchr.org/english/bodies/crc/docs/discussion/RecommendationsDGD2008.doc), accessed on 14 June 2010.

<sup>50</sup>United Nations, Committee on the Rights of the Child, Day of General Discussion, Resources for the Rights of the Child – Responsibility of States, Recommendations, Office of the United Nations High Commissioner for Human Rights, Geneva, 5 October 2007, p. 8, available at:

[www2.ohchr.org/english/bodies/crc/docs/discussion/recommendations2007.doc](http://www2.ohchr.org/english/bodies/crc/docs/discussion/recommendations2007.doc), accessed on 23 April 2010.

<sup>51</sup>Information available at: [www2.ohchr.org/english/bodies/crc/](http://www2.ohchr.org/english/bodies/crc/), accessed on 14 June 2010.

<sup>52</sup>Information available at: [www.childrightsnet.org/](http://www.childrightsnet.org/), accessed on 25 May 2010.

In its guidelines for periodic reports, the Committee call on States to report broadly on their work with civil society: “[t]he States Parties should provide information on cooperation with CSOs, including non-governmental organizations and children’s and youth groups, with regard to implementation of all aspects of the Convention”. The guidelines also call for States to “describe the manner in which the (present) report was prepared and the extent to which non-governmental organizations (NGOs), youth groups and others were consulted.”<sup>53</sup>

Reporting to the Committee can empower NGOs and provide them the opportunity to raise concerns about the status of children with the treaty body. It is a unique opportunity for NGOs to influence the country’s child rights agenda, open a debate on the status of children in the country and have a serious dialogue with those responsible for national implementation of the CRC.

Two decades of NGO involvement with the Committee has demonstrated that separate and independent reports are, in many cases, the strongest source of information on CRC implementation. However, the Committee has observed that some NGO inputs are not independent and may be co-opted by States. Similarly, the NGO Group for the Rights of the Child has highlighted the following concern in the reporting procedure:

In some countries, NGOs have been involved or consulted in the preparation of the State party report and their contributions have been incorporated into the official State party report. The latter rightly reflects the point of view of the government, however, and NGOs may or may not agree with all the information provided or the way in which it is presented. Reporting to the Committee is an obligation of the State party and NGOs need to be cautious about maintaining their independence and perform an independent monitoring role.<sup>54</sup>

The Committee has noted an improvement in the quality of NGO alternative reports over time, especially in States without a long tradition of civil society. Improvement has been identified both in the structure of reports and in the members’ capacity to evaluate the situation and present it to the Committee.<sup>55</sup> This reflects the effect of the CRC and the reporting procedures on developing the capacity of civil society to participate in national coalitions and engage in international dialogues.

Increasingly, children’s groups are preparing and submitting alternative reports, as welcomed in General Comment No. 12.<sup>56</sup> Between 2007 and 2009, the Committee met with or received reports from children from more than 20 countries, including Australia, Austria, China, Denmark, India, Ireland, Japan, Kenya, Latvia, Lesotho, Mali, Moldova, Netherlands, Norway, Peru, Senegal, Serbia, Sierra Leone, Sweden, Thailand, Uganda, United Kingdom

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<sup>53</sup>United Nations, Committee on the Rights of the Child, ‘General Guidelines regarding the format and content of periodic reports to be submitted by states parties under article 44, paragraph 1 (b), of the Convention, Office of the High Commissioner for Human Rights’, Geneva, 29 November 2005.

<sup>54</sup>Information available at: <[www.childrightsnet.org/ive](http://www.childrightsnet.org/ive)>, accessed on 25 May 2010.

<sup>55</sup>This is a personal view of the author, who served on the Committee in that period.

<sup>56</sup>United Nations, General Comment No. 12 The right of the child to be heard (2009), Office of the High Commissioner for Human Rights, CRC/C/GC/12, Geneva 20 July 2009, para. 131.

and Uzbekistan. Children sometimes raise issues or provide evidence on subjects not raised in other alternative reports. For example, a children's rights coalition from Serbia carried out research in 2007 among 1,132 children (box 2). The coalition comprised 25 children from various youth organizations and representatives of children without parental care, children with disabilities and children who live and work on street. The results, which focused on violence against children, were shared with the Committee,<sup>57</sup> and it met with the Serbian children. In its recommendations to Serbia, the Committee emphasized the problem of violence in families, schools, institutions and the community.<sup>58</sup>

## **BOX 2**

### **Children's Views on the Most Important Rights in Serbia<sup>59</sup>**

#### ***The 10 most important rights for boys (average percentage responding):***

1. Health care protection (4.7)
2. Life and physical safety (4.6)
3. Protection from human trafficking (4.6)
4. Family life (4.5)
5. Protection from narcotics abuse (4.5)
6. Protection from physical violence (4.4)
7. Protection from sexual violence (4.4)
8. Free time (4.3)
9. Privacy and protection of intimacy (4.3)
10. Protection from psychological violence (4.3)

#### ***The 10 most important rights for girls:***

1. Protection from sexual violence (4.9)
2. Protection from physical violence (4.9)
3. Protection from psychological violence (4.8)
4. Protection from human trafficking (4.8)
5. Protection from narcotics abuse (4.7)
6. Health care protection (4.7)
7. Life and physical safety (4.7)
8. Family life (4.6)
9. Privacy and protection of intimacy (4.6)
10. Protection from participation in war (4.6)

Children should be encouraged to participate in these processes, but it is essential to avoid manipulating their involvement and to ensure that it does not pose risks to their well-being. Child participation in alternative reporting, including in the dialogue with the Committee, is not always easy for children, and it raises ethical questions. Children should always have the

<sup>57</sup>Information available at: <[www.crin.org/resources/InfoDetail.asp?ID=16483](http://www.crin.org/resources/InfoDetail.asp?ID=16483)>, accessed on 25 May 2010.

<sup>58</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding observations: Serbia, CRC/C/SRB/CO/1, 20 June 2008.

<sup>59</sup>Adapted from Child Rights Centre Serbia, *Child Rights in Serbia, the Children's Perspective*, Belgrade, 2007, available at: <[www.crin.org/resources/infoDetail.asp?ID=16483&flag=legal](http://www.crin.org/resources/infoDetail.asp?ID=16483&flag=legal)>, accessed on 23 March 2010.

opportunity to be consulted in the alternative reporting and even to draft their own reports. To make use of that opportunity, children need to be prepared and well informed. As indicated in participation guidelines prepared by World Vision: “The process of gathering children to participate needs to be carefully planned so that as many children from a range of different backgrounds as possible have an equal opportunity to have their voices heard.”<sup>60</sup>

#### ***4.4.2 Dialogue between civil society and the Committee***

To ensure the Committee receives all relevant information regarding implementation of the CRC in a particular country, NGOs take an active part in the dialogue with the Committee. Rules of procedure have been established for meetings between the Committee and NGOs and other competent bodies. An important rule requires the Committee to meet with NGOs in private sessions prior to its meeting with the government delegation. This allows the Committee to identify in advance issues to be discussed with the state representatives. On rare occasions, NGOs are not present in this pre-sessional working group, due to the lack of budget to prepare the alternative report or to travel to Geneva, or more rarely due to inactivity by civil society. The political situation in a country may also lead NGOs to not engage in CRC reporting.

Sometimes children who have been involved in writing reports travel to Geneva to meet with members of the Committee, which appreciates the opportunity to listen to children directly and hear their concerns and recommendations. It is important to ensure that children are well informed about the process of CRC reporting. In addition to being informed about the process, they must have an opportunity to meet with the Committee members in private.<sup>61</sup> Selection of children to participate with the Committee is an issue; it is difficult to assess whether these children are selected in a transparent and participatory manner, and budget constraints can make this even more difficult.

#### ***4.4.3 Follow up to the concluding observations***

The Committee discusses the State party report with the presence of the government, and a summary of the discussion is produced. The concluding observations provide guidance and encouragement to States to improve children’s lives by strengthening implementation of the CRC. The Committee regularly recommends that the State party disseminate the concluding observations throughout the country, a process in which civil society often plays an active role. For example, the Committee recommended the State party of Kazakhstan take:

...all appropriate measures to ensure full implementation of present recommendations, inter alia, by transmitting them to relevant government ministries, Parliament members and authorities of districts and communities for appropriate consideration and further action.<sup>62</sup>

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<sup>60</sup>Miller, Jenifer, *Children as Agents: Guidelines for participation in periodic reporting on the Convention on the Rights of the Child*, World Vision, 2007, p. 26.

<sup>61</sup>For more recommendations see: Miller, Jenifer, *Children as Agents: Guidelines for participation in periodic reporting on the Convention on the Rights of the Child*, World Vision, 2007, pp 37-38.

<sup>62</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding



The Committee also commonly recommends that civil society organizations use the concluding observations to generate awareness of the CRC and its implementation and monitoring.<sup>63</sup> In this regard the NGO Group on the Rights of the Child carried out a review titled ‘The Use of Concluding Observations for Monitoring the Implementation of the Convention on the Rights of the Child – The Experiences of NGO Coalitions in Nine Country Case Studies’. It was noted that:

Concluding observations of the Committee can be an unparalleled tool for NGOs to stimulate a discussion at the national level, to exert pressure on the government to follow up on the recommendations of the Committee, and to lobby for changes in legislation and practice. NGOs should also try to get the national mass media involved in reporting the concluding observations and the comments of Committee members in the press. The effectiveness of the proceedings is largely dependent on the publicity they attract. Scrutiny by the media and the public can help to ensure that the concerns raised by the Committee figure prominently on the national agenda. The Committee is not able to enforce its recommendations and looks towards national-level mechanisms to ensure that their recommendations are taken into account by the State party. NGOs can play a key role in the short and long term to assist the government in following up on the concluding observations.<sup>64</sup>

In another example, CRIN and the NGO Group for the Rights of the Child reviewed the use of concluding observations for monitoring implementation of the CRC, reporting experiences of NGO coalitions in nine country case studies, from Bangladesh, Canada, Georgia, Germany, India, Jamaica, the Netherlands, New Zealand and Pakistan.<sup>65</sup> They concluded that “the case studies reveal useful insights about the way coalitions and NGOs use the Concluding Observations (COs) for monitoring implementation.” Experiences from the nine countries showed that even though each country’s situation is unique, there are similarities with regard to challenges facing NGOs in monitoring CRC implementation.<sup>66</sup>

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Observations of the Committee on the Rights of the Child: Kazakhstan, CRC/C/KAZ/CO/3, 8 June 2007, para. 71.

<sup>63</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Malaysia, CRC/C/MYS/CO/1, 2 February 2007, para. 108.

<sup>64</sup>NGO Group for the Convention on the Rights of the Child, Third Edition of the Guide for the Non-Governmental Organizations Reporting to the UN Committee on the Rights of the Child, 2006, available at: <[www.childrightsnet.org/](http://www.childrightsnet.org/)>, accessed on 25 May 2010.

<sup>65</sup> Report available at: <[www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC\\_WP2\\_en.pdf](http://www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC_WP2_en.pdf)>, accessed on 25 May 2010.

<sup>66</sup>NGO Group for the Convention on the Rights of the Child, ‘The use of Concluding Observations for Monitoring the Implementation of the Convention on the Rights of the Child – The Experiences of NGO Coalitions in nine Country Case Studies’, *CRIN – NGO Joint Working Paper No. 2*, January 2005, p. 25, accessed from: <[www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC\\_WP2\\_en.pdf](http://www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC_WP2_en.pdf)>, on 25 May 2010.

## 4.5 Civil Society and Global Actors

The Convention has served as a point of departure for a number of national and international NGOs and coalitions addressing international processes and commitments, including ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes),<sup>67</sup> the Global Initiative to End Corporal Punishment, and the Better Care Network, concerned about children without adequate family care.<sup>68</sup> Together with experts and other organizations, including UNICEF, they have drafted the text of the United Nations Guidelines for the Protection and Alternative Care of Children without Parental Care.

Acting on the recommendation of the Committee, in 2001 the General Assembly called for a study on violence against children (res. 56/138). The study was developed over a three-year period in consultation with civil society and a range of other stakeholders. Presented to the General Assembly in October 2006, it was the first such study to consult with children and reflect their views in the recommendations.

International meetings, congresses and conferences are also important means of building commitment by States parties to implement child rights. A key event was the General Assembly Special Session on Children in 2002. NGO participation in the Session, like that of children and adolescents, was unprecedented in a number of ways. NGOs:

- Took part in the preparatory processes of the Special Session and in negotiating the outcome document, ‘A World Fit for Children’;
- Participated formally at the Session, both as formally accredited participants and grass-roots NGOs partnering with UNICEF at the national level. NGO delegations included a great number of children and adolescents;
- Participated in and organized a number of official and supporting events, working to promote collaboration among governments, civil society organizations and children;
- Stressed the importance of the rights-based approach in developing national plans of action for children and in all follow-up action to the Special Session;
- Prepared a commitment chart that tracked the pledges of governments, NGOs and other non-state participants during the Session;
- Provided news of the Special Session through updates and newspapers;
- In an official address to the General Assembly, insisted on the importance of child rights and the Convention as a cornerstone for all follow-up action.<sup>69</sup>

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<sup>67</sup>Information available at: <[www.ecpat.net/El/index.asp](http://www.ecpat.net/El/index.asp)>, accessed on 25 May 2010.

<sup>68</sup>Information available at: <[www.crin.org/bcn/about.asp](http://www.crin.org/bcn/about.asp)>, accessed on 25 May 2010.

<sup>69</sup>Information available at: <[www.unicef.org/specialsession/ngo\\_participation/index.html](http://www.unicef.org/specialsession/ngo_participation/index.html)>, accessed on 25 May 2010.

The outcome document identifies civil society actors as partners in its implementation:

Non-governmental organizations and community-based organizations will be supported in their work and mechanisms should be established, where appropriate, to facilitate the participation of civil society in matters relating to children. Civil society actors have a special role to play in promoting and supporting positive behaviour and creating an environment that is conducive to the well-being of children.<sup>70</sup>

The World Congress III against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, November 2008) involved even more NGOs than the two previous congresses addressing sexual exploitation. Civil society groups participated in regional preparatory meetings in every region of the world. The outcome document makes strong references to the role of civil society, including children and adolescents.<sup>71</sup>

## **5. CIVIL SOCIETY AND THE GENERAL MEASURES OF IMPLEMENTATION**

In its first guidelines for initial reporting, the Committee identified articles 4, 42 and 44.6 of the CRC as the articles relating to the ‘general measures of implementation’ (G3). The Committee clarified the concept of the general measures and requirements of States parties in General Comment No. 5 (2003).<sup>72</sup>

### **BOX 3**

#### **The General Measures of Implementation<sup>73</sup>**

- The process of law reform calls on States parties to ensure the compatibility of existing and new legislation and judicial practice with the Convention.
- Independent national institutions for children’s rights need to be developed, such as children’s ombudsperson offices, child rights commissioners and focal points within national human rights institutions.
- Comprehensive national agendas or strategies for implementation of the Convention are needed; their relationship to the follow-up process to the

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<sup>70</sup>United Nations, ‘A world fit for children’, General Assembly Resolution A/RES/S-27/2, United Nations, New York, 11 October 2002, para. 32(5).

<sup>71</sup>III World Congress against Sexual Exploitation of Children and Adolescents, *The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*, Rio de Janeiro, 25-28 November 2008, accessed from: <[www.crin.org/docs/Rio\\_Declaration\\_and\\_Call\\_for\\_Action.pdf](http://www.crin.org/docs/Rio_Declaration_and_Call_for_Action.pdf)>, on 22 June 2010.

<sup>72</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) ‘General Measures of Implementation for the Convention on the Rights of the Child (arts. 4, 42 and 44, para 6)’, Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003.

<sup>73</sup>United Nations Children’s Fund Innocenti Research Centre, *Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*, Florence, 2009, p. 2.

1990 World Summit for Children and the 2002 United Nations General Assembly Special Session on Children is important.

- Child rights-focused permanent institutions and structures within government are required to ensure coordination and pursue implementation.
- Allocation of resources to children “to the maximum extent of their availability” is key in States parties’ efforts to ensure implementation.
- Systematic monitoring of CRC implementation is needed through effective child-related data collection, analysis, evaluation and dissemination.
- Education, training and awareness-raising on children’s rights need to be promoted.
- The involvement of civil society, including children, is critical for progress on implementation.
- International cooperation.

The general measures of implementation identified by the Committee are intended to promote full enjoyment of all rights recognized by the CRC by all children. The general measures are closely interrelated, and their implementation is mutually supportive, concomitant and evolving.

Overall, civil society has been active on issues concerning legal reforms, state coordination, research and monitoring, state budgets for children, cooperation with independent institutions and training for awareness-raising. The following questions will be examined in assessing civil society’s impact on implementation of the general measures:

- Which types of child rights violations motivated NGOs to become involved?
- What were the factors encouraging NGO activity on a particular measure?
- How do concluding observations, international processes and donor policies influence civil society engagement?
- What type of civil society group participated in the implementation of a particular measure?
- How were children and their organizations involved in implementation of a particular measure?
- What was the outcome of their activities on the national, regional and international levels?

In line with the principle of indivisibility, it is important to consider the role and impact of civil society in implementation of all general measures. The general measures are closely inter-related. Their implementation is mutually supportive, concomitant, and evolving. In line with the principle of indivisibility, it is important to consider the role and impact of civil society in the implementation of all the general measures. Role and focus of NGOs varies from country to country. In some countries, civil society is mostly involved with law reform, in others with monitoring and research, and in still others with awareness raising and capacity

building. However, in most countries, NGOs are active in more than one of the general measures and sometimes in all.

Though the CRC identifies civil society organizations as partners of the Committee in its monitoring task, it does not call for State cooperation with civil society, including children and their organizations. Nevertheless, General Comment No. 5 makes the role of civil society explicit. It notes that States need to work with a range of civil society organizations, such as those dealing with human rights in general, organizations led by children and youth, parent and family groups, faith groups, academic institutions and professional associations. It states that such organizations have a right to participate in implementation and a vital role to play, given their crucial part in drafting the Convention. General Comment No. 5 adds that, while cooperating with these organizations, States should respect their autonomy.

The Committee also welcomed the development of NGO coalitions and alliances committed to promoting, protecting and monitoring children's human rights. General Comment No. 5 further urges governments to provide NGOs with non-directive support and to develop positive relationships with them, both formal and informal. The engagement of NGOs in the reporting process has in many cases spurred implementation of the CRC. The NGO Group for the Convention on the Rights of the Child is a strong supporter in the reporting process and other aspects of the Committee's work. The Comment also notes that the process of preparing a report should facilitate popular participation and public scrutiny of government policies. Finally, it emphasizes that the media can be a valuable partner in the process of implementation.<sup>74</sup> General Comment No. 5 also may influence governments and donors to establish, continue or enhance cooperation with civil society, particularly children and their organizations.

## **5.1 Law Reform<sup>75</sup>**

States parties are required to ensure that existing and new legislation and judicial practice are compatible with the CRC. It calls on them to make comprehensive reviews of legislation; include children's rights in the Constitution; develop specific laws to reflect the CRC's principles and provisions; respond to issues that arise related to children's rights; and consider effective remedies for violations of children's rights.

Many NGOs have long provided services for children, but law and legal reform have not often been addressed by them. After ratification of the CRC and dissemination of information on children's rights, increasing numbers of child rights NGOs began reviewing laws to assess their compliance. Despite significant attention, even 20 years later loopholes remain in terms of harmony between laws and the CRC and neglect of some areas of child rights in legislation. An additional problem is insufficient enforcement of laws in many countries, and NGOs have sought to address this gap.

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<sup>74</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child (arts. 4, 42 and 44, para 6), Office of the United Nations High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003.

<sup>75</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, paras 18-23.

Participating in law reform and lobbying for its implementation require very specific knowledge. In recent years many NGOs have strengthened their capacity to advocate for and participate in legal reform, thanks partly to increased numbers of legal professionals in their ranks. Civil society has also gained greater international and national attention and financial support, allowing it to engage experts. NGOs that do not have staff lawyers can find them through networks and legal aid organizations.<sup>76</sup>

Law reform is complex, and few NGOs participate directly in drafting laws; instead most focus on assessing legislation and advocating for reform. For example, NGOs in many countries have advocated for a legal ban on corporal punishment of children, although few are involved in drafting legislation. The International Campaign to Ban Corporal Punishment provides some information on the issue.<sup>77</sup>

A review of documentation suggests that NGO engagement with legal reform may be a function of donor funding policies, and legal reform is not typically a donor priority. An assessment of donors' perceptions and funding policies regarding the role of civil society in child-related law reform process would be useful. Law reform is a key obligation of States' Parties. Nevertheless, civil society, including children, has a role to play, and NGOs are increasingly getting involved. In Kenya, for example, children were prepared for and participated in the constitution review process (box 4).

#### **BOX 4**

##### **Child Participation in Law Reform in Kenya<sup>78</sup>**

In 2001, the Constitution Review Commission of Kenya was established to collect public opinions on this subject. NGOs responded by forming a Children's Caucus to ensure children's participation. A major focus was the prohibition of corporal punishment.

Children were selected to participate in the caucus from children's rights clubs and schools, as well as from the wider community. There were an equal number of girls and boys, and disabled children were included. Participants were between 12 and 17 years of age. They were first educated about children's rights, especially about the CRC and the African Charter on the Rights and Welfare of the Child, and about the Constitution. The children learned about the deficiencies of the Constitution in terms of the situation of children and how the deficiencies could be corrected.

During this process, children asked the Commission to let them participate in the review conference. Though the law did not allow participants under 18

<sup>76</sup>Child Rights Information Network (CRIN), *Children's Rights: A Guide to Strategic Litigation*, London, 2009, pp 27-29.

<sup>77</sup>International, regional and national campaigns for law reform to prohibit all corporal punishment of children, available at: <[www.endcorporalpunishment.org/pages/frame.html](http://www.endcorporalpunishment.org/pages/frame.html)>, accessed on 19 March 2010.

<sup>78</sup>Kapoor, Gopika, and Owen, Sharon, *Towards the universal prohibition of all violent punishment of children*, Report of the global workshop on 'Prohibiting all corporal punishment and other humiliating punishment of children: Achieving legal reform', Save the Children Sweden, Bangkok, Thailand, May 2008, p. 58, available at: <<http://shop.rb.se/Product/Product.aspx?ItemId=5008432>>, accessed on 25 May 2010.

years of age, provincial children's forums were held. At these the children drafted suggestions for amending the Constitution, and these were sent to community leaders, members of Parliament and the Commission. Children's views were publicized on television and radio, and a national essay competition on the Constitution was organized. Finally, a National Children's Forum consolidated the exchange of information and produced a joint national submission by children from all provinces, which was distributed to all parliamentarians.

Eventually, 95 per cent of the children's recommendations were incorporated into the draft Constitution, including those on corporal punishment. Organizers of the Caucus also found these results of their participation:

- The capacities of children and children's rights organizations were enhanced.
- Interest in children's rights was generated among the general public and legislators.
- Children participated in the CRC state reporting process, which highlighted the need to harmonize legislation on children with the Convention.

Regarding corporal punishment, article 45 of the Draft Constitution provides that "Every person has the right to freedom and security of the person, which includes the right (c) to be free from all forms of violence from either public or private sources; (e) not to be subjected to corporal punishment or to be treated or punished in a cruel, inhuman or degrading manner."

A UNICEF IRC study on law reform and the implementation of the CRC concluded that:

...reports to the Committee on the Rights of the Child provide ample evidence that, in many societies, civil society has made an important contribution to the various stages of the law reform process. Further, the ways in which civil society participates are numerous and have often lobbied for and even drafted or participated in drafting of new legislation on the rights of the child. In some countries, this is done by a process of publishing drafts or papers on the issues to be addressed by new legislation and inviting public comment. In others, interested organizations and individual experts are invited to participate in drafting groups and parliamentary hearings. In still others, national councils or commissions on children composed in part of representatives of civil society play a large role in the development of new laws. Finally, in some countries NGOs, professional associations, parent groups, academic institutions and other interested organizations have been invited to participate in the development of new laws through ad hoc arrangements.<sup>79</sup>

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<sup>79</sup>United Nations Children's Fund Innocenti Research Centre, 'Law reform and Implementation of the Convention on the Rights of the Child', *Innocenti Insight*, Florence, 2007, pp 107-108.

In the Dominican Republic, several organizations established the NGO Coalition for a Modern and Consensus Oriented Legislation, which contributed to the drafting of amendments to the Penal Code. In the process of drafting an amendment to the Constitution, some NGOs carried out referendums with children, who gave their opinions about the need for protection of their identity and name and on social security, education, health, participation and proposals to eradicate the worst kinds of child labour.<sup>80</sup>

The impact of civil society on children's rights is measured not only through the number of laws or amendments enacted but also by changes in attitudes among parliamentarians and others in the law reform process. In Kenya, the effort generated "interest in children's rights [...] among the general public and among legislators."<sup>81</sup> It found that "the capacities of children and children's rights organizations were enhanced through knowledge about Constitutional matters" and that "Children participated in the UNCRC state reporting process, which highlighted the need to harmonize all legislation on children with the Convention."<sup>82</sup>

In India, NGOs were involved in drafting the Juvenile Justice (Care and Protection) Act, 2000 and its Rules. This was the first law to define a child as a person up to the age of 18 years (compared to the earlier definition of 15 years), in accordance with the CRC. However, despite concerted advocacy and litigation, advocates so far have failed to overturn a law passed in 1986 that allows children to work in certain occupations and defines children up to the age of 14 years. India continues to have a reservation to its ratification of the CRC on article 32, which addresses child labour.<sup>83</sup>

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<sup>80</sup>The Dominican Republic Ngos' Coalition for Childhood, *The Performance of Children and Adolescents' Rights established in the Convention on the Rights of the Child period 2001-205*, May 2007, pp 6-7, available at: <[www.crin.org/resources/infoDetail.asp?ID=16150&flag=legal](http://www.crin.org/resources/infoDetail.asp?ID=16150&flag=legal)>, accessed on 2 June 2010.

<sup>81</sup>Kapoor, Gopika, and Owen, Sharon, *Towards the universal prohibition of all violent punishment of children*, Report of the global workshop on 'Prohibiting all corporal punishment and other humiliating punishment of children: Achieving legal reform', Save the Children Sweden, Bangkok, Thailand, May 2008, p. 59, accessed from: <[www.endcorporalpunishment.org/pages/pdfs/legalreform/Towards%20the%20universal%204.pdf](http://www.endcorporalpunishment.org/pages/pdfs/legalreform/Towards%20the%20universal%204.pdf)>, on 25 May 2010.

<sup>82</sup>Kapoor, Gopika, and Owen, Sharon, *Towards the universal prohibition of all violent punishment of children*, Report of the global workshop on 'Prohibiting all corporal punishment and other humiliating punishment of children: Achieving legal reform', Save the Children Sweden, Bangkok, Thailand, May 2008, p. 59, accessed from: <[www.endcorporalpunishment.org/pages/pdfs/legalreform/Towards%20the%20universal%204.pdf](http://www.endcorporalpunishment.org/pages/pdfs/legalreform/Towards%20the%20universal%204.pdf)>, on 25 May 2010.

<sup>83</sup>Declaration of the Government of India: "While fully subscribing to the objectives and purposes of the Convention, realising that certain of the rights of child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the extent of available resources and within the framework of international co-operation; recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons children of different ages do work in India; having prescribed minimum ages for employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment; and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions of article 32, particularly paragraph 2 (a), in accordance with its national legislation and relevant international instruments to which it is a State Party." The declaration is available at: <[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en)>, accessed on 2 June 2010.



## 5.2 National Plans of Action for Children

In its General Comment No. 5, the Committee on the Rights of the Child sent a clear message to States parties that they need unified, comprehensive and rights-based national strategies for children based on the Convention. A comprehensive strategy or national plan of action for children should take into account the recommendations given in the concluding observations. The strategy should be developed through a process of consultation, including with children and young people and those living and working with them. To give the strategy authority requires endorsement at the highest level of government, links to national development planning and inclusion of children in national budgeting. It must also specify a sustainable process for realizing children's rights throughout the State based on real and achievable targets.<sup>84</sup>

General Comment No. 5 indicates that civil society, including NGOs and children, should participate in the implementation of all measures, including development and implementation of strategies and policies relevant for the rights of the child.<sup>85</sup> The Committee has further elaborated this position in other general comments, directly or indirectly requesting States parties to involve civil society in policy formulation, for example, in General Comment No. 11 on indigenous children,<sup>86</sup> General Comment No. 12 of the CRC on the right of the child to be heard,<sup>87</sup> and General Comment No. 10 on juvenile justice.<sup>88</sup>

The Committee noted that governments may decide to develop sectoral national plans of action, such as for education and health that set out specific goals, targeted implementation measures and allocation of financial and human resources. Such plans must be adequately resourced, in human and financial terms, and coordinated with other sectoral plans. But these cannot replace a comprehensive national strategy. A national strategy must include arrangements for continuous monitoring, regular updating and periodic reporting to the legislature and the public.

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<sup>84</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, paras 71-79.

<sup>85</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, para. 56.

<sup>86</sup>"In order to develop policy and programming efforts in a culturally sensitive manner, States Parties should consult with indigenous communities and directly with indigenous children", General Comment No. 11 (2009), Indigenous children and their rights under the Convention CRC/C/GC/11, para. 80

<sup>87</sup>"... children should be consulted in the formulation of legislation and policy related to these and other problem areas and involved in the drafting, development and implementation of related plans and programmes", General Comment No. 12 (2009) The right of the child to be heard, para. 122

<sup>88</sup>The Committee explains the objective of this General Comment so as "to encourage States Parties to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency based on and in compliance with CRC, and to seek in this regard advice and support from the Interagency Panel on Juvenile Justice, with representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), the United Nations Office on Drugs and Crime (UNODC) and non-governmental organizations (NGO's), established by ECOSOC resolution 1997/30", General Comment No. 10 (2007) Children's rights in juvenile justice, para. 4.

Follow-up to international meetings concerning children's human rights have been critical to the development of national plans of action for children. States have been encouraged to develop, integrate or strengthen such plans at the World Summit for Children (1990),<sup>89</sup> the World Conference on Human Rights (1993) and the United Nations General Assembly Special Session on Children (2002). NGOs have welcomed the commitments governments have made at these conferences, including commitments to involve civil society organizations in these processes. Although many countries started to develop such plans in the early 1990s, many governments did not immediately involve civil society actors in these processes.

Some NGOs have argued that a comprehensive national strategy can be elaborated through sectoral strategies. In the absence of comprehensive strategies developed with broad participation of civil society, some NGOs are content with sectoral strategies, in particular if they cover the NGO's focus area and if it has the capacity to participate in the development and implementation of a specific plan of action. Most civil society attention has been directed towards plans on poverty reduction, prevention of violence and the right to education or health care.

The Committee on the Rights of the Child has recommended that States cooperate with civil society in drafting and implementing policies, strategies, action plans and legal measures. At times, the Committee has recommended that States cooperate with civil society in specific areas such as alternative family care, social and legal protection of children, and guardianship.<sup>90</sup> Poverty reduction strategies also require broad involvement of civil society. The Committee has recommended that State parties "encourage participation of parents and children in the development of poverty-alleviation strategies."<sup>91</sup>

It is notable that the Committee expects States to develop plans of action on child rights in cooperation with children and children's rights groups. Regarding Bulgaria, for example, it recommended that the State:

...ensure the involvement of children and child-focused organizations, including the Child Council, in the preparation and implementation of major developmental plans and programmes in the country, such as national development plans, action plans, annual budgets and poverty reduction strategies<sup>92</sup>

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<sup>89</sup>World Summit for Children, 'World Declaration on the Survival, Protection and Development of Children and Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s', CF/WSC/1990/WS-001, United Nations, New York, 30 September 1990.

<sup>90</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Slovakia, CRC/C/SVK/CO/2, 8 June 2007, para. 23.

<sup>91</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Djibouti, CRC/C/DJO/CO/2, 7 October 2008, para. 61.

<sup>92</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Bulgaria, CRC/C/BGR/CO/2, 23 June 2008, para. 27.

There is plenty of evidence that children and their organizations influence policies.<sup>93</sup> For example, O'Malley summarizes the experience of Save the Children UK in facilitating children's participation in the development of poverty reduction strategy papers in Bosnia and Herzegovina, Honduras, Lesotho and Viet Nam. She discusses the effectiveness of different approaches, outlines learning points and raises questions about the impact and the costs and benefits of children and youth participation in developing these papers.<sup>94</sup>

While children have the right to participate, tokenistic involvement of children's and youth organizations in policy development should be avoided. With careful preparation, capacity building and reasonable limits on the amount of work asked of children and youth, such involvement can be effective.

In many States, collaboration between government and civil society in policy development has not been easy. It has often depended on personal relationships and the attitude of authorities towards NGOs; animosity makes the process especially challenging. However, over the past 20 years NGOs have made meaningful contributions to plans and policies. At present, every State party has at least a partial plan of action for children. Many have an elaborate set of plans, policies, strategies, guides and protocols, often developed in cooperation with NGOs. One such an example is Maldives:

The Government of the Maldives developed the National Plan of Action for the well being of the Maldivian Child 2001-2010 with the involvement of civil society. The National Plan of Action (NPA) was developed in consultation with the community and with the active participation of various civil society organizations. A consultative meeting held December 24-25, 2002 was attended by 109 representatives of government offices, private associations, civil society organizations, the representatives of the Atolls, and students from different schools in Malé (the capital city). After detailed discussions and debate over the draft Action Plan during this meeting, the National Plan of Action was finalized. The three main components of the NPA were: education, health and the preservation of children's rights.<sup>95</sup>

### 5.3 Coordination for Implementation of the CRC

The CRC cannot be successfully implemented without government accountability and coordination between government ministries and departments. Child rights issues are often dealt with by a particular department or scattered over different departments, without adequate coordination. Ideally, every State should have a specific coordination and

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<sup>93</sup>Williams, Emma, *Children's Participation and Policy Change in South Asia Childhood Poverty Research and Policy Centre (CHIP)*, 2004. Examines cases of child participation in poverty-reduction issues in Nepal, Sri Lanka, India and Bangladesh and impact on policies.

<sup>94</sup>O'Malley, Kate, *Children and Young People Participating in PRSP Processes: Lessons from Save the Children's experiences*, Save the Children UK, London, 2004, accessed from: <[www.eldis.org/fulltext/SCUK-participation-PRSP.pdf](http://www.eldis.org/fulltext/SCUK-participation-PRSP.pdf)> on 2 June 2010.

<sup>95</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Second and third periodic reports of States parties due in 1998 and 2003, Maldives, CRC/C/MDV/3, 8 October 2008, para. 15.

monitoring body for children, at a central and strategic position within the government. This body's purpose is to make children visible in government actions, ensure coordination of relevant activities, monitor progress and promote a comprehensive and integrated agenda for realization of children's rights. In General Comment No. 5, the Committee notes that:

In examining States parties' reports the Committee has almost invariably found it necessary to encourage further coordination of government to ensure effective implementation: coordination among central government departments, among different provinces and regions, between central and other levels of government and between Government and civil society.<sup>96</sup>

The Committee added that it was not the intention "to attempt to prescribe detailed arrangements appropriate for very different systems of government across States Parties" since "there are many formal and informal ways of achieving effective coordination, including for example inter-ministerial and interdepartmental committees for children."<sup>97</sup> Further, the Committee noted that, since each department affects at least one aspect of children's lives,

... it is not practicable to bring responsibility for all children's services together into a single department, and in any case doing so could have the danger of further marginalizing children in Government...but a special unit, if given high-level authority – reporting directly, for example, to the Prime Minister, the President or a Cabinet Committee on children – can contribute both to the overall purpose of making children more visible in Government and to coordination to ensure respect for children's rights across Government and at all levels of Government. Such a unit can be given responsibility for developing the comprehensive children's strategy and monitoring its implementation, as well as for coordinating reporting under the Convention.<sup>98</sup>

While making one single department responsible may not always be the most appropriate approach, civil society organizations have often expressed their dissatisfaction with the coordination arrangements in place. For example, a coalition of NGOs from the Netherlands expressed concern regarding coordination activities in their country's government:

However, there is criticism of the bandwidth of the portfolio and the 'virtual nature' of the Programme Minister's Ministry. This latter criticism is based on the fact that the Ministry of Youth and Family Affairs is housed in the premises of another Ministry, and that part of the administrative structure is

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<sup>96</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, para. 37.

<sup>97</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, para. 38.

<sup>98</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, para. 38.

also ‘borrowed’ from other ministries. The Dutch NGO Coalition for Children’s Rights would welcome a reinforcement of this structure, in particular to ensure that the new Ministry is future-resistant.<sup>99</sup>

In the case of Timor-Leste, the Committee recommended that the State:

...strengthen coordination between the various governmental bodies and mechanisms involved in children's rights both at the national and local level and ...involve members of civil society, child rights experts and other professionals in the coordination and evaluation of the implementation of the Convention.<sup>100</sup>

Chile took into account a similar CRC recommendation, as reflected in the country’s third periodic report to the Committee:

As regards the recommendation contained in the concluding observations on the second Report of the State of Chile concerning closer cooperation and active dialogue with nongovernmental organizations (NGOs) in all matters concerning children, mention should be made of the establishment of the Advisory Committee of Civil Society for Children and Adolescents. The Committee was established on 1 August 2003; its terms of reference are laid down in the National Policy in favor of Children and Adolescents and the presidential instructions concerning citizen participation; it has contact with the Council of Ministers for Children and Adolescents through the Office of the Executive Secretary of the Council. The membership of the Council consists of federations of professional associations, networks of NGOs concerned with children and employers’ and workers’ unions, each of which elect a representative to the Committee; the latter enjoys standing participation in the Council of Ministers.<sup>101</sup>

Recommendations made at major international conferences have additionally added an authoritative voice to NGO aspirations to participate in government coordination. The United Nations Study on Violence against Children resulted in a recommendation for a coordination agency “with the capacity to involve multiple sectors in a broad-based implementation strategy” to implement strategies, policies and plans.<sup>102</sup> In the outcome document of World Congress III against Sexual Exploitation of Children and Adolescents (November 2008),

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<sup>99</sup>Dutch NGO Coalition for Children’s Rights, ‘Children’s Rights in the Netherlands, The third report of the Dutch NGO Coalition for Children’s Rights on the implementation of the Convention on the Rights of the Child’, p. 7, accessed from: <[www.crin.org/docs/Netherlands\\_KRC\\_NGO\\_Report.pdf](http://www.crin.org/docs/Netherlands_KRC_NGO_Report.pdf)>, on 2 June 2010.

<sup>100</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Timor-Leste, CRC/C/TLS/CO/1, 14 February 2008, para. 13.

<sup>101</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Third periodic report of States parties due in 1998 and 2003: Chile, CRC/C/MDV/3, 20 December 2005, para. 24.

<sup>102</sup>United Nations, Report of the independent expert for the United Nations study on violence against children submitted pursuant to the General Assembly Resolution A/61/299, United Nations, New York, 29 August 2006, para. 54.

participants, including government and civil society representatives, committed themselves to:

Establish and/or improve by 2013 concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents.<sup>103</sup>

Despite the widespread call for States to involve civil society, including children, in coordinating activities, some caution is warranted. Some governments may involve civil society representatives in a tokenistic manner, which precludes substantive impact. It is important to emphasize that it is not the role of NGOs to coordinate State activities; rather, through meaningful participation, they should help influence and strengthen coordination to aid implementation of the CRC. This should include ensuring wide civil society participation and the visibility of children in government actions. NGOs also need to maintain their independence so they can credibly monitor government actions for children. Bearing in mind the potential risks noted above, civil society participation in state coordination bodies can provide a valuable opportunity to help promote and implement child rights strategies and plans. Nevertheless, for reasons included that civil society organizations started participating in coordination activities relatively recently, little evidence has been collected of their impact on implementation of the CRC. This requires further monitoring, evaluation and analysis.

#### **5.4 Budgets for Children**

A number of child rights NGOs have realized the importance of advocating with governments for allocation of resources to fulfil children's rights. Some have analysed state budgets from a child rights perspective, in support of article 4 of the CRC:

With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

The allocation of resources to children "to the maximum extent of their available resources" is key to efforts by States parties to ensure implementation of the CRC. In General Comment No. 5, the Committee underscored that Governments should:

... ensure that economic and social planning and decision-making and budgetary decisions are made with the best interests of children as a primary consideration and that children, including in particular marginalized and

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<sup>103</sup> III World Congress against Sexual Exploitation of Children and Adolescents, *The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*, Rio de Janeiro, 25-28 November 2008, para. 54, accessed from: <[www.crin.org/docs/Rio\\_Declaration\\_and\\_Call\\_for\\_Action.pdf](http://www.crin.org/docs/Rio_Declaration_and_Call_for_Action.pdf)>, on 22 June 2010.

disadvantaged groups of children, are protected from the adverse effects of economic policies or financial downturns.<sup>104</sup>

The issue of how state resources and budgets are used and distributed generates vigorous debates in legislatures, government ministries and among the general public. It is crucial to have independent impact assessments, and civil society organizations worldwide have been working to strengthen their ability to assess government budgets for children. As noted in the International Budget Project's Guide to Budget Work for NGOs: "The NGOs have realised that their ability to advance their goals – whether these are to combat poverty or to strengthen democratic practices – will be enhanced if they develop a capacity to undertake budget analysis."<sup>105</sup> This engagement has been encouraged by the trend towards more open and democratic decision-making processes, even in countries where it is relatively new. To a great extent, this development coincided with the adoption of the CRC.

Also influencing civil society engagement in budgetary issues is its recognized role in addressing poverty, budgetary reforms and decentralization,<sup>106</sup> in which is stressed the need for a rights-based approach. As CRIN notes,

The rights based approach to budgets aims to give all citizens an understanding of how the budgetary process can affect their daily lives and how they can intervene. In this way, citizens can hold governments accountable for their spending choices.<sup>107</sup>

Assessing budgets and their impact on children from a child rights perspective is a challenging task for civil society, calling for sufficient expertise and resources. It may involve assessing both central and local government budgets, which is particularly relevant in large countries with decentralised structures, such as India (box 5).

## **BOX 5**

### **Budgeting for Children in India**

Several years ago, the HAQ: Centre for Child Rights in India came to the conclusion that budget analysis would be helpful in developing a comprehensive picture of government financial commitments to children. Its first report, 'India's Children and the Union Budget', was issued in September 2001, and HAQ has continued this exercise annually.

HAQ soon realized that in a country as large and diverse as India it was insufficient to focus solely on the central government budget. Hence in 2002,

<sup>104</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para. 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, para. 51.

<sup>105</sup>International Budget Project, 'Guide to Budget Work for NGOs', Washington, DC, 2001, p. 2, available at: <[www.InternationalBudget.org](http://www.InternationalBudget.org)>, accessed on 2 June 2010.

<sup>106</sup>International Budget Project, 'Guide to Budget Work for NGOs', Washington, DC, 2001, p. 2, available at: <[www.InternationalBudget.org](http://www.InternationalBudget.org)>, accessed on 2 June 2010.

<sup>107</sup>Information available at: <[www.crin.org/resources/infoDetail.asp?ID=4651&flag=report](http://www.crin.org/resources/infoDetail.asp?ID=4651&flag=report)>, accessed on 2 June 2010.

it started analysing state budgets, beginning with three States, and covering seven by 2006. In each state HAQ works with and supports partner organizations, thereby building the capacities of state-level organizations and enabling them to advocate around the analysis at the local level.

The impact of HAQ's work is clear. Two years after its 2001 report, the Government undertook its first Budget for Children analysis, drawing upon HAQ's methodology. In October 2005, the Government declared its intention to undertake such analysis for both the Union and the states. Child budgeting has also been included in the Government's National Plan of Action for Children (2005). In presenting the Union Budget for 2008-2009, the Finance Minister announced, "We will score another 'first' this year. A statement on child-related schemes is included in the budget documents." This was high-level recognition for the Budget for Children work that HAQ had performed for a number of years.<sup>108</sup>

The African Report on Child Well-being 2010, produced by the African Child Policy Forum, is another example of an NGO study that will focus on budgeting for children.<sup>109</sup> Civil society has also involved children in such efforts. In Bangladesh, Save the Children Australia supported children to form a Children's Parliament, giving girls and boys the opportunity to voice their opinions. The Child Parliament held a unique children's budget discussion in June 2003 during the parliamentary budget session. A total of 68 children from all over the country participated. The children discussed the existing situation concerning education, health and recreation facilities and tried to encourage government to make more appropriate allocations in the national budget.<sup>110</sup>

Civil society involvement seems to have had a significant and measurable impact on budgets for children. A 2007 study by the UNICEF Innocenti Research Centre, 'Reforming Child Law in South Africa: Budgeting and Implementation Planning' found that appropriate budgeting has played an important role in realizing children's rights in that country, to which NGO interest has contributed in recent years.<sup>111</sup> The study considered that this was due to the changed international context; as many formerly closed societies are becoming more transparent in their processes, NGOs are adopting a more holistic and rights-based approach. This has created opportunities, especially in developing countries, for NGOs to examine budgets and determine how specific sectors are affected. This knowledge enables them to lobby for necessary changes. The study concluded that the constructive involvement of NGOs can clearly improve the quality of budget debate and influence prioritization of spending, producing better outcomes for children.<sup>112</sup>

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<sup>108</sup>Information available at: <[www.haqcrc.org/home.html](http://www.haqcrc.org/home.html)>, accessed on 2 June 2010.

<sup>109</sup>Information available at: <[www.africanchildforum.org](http://www.africanchildforum.org)>, <[www.africanchild.info](http://www.africanchild.info)>, accessed on 2 June 2010.

<sup>110</sup>Save the Children Australia, Report on Children's budget discussion, Dhaka, 17 June 2003.

<sup>111</sup>United Nations Children's Fund Innocenti Research Centre, 'Reforming Child Law in South Africa: Budgeting and Implementation Planning', *Innocenti Case Studies*, Florence, 2007.

<sup>112</sup>United Nations Children's Fund Innocenti Research Centre, 'Reforming Child Law in South Africa: Budgeting and Implementation Planning', *Innocenti Case Studies*, Florence, 2007, p. 17.



## 5.5 Research and Data Collection

It is difficult to imagine the successful implementation of children's rights without collection and assessment of reliable data for planning and monitoring. In General Comment No. 5, the Committee on the Rights of the Child underlines that "Collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realization of rights, is an essential part of implementation."<sup>113</sup> Further, the Committee reminds States parties that data needs to extend over the whole period of childhood, up to age 18, and that it has to be coordinated throughout the jurisdiction, ensuring nationally applicable indicators. It is primarily a State responsibility to develop indicators, conduct research and collect data.

However, the Committee interprets the States' obligation as follows: "States should collaborate with appropriate research institutes and aim to build up a complete picture of progress towards implementation, with qualitative as well as quantitative studies."<sup>114</sup> States parties are hence encouraged to promote in-depth studies on issues covered by the CRC, and a uniform information system to ensure collection and analysis of data disaggregated by age, sex, disability and ethnic or social origin. Although the Committee always raises the issue of research and data collection in its concluding observations, it rarely recommends that States cooperate with or assist NGOs in such activities. Traditionally, data are collected by government departments, research institutes and universities. However, civil society organizations also carry out research and collect data, alone or in cooperation with other institutions, including with international organizations such as UNICEF and WHO.

The Committee has stressed that "Evaluation requires the development of indicators related to all rights guaranteed by the Convention."<sup>115</sup> Many projects have aimed at developing sets of common global indicators in the thematic areas of the Convention. For example, the Better Care Network introduced a set of common global indicators for children in formal care, which includes children living in institutional care or formally arranged foster family care. It has also produced a manual explaining the value of this information and offering guidance on data collection.<sup>116</sup> Another example is the Consultative Group on Early Childhood Care and Development, an inter-agency consortium involved in international advocacy and knowledge development, which published a study on early childhood indicators.<sup>117</sup>

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<sup>113</sup>United Nations, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child', Office of the High Commissioner for Human Rights (CRC/GC/2003/5), Geneva, 3 October 2003, para. 59.

<sup>114</sup>Office of the United Nations High Commissioner for Human Rights, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003, para. 59.

<sup>115</sup>Office of the United Nations High Commissioner for Human Rights, Committee on the Rights of the Child, General Comment No. 5 (2003) 'General Measures of Implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, CRC/GC/2003/5, Geneva, 3 October 2003.

<sup>116</sup>Information available at: <[www.crin.org/bcn/about.asp](http://www.crin.org/bcn/about.asp)>, accessed on 2 June 2010.

<sup>117</sup>Information available at: <[www.ecdgroup.com/pdfs/cn25indicators.pdf](http://www.ecdgroup.com/pdfs/cn25indicators.pdf)>, accessed on 2 June 2010.

Data on the situation of children should be collected and analysed regularly. Ideally, relevant government departments should publish data and research results annually and disseminate them broadly, including to children. For different reasons, many States fail to carry out sufficient research and data collection or to disaggregate it appropriately. NGOs sometimes find that the official data are insufficient or of poor quality, which hampers policy development and implementation. In some child rights areas, particularly child protection, States do not systematically collect data. While NGOs try to fill that gap, they too may be weak in this area, lacking organizational, financial resources and tools and analytical frameworks. Mauritania provides an example of the impact of NGO-conducted research on government policy and actions. Its report to the Committee included information on the impact of NGO research:

A civil society study of how the law and the courts treat sexual assaults on women and girls has resulted in a series of recommendations which should enhance the effectiveness of the campaign against the sexual exploitation of children. The Government has taken note of these recommendations and is taking action to improve preventive measures and refine the techniques for detecting sexual assault, while ensuring that cases are rapidly dealt with by the justice system and the police.<sup>118</sup>

In many cases, it is relevant to consult with children about whether they believe their rights are being fully recognized and realized. Interviewing children and promoting children as researchers (with appropriate ethical considerations and safeguards) can be an important way to learn about key aspects of their lives, such as to what extent they enjoy respect for their civil rights, including the right to have their views heard and given due consideration, in the family, schools and the community. Feinstein and O’Kane (2008) argue that the development of child-friendly information and materials should be increased, particularly those that support participation by younger children, children with disabilities and other marginalized groups.<sup>119</sup>

Mann and Tolfree (2003) reviewed the experience of involving children in data analysis and research; their analysis raised ethical issues concerning these children’s age, gender, experience, education and adult assistance. Their key message is that:

...securing the participation of children in research can be empowering and validating for children (and adults) as well as enriching for the research process and its findings. It was found that children’s views and experiences

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<sup>118</sup>United Nations, Committee on the Rights of the Child, Written replies by the Government of Mauritania to the list of issues (CRC/C/MRT/2) prepared by the Committee on the Rights of the Child in connection with the consideration of the second periodic report of Mauritania (CRC/C/MRT/2), Office of the High Commissioner for Human Rights, CRC/C/MRT/Q/2/Add. 1, Geneva 22 April 2009, p. 17.

<sup>119</sup>Feinstein, Clare and O’Kane, Claire: *Cultivating Children’s Participation- Abridged version of Participation is a virtue that must be cultivated*, Save the Children Sweden, 2008, p. 37, available at: <http://shop.rb.se/Section/Section.aspx?SectionId=2017321&MenuId=74347>, accessed on 25 May 2010.

are often significantly different from those of adults, even when the latter believe that they are reflecting children's viewpoints.<sup>120</sup>

A gap in reliable data on certain areas of child rights and research gaps remains an obstacle to implementation of the CRC. This helps explain why so much attention is paid to data collection and research. In the United Nations violence study for example, Professor Pinheiro recommends that States "improve data collection and information systems in order to identify vulnerable sub-groups, inform policy and programming at all levels, and track progress towards the goal of preventing violence against children."<sup>121</sup> He also recommends that States "develop a national research agenda on violence against children across settings where violence occurs, including through interview studies with children and parents, with particular attention to vulnerable groups of girls and boys".<sup>122</sup> Although he does not specifically recommend that States cooperate with NGOs in data collection and research, in addressing implementation and follow-up he says that the primary responsibility for implementation lies with governments but that participation of other actors, including civil society and children, is critical.

## 5.6 Independent Human Rights Institutions

Implementation of the CRC suggested independent institutions able to monitor governmental and other actions, advise on gaps and measures needed to fulfil children's rights, and be empowered to work directly with children to address their individual and collective challenges. National human rights institutions (NHRIs) for children are different from NGOs in that they are public entities founded in legislation, financed by state budgets and charged with responsibility for reporting to the legislature and/or the government (box 6). In 1981, Norway became the first country to set up an independent ombudsman for children through legislation. Since then, independent institutions for children's rights have multiplied in all regions and are now present in more than 80 countries, according to forthcoming UNICEF IRC research on human rights institutions for children.

The concept evolved within the framework of article 4 of the CRC and was further elaborated in the Committee's General Comment No. 2 on the Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child.<sup>123</sup> General

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<sup>120</sup>Mann, Gillian and Tolfree, David, *Children's Participation in Research: Reflections from the Care and Protection of Separated Children in Emergencies Project*, Save the Children Sweden, 2003, p.7, available at: <<http://shop.rb.se/Product/Product.aspx?ItemId=2967683&SectionId=2017321&MenuId=74347>>, accessed on 2 June 2010.

<sup>121</sup>World Report on Violence against Children, p. 22, accessed from: <[www.unicef.org/violencestudy/1.%20World%20Report%20on%20Violence%20against%20Children.pdf](http://www.unicef.org/violencestudy/1.%20World%20Report%20on%20Violence%20against%20Children.pdf)>, on 2 June 2010.

<sup>122</sup>World Report on Violence against Children, p. 23, accessed from: <[www.unicef.org/violencestudy/1.%20World%20Report%20on%20Violence%20against%20Children.pdf](http://www.unicef.org/violencestudy/1.%20World%20Report%20on%20Violence%20against%20Children.pdf)>, on 2 June 2010.

<sup>123</sup>United Nations, Committee on the Rights of the Child, General Comment No. 2 (2002) 'The role of independent national human rights institutions in the promotion and protection of the rights of the child', Office of the High Commissioner for Human Rights, CRC/GC/2002/2, 15 November 2002.

Comment No. 2 calls for NHRIs to work closely with NGOs.<sup>124</sup> It also explicitly indicates that civil society, including groups led by children and youth, should participate in the establishment of such institutions. It specifies that their mandate should include advocating for and facilitating “meaningful participation by children’s rights NGOs, including organizations comprised of children themselves, in the development of domestic legislation and international instruments on issues affecting children.”<sup>125</sup> Many human rights institutions have members from civil society who specialize in children’s rights. The Deputy Ombudsman for Children in Serbia, for example, has an Advisory Board composed of NGO representatives and experts.

Partnerships are key, as is cooperation with a wide range of actors at national, regional and international levels. In General Comment No. 2, the Committee devoted a paragraph to NHRIs and NGOs:

Non-governmental organizations play a vital role in promoting human rights and children’s rights. The role of NHRIs, with their legislative base and specific powers, is complementary. It is essential that institutions work closely with NGOs and that Governments respect the independence of both NHRIs and NGOs.<sup>126</sup>

Many NHRIs have developed close links with NGOs working with and for children. Such institutions may benefit from NGOs’ wealth of expertise and experience, including in providing services. Collaboration with NGOs helps NHRIs grasp the scope of work, capitalize on shared knowledge and experience, and avoid duplication of work. In many countries and regions, NGOs have been instrumental in efforts to establish human rights institutions. NGOs may also help to ensure that children actually make use of an ombudsman or commissioner.<sup>127</sup>

#### **BOX 6**

##### **Development of a Human Rights Institution for Children in Kazakhstan**

The Government of Kazakhstan reported that the legal mechanisms for protecting children’s interests were further developed during the 2003-2005 period. The Office of the Human Rights Commissioner now has a special section with responsibility for children’s rights. In 2006, a pilot project was launched, ‘Protecting the rights of the child and establishing monitoring mechanisms’. The goal is to establish a children’s rights ombudsman in every

<sup>124</sup>United Nations, Committee on the Rights of the Child, General Comment No. 2 (2002) ‘The role of independent national human rights institutions in the promotion and protection of the rights of the child’, Office of the High Commissioner for Human Rights, CRC/GC/2002/2, 15 November 2002, para. 26.

<sup>125</sup>United Nations, Committee on the Rights of the Child, General Comment No. 2 (2002) ‘The role of independent national human rights institutions in the promotion and protection of the rights of the child’, Office of the High Commissioner for Human Rights, CRC/GC/2002/2, 15 November 2002, para. 19 (k).

<sup>126</sup>United Nations, Committee on the Rights of the Child, General Comment No. 2 (2002) ‘The role of independent national human rights institutions in the promotion and protection of the rights of the child’, Office of the High Commissioner for Human Rights, CRC/GC/2002/2, 15 November 2002, para. 26.

<sup>127</sup>United Nations Children’s Fund Innocenti Research Centre, ‘Independent Institutions Protecting Children’s Rights’, *Innocenti Digest*, Florence, No. 8, June 2001, p. 10.

region of Kazakhstan. The initiative is being implemented jointly with the central Government as part of the programme of cooperation for 2005-2009. Key partners include 90 representatives of the Ministry of Education and Science, the Ombudsman's Office, local authorities, NGOs and the media, plus 3,000 children aged 10-17 years.<sup>128</sup>

The relationship between NHRIs and civil society remains complex. While they cooperate with each other in promoting implementation of the CRC, they also have very different functions and often assess each other's work. For example, NHRIs for children monitor all actors' practices, including those of NGOs. Similarly, NGOs may be critical of actions and approaches of the national institutions. They might be dissatisfied with the appointment process, or perceive ombudsman as too close to government.

## 5.7 Monitoring of CRC Implementation

Monitoring implementation of the Convention is an activity performed by many civil society groups. It may take place globally, nationally and sub-nationally. Honduras provides an interesting example of how NGOs monitor implementation of the Convention (box 7).

### **BOX 7**

#### **Civil Society Monitoring of CRC Implementation in Honduras**

Twenty four civil society organizations working to protect children's rights in Honduras have formed a network known as COIPRODEN. Over the years, these NGOs have monitored implementation of the country's international commitments as a signatory to the CRC, and they presented alternative reports to the Committee on the Rights of the Child in 1994, 1997, 1998 and 2005.

The NGOs have also carried out activities supporting implementation of the CRC, particularly with regard to street children, children's participation, child abuse, commercial sexual exploitation, child labour, children in institutions and children with HIV/AIDS. They have been engaged in sex education, training for teachers and municipal officials, lobbying, panel discussions, seminars and other means of publicizing child rights.<sup>129</sup>

Monitoring is a major task of the Committee on the Rights of the Child: "For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of

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<sup>128</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Second and third periodic reports of States parties due in 2006, Kazakhstan, CRC/C/KAZ/3, 23 August 2006, para. 31.

<sup>129</sup>United Nations, Committee on the Rights of the Child, Written replies by the Government of Honduras to the list of issues (CRC/C/HND/Q/3) prepared by the Committee on the Rights of the Child in connection with the consideration of the second periodic report of Honduras, CRC/C/HND/3, 29 November 2006, Office of the High Commissioner for Human Rights, Geneva, 22 April 2009, pp 49-50.

the Child, which shall carry out the functions hereinafter provided.”<sup>130</sup> Other international treaty bodies participate in monitoring the implementation of child rights, such as the Human Rights Committee and the Committee on Economic Social and Cultural Rights, along with other international organizations. States parties to the CRC have the primary responsibility for its implementation. As indicated in General Comment No. 5:

Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3 (1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be built into government at all levels and as early as possible in the development of policy.

Further, the Committee clearly states that “[s]elf-monitoring and evaluation is an obligation for Governments.”<sup>131</sup> General Comment No. 5 also elaborates on monitoring, providing opportunities for other participants:

But the Committee also regards as essential the independent monitoring of progress towards implementation by, for example, parliamentary committees, NGOs, academic institutions, professional associations, youth groups and independent human rights institutions.<sup>132</sup>

This provides further confirmation of the role of civil society in implementation of the CRC. This is especially important given that the Committee cannot directly monitor its implementation.

It is important for NGOs to have independence in their monitoring activities and that States cooperate with them. Where State monitoring mechanisms are insufficient, States may draw on NGO information or try to involve NGOs in this process. For example, the Government of Bhutan noted in its second periodic report that it:

... is now involving several NGOs to carry out, monitor, and evaluate women and children-related programmes. NGOs are involved in reviewing the situation of children in relation to the implementation of the Convention and

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<sup>130</sup>United Nations, Convention on the Rights of the Child, General Assembly resolution 44/25, United Nations, New York, 20 November 1989, article 43, para. 1.

<sup>131</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003) ‘General measures of implementation for the Convention on the Rights of the Child (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, Geneva (CRC/GC/2003/5), 3 October 2003, para. 46.

<sup>132</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003) ‘General measures of implementation for the Convention on the Rights of the Child’(arts. 4, 42 and 44, para 6) , Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 46.

are initiating new and comprehensive studies on youth, substance abuse and violence on women and families.<sup>133</sup>

Consequently, the Committee stated in its concluding observations that, “The Committee notes that the State party recognizes the important role played by non-governmental organizations (NGOs) in carrying out, monitoring, evaluating child rights related programmes and welcomes the inclusion of civil society representatives in the NCWC (the National Commission for Women and Children).”<sup>134</sup>

The Committee regularly notes cooperation between States and civil society in monitoring implementation of the CRC. When cooperation or support for civil society monitoring efforts is lacking, the Committee may recommend that the State cooperate and collaborate. In the case of Kazakhstan, the Committee suggested that “the State party intensify its cooperation and collaboration with NGOs and civil society in the implementation and monitoring of the Convention.”<sup>135</sup>

The Committee also recommends that States cooperate with NGOs in monitoring implementation of particular areas of child rights. For example, Venezuela was recommended to “establish mechanisms that facilitate the implementation and monitoring of the plans and programmes of Government and NGOs on the subjects of trafficking, sexual exploitation and sale of children.”<sup>136</sup> The Committee also recommended that Bulgaria involve NGOs in monitoring rights of children with disabilities, suggesting that the State:

...establish a formal monitoring system for residential care homes for children which closely examines the right to education of children with mental and other disabilities, as well as ensure that monitoring incorporates concrete steps to follow up recommended actions, and favours the participation of civil society organizations.<sup>137</sup>

The Committee urged Mali to collaborate with civil society to “put in place effective monitoring systems to assess progress towards the eradication of harmful traditional practices

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<sup>133</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Second periodic report of States parties due in 1997, Bhutan, CRC/C/BTN/2, 16 July 2007, para. 56.

<sup>134</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Bhutan, CRC/C/BTN/CO/2, 8 October 2008, para. 15.

<sup>135</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Kazakhstan, CRC/C/KAZ/CO/3, 8 June 2007, para. 25.

<sup>136</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Venezuela, CRC/C/VEN/CO/2, 5 October 2007, para. 75.

<sup>137</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Bulgaria, CRC/C/BGR/CO/2, 23 June 2008, para. 75.

against children.”<sup>138</sup> The issue of children in conflict with the law provides ample opportunities for civil society involvement in monitoring. In its concluding observations to Georgia the Committee recommended that “the State party, in close cooperation with relevant NGOs .... [c]onsider strengthening the existing system of independent monitoring for detention centres for juveniles”<sup>139</sup>

Many international and national NGOs have an overall objective of continuously monitoring implementation of the Convention. International organizations and coalitions usually have a global or regional approach, although they also monitor the situation in particular countries, often in cooperation with national partners. For example, ECPAT monitors efforts to protect children from sexual exploitation and has published a Global Monitoring Report on the Status of Action against the Commercial Sexual Exploitation of Children (Agenda for Action).<sup>140</sup> The Coalition to Stop the Use of Child Soldiers produces a Global Report containing information on the involvement of children in armed conflicts worldwide.<sup>141</sup> International human rights NGOs such as Human Rights Watch, Amnesty International, the World Organization against Torture and others monitor implementation of particular areas related to their primary activity. National NGOs may monitor implementation of the CRC as a whole or certain parts of the treaty.<sup>142</sup> A search of the member organizations in the CRIN database provides ample evidence of children’s rights monitoring activities.

A full cycle of monitoring includes the development of tools and methodologies, carrying out the monitoring, analysing the results and applying them in different ways. For many NGOs, this remains a challenge. Smaller grass-roots organizations may not have the capacity to perform all the functions, but they may be able to highlight gaps and advocate with governments and other actors to address them. Civil society organizations are accountable for their monitoring activities; just because NGOs are considered independent, it should not be assumed that they have the capability to fully monitor CRC implementation. Regarding quality of services provided to children by NGOs, the Committee recommended to the Government of Malaysia that it:

...ensure – for example, by providing guidelines and standards for service provision – that both not-for-profit and for-profit NGOs fully comply with principles and provisions of the CRC...as regards privatizing or contracting out services to NGOs, (to) enter into detailed agreements with service providers and ensure effective monitoring of implementation as well as transparency of the entire process.<sup>143</sup>

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<sup>138</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Sierra Leone, CRC/C/SLE/CO/2, 20 June 2008, para. 58.

<sup>139</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Georgia, CRC/C/GEO/CO/3, 23 June 2008, para. 30.

<sup>140</sup> Information is available at: <[www.ecpat.net/A4A\\_2005/europe.html](http://www.ecpat.net/A4A_2005/europe.html)>, accessed on 2 June 2010.

<sup>141</sup> Available at: <[www.childsoldiersglobalreport.org/](http://www.childsoldiersglobalreport.org/)>, accessed on 26 April 2010.

<sup>142</sup> Information is available at: <[www.crin.org/organisations/](http://www.crin.org/organisations/)>, accessed on 2 June 2010.

<sup>143</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding



## 5.8 Awareness Raising, Training and Education

Implementation of the CRC requires States parties and other stakeholders to undertake education, training and awareness-raising on children's rights. Civil society plays an important role in these crucial activities. In General Comment No. 5, the Committee:

...emphasises the States' obligation to develop training and capacity-building for all those involved in the implementation process – government officials, parliamentarians and members of the judiciary – and for all those working with and for children. These include, for example, community and religious leaders, teachers, social workers and other professionals, including those working with children in institutions and places of detention, the police and armed forces, including peacekeeping forces, those working in the media and many others.<sup>144</sup>

Children receive special attention as beneficiaries of training:

Understanding and knowledge of human rights must, of course, be promoted among children themselves, through the school curriculum and in other ways (see also paragraph 69 below and the Committee's General Comment No. 1 (2001) on the aims of education).<sup>145</sup>

The Committee underlines the need for ongoing training, reflecting the reality that understanding the complexity of children's rights requires repetition and:

... periodic evaluation of the effectiveness of training, reviewing not only knowledge of the Convention and its provisions but also the extent to which it has contributed to developing attitudes and practice which actively promote enjoyment by children of their rights.<sup>146</sup>

A key aspect of capacity-building in General Comment No. 5 concerns the purpose of training, which is to "emphasise the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for

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Observations of the Committee on the Rights of the Child: Malaysia, CRC/C/MYS/CO/1, 2 February 2007, para. 54.

<sup>144</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), 'General measures of implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the United Nations High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 53.

<sup>145</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), 'General measures of implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the United Nations High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 53.

<sup>146</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), 'General measures of implementation for the Convention on the Rights of the Child', Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 55.

all its provisions.”<sup>147</sup> The Committee further recognizes the role of NGOs in making the Convention known to adults and children.<sup>148</sup>

Among the general measures of CRC implementation, training, awareness raising and capacity building on children’s rights are the most commonly undertaken activities of civil society, constituting the core activities of many organization. States frequently recognize this role and highlight it in their reports to the Committee. For example, the Government of Mauritania reported that:

Civil society organizations play an important part in training and awareness-raising activities. They have held several seminars, training courses and workshops in Nouakchott and in the interior of the country to improve the situation of all children in difficult situations and of girl domestic workers in particular.<sup>149</sup>

In replying to the Committee’s list of issues to be addressed, Mauritania added that,

Every year seminars are held in partnership with civil society, bringing together judges, police officers, lawyers and non-governmental organizations which specialize in combating sexual assaults on women and girls. These seminars are a means of spreading knowledge about the campaign to end such assaults, improving the statistical record and thereby making the campaign strategy more effective.<sup>150</sup>

Twenty years after adoption of the CRC, awareness of it is low even in most industrialized countries. This is due to insufficient efforts by States parties to spread information about this treaty. It is a particular concern with regard to children’s awareness of their rights. The Committee regularly states that the understanding and knowledge of human rights must be promoted among children themselves, through school curricula and in other ways. Nevertheless, few countries have fully integrated child rights into the curriculum. NGOs have contributed greatly to informing children about the Convention, and there are many examples of children participating in training, including as peer educators.

Many NGOs understand that short trainings in child rights are insufficient to change attitudes and behaviours. Therefore, they encourage academic training on child rights as a tool for

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<sup>147</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), ‘General measures of implementation for the Convention on the Rights of the Child’ (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 53.

<sup>148</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), ‘General measures of implementation for the Convention on the Rights of the Child’ (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 67.

<sup>149</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Second periodic report of States parties due in 1997, Mauritania, CRC/C/MRT/2, 30 July 2008, para. 256.

<sup>150</sup> United Nations, Committee on the Rights of the Child, Written replies by the Government of Mauritania to the list of issues (CRC/C/MRT/2) prepared by the Committee on the Rights of the Child in connection with the consideration of the second periodic report of Mauritania (CRC/C/MRT/2), Office of the High Commissioner for Human Rights, CRC/C/MRT/Q/2/Add. 1, Geneva 22 April 2009, p. 17.

deeper knowledge and sensitization. One such source for professional training is the European Network of Masters on Children's Rights. This programme arose out of the growing recognition that, despite the commitment and intentions of States parties in Europe and efforts by civil society, there was a need for professionals with specialized education who would be dedicated to developing and promoting children's rights. This was seen to call for a master's degree that would include international and interdisciplinary perspectives of the CRC to extend and complement existing training courses and seminars on children, childhood, human and in particular child rights.<sup>151</sup>

While a review of alternative reports and other examples show that NGOs have done much to build awareness of children's rights, these efforts are not enough without full State commitment to including information on child rights at all levels of education and professional training. NGOs need to advocate with governments to fulfil their responsibility as key duty bearers for informing citizens about the CRC. Greater coordination of efforts would help reduce overlap and duplication, for example, in production of awareness raising materials. NHRIs for children are also expected to make a difference through training and awareness-raising. The media is a key actor in awareness-raising efforts, and it too should be reached through capacity building initiatives.

## **5.9 International Cooperation**

International cooperation has been a key force behind implementation of the CRC. According to General Comment No. 5, "Article 4 emphasizes that implementation of the Convention is a cooperative exercise for the States of the world. This article and others in the Convention highlight the need for international cooperation."<sup>152</sup> Other articles relevant to international cooperation include articles 7 (2) on name and nationality; 11 (2) on illicit transfer and non-return of children abroad; 17 (b) on access to information; 21 (e) on adoption; 22 (2) on refugee children; 23 (4) on children with disabilities; 24 (4) on health and health care; 27 (4) on standard of living; 28 (3) on education; 34 on sexual exploitation and abuse, and 35 on abduction and sale or trafficking of children. The Committee reminds States parties that "The Charter of the United Nations (Arts. 55 and 56) identifies the overall purposes of international economic and social cooperation, and members pledge themselves under the Charter to take joint and separate action in cooperation with the Organization" to achieve these purposes. Further,

In the United Nations Millennium Declaration and at other global meetings, including the United Nations General Assembly special session on children, States have pledged themselves, in particular, to international cooperation to eliminate poverty.<sup>153</sup>

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<sup>151</sup> Information available at: <[www.ina-fu.org/enmcr-cd/index.php](http://www.ina-fu.org/enmcr-cd/index.php)>, accessed on 22 June 2010.

<sup>152</sup> United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), 'General measures of implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 60.

<sup>153</sup> United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), 'General measures of implementation for the Convention on the Rights of the Child' (arts. 4, 42 and 44, para 6), Office of the United Nations High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 60.

International cooperation involves multiple stakeholders, including civil society. In General Comment No. 5, the Committee notes that the CRC should serve as the framework for international cooperation, and States parties that receive international assistance should earmark a substantive part of that aid for children. Such an approach requires that “Governments, donors and civil society ensure that children are a prominent priority in the development of PRSPs and sector wide approaches to development.”<sup>154</sup>

In their reports on CRC implementation, States parties have emphasized the importance of international cooperation. Some have acknowledged their heavy dependence on international and national assistance, including from international and national NGOs (box 8).

## **BOX 8**

### **Bhutan and International Cooperation**

As noted in its second periodic report to the Committee, Bhutan continues to depend on donors, bilateral and multilateral organizations, and international NGOs to implement programmes for child rights and development. Many children benefit from programmes aimed at improving their education, health and nutrition. In addition to the United Nations system, external development partners involved in programmes aiding children and women include Austria, Canada (CIDA), Denmark (Danida), Finland, Germany (GTZ), India, Japan (JICA) and Switzerland, as well as the World Bank, Asian Development Bank and Save the Children USA.<sup>155</sup> The involvement of civil society is also stressed: “The Government works closely with several NGOs including the YDF, Save the Children Fund, USA, and the Royal Society for the Protection of Nature, a local environmental group.”<sup>156</sup>

Having recognized the significance of international cooperation in implementing the Convention, the Committee recommends that States seek technical assistance in particular areas of child rights, from UNICEF and other international organizations, but also from civil society. For example, in 2007 the Committee encouraged the Government of Malaysia to “strengthen cooperation with, among others, ILO International Programme on the Elimination of Child Labour (IPEC), IOM and NGOs.”<sup>157</sup>

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<sup>154</sup>United Nations, Committee for the Rights of the Child, General Comment No. 5 (2003), ‘General measures of implementation for the Convention on the Rights of the Child’ (arts. 4, 42 and 44, para 6), Office of the United Nations High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, para. 60.

<sup>155</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Second periodic report of States parties due in 1997, Bhutan, CRC/C/BTN/2, 16 July 2007, para. 47.

<sup>156</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Second periodic report of States parties due in 1997, Bhutan, CRC/C/BTN/2, 16 July 2007, para. 363.

<sup>157</sup>United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Malaysia, CRC/C/MYS/CO/1, 2 February 2007, para. 96.

The reports of donor States to the Committee provide information on their assistance in specific sectors relevant to implementation of the Convention. For example, the Government of the Netherlands reported on its assistance in improving basic health and identified civil society organizations as key partners in the country's international assistance strategy:

Considerable financial and technical assistance is given to improve health in the broadest sense of the word, and this assistance is growing. It is distributed via bilateral cooperation, multilateral organizations (mainly WHO, UNICEF, UNFPA and UNAIDS), national and international NGOs and Global Health Initiatives. These include various activities which are especially relevant to children, such as mother and child programmes and initiatives, sex education, vaccination programmes (e.g. the GAVI campaign), the provision of essential medicines, and programmes for the control and treatment of infectious diseases like malaria, TB and HIV/AIDS. In 2005, the Netherlands was the fourth biggest UNICEF donor in terms of US dollars.<sup>158</sup>

Since NGOs are non-profit organizations, they have to raise funds to finance their activities. Many get most of their funding through international assistance. There is always concern about the reliability of international assistance to child rights NGOs, given changing trends in development and humanitarian assistance. Many NGOs worry about this dependence, fearing they may not be able to finish work they have started or be forced to shut down, particularly in low- and middle-income countries.

International NGOs typically receive funding from diverse sources. More than half of Save the Children Sweden's revenues come from donations, and one quarter is provided by the Swedish International Development Cooperation Agency. The remaining quarter comes from investment income, sales of publications, membership fees and contributions from various other organizations and companies.<sup>159</sup> More broadly, Sweden's role in strengthening civil society through development assistance is discussed in box 9.

#### **BOX 9**

##### **Support to Civil Society Work on Child Rights from Sweden**

In 2008, approximately 1,000 Swedish NGOs and other groups participated in development cooperation programmes in more than 100 countries, involving more than 2,000 partner organizations and associations. Sweden also supports NGOs abroad through its embassies, which work with local organizations to promote their participation in local decision-making. This engagement is additional to Swedish support to programmes and activities carried out through the United Nations and other international organizations. Generally, the aim is to promote active, democratic civil society organizations that work

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<sup>158</sup> United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Third periodic report of States parties due in 2007, The Netherlands, CRC/C/NDL/3, 23 July 2008, para. 223.

<sup>159</sup> Information available at: <[www.savethechildren.se/About-Us/The-organization/](http://www.savethechildren.se/About-Us/The-organization/)>, accessed on 19 March 2010

for marginalized groups and populations affected by poverty, such as by providing health and education services.

Sida is working to strengthen the capacities of civil society organizations, and it aimed to provide SEK 1.3 billion<sup>160</sup> for this purpose in 2009. These resources are channelled through 15 Swedish framework organizations<sup>161</sup> and their development partners.<sup>162</sup>

While implementation of the Convention is increasingly evident, paralleling the growth and role played by child rights NGOs, several issues of concern remain regarding civil society organizations and donor relations. Viewing civil society organizations primarily as service providers, some donor agencies are reluctant to support their advocacy and watchdog activities. Such a view can particularly hamper the efforts of child and youth organizations. In reviewing the role of civil society in European Union development assistance to Bolivia, India, Kenya and Senegal, the organization BOND stated that “recognizing civil society as a relevant and political actor, not just as a pool of contract implementers, has the potential to revolutionize the effectiveness and accountability of European Development co-operation.”<sup>163</sup>

Donors should also keep in mind that civil society organizations are heterogeneous, and it is important to promote diversity through development cooperation. Small local NGOs can suffer from a lack of fund-raising capacity while succeeding in their work. On the other hand, stronger NGOs can draw more donor attention, leaving little space for the growth of grass-root organizations.

A major challenge for national and local NGOs is that many international NGOs are setting up country offices as implementation agencies (not support agencies), competing for small, local initiatives. While the international NGOs have a profile and access to resources and reach, their activities may undermine the initiatives of smaller locally based groups.

## **6. CONCLUSIONS, CHALLENGES AND RECOMMENDATIONS**

Civil society plays an important role in implementation of the Convention on the Rights of the Child. As a vital part of civil society, NGOs had a central role in drafting the Convention and have subsequently become important partners in promoting and implementing it. NGOs regularly contribute to the work of the Committee on the Rights of the Child. They support the child rights-related work of governments and work closely with other organizations, including national and international NGOs and multilateral organizations such as UNICEF. Hence they are active in helping to make child rights a reality. The relationship between the CRC and civil society:

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<sup>160</sup> Equivalent to US\$ 154.6 million as of 14 May 2010.

<sup>161</sup> A ‘framework organization’ is an organization with whom Sida has a framework agreement.

<sup>162</sup> Statement by Peter Newell during his speech at the Conference “Convention on the Rights of the Child: From Moral Imperatives to Legal Obligations: In Search of Effective Remedies for Child Rights Violations”, Geneva 12-13<sup>th</sup> of November 2009.

<sup>163</sup> BOND (Networking for International Development), ‘Reviewing civil society’s role in European Community development assistance in Kenya, Senegal, Bolivia and India’, information available at: <[www.bond.org.uk/](http://www.bond.org.uk/)>, p. 3, accessed on 2 June 2010.

...can be thought of as a process of mutual legitimation, as the CRC has helped to give legitimacy to the campaigns and programmes of the NGOs and the latter have helped to build public support for the CRC and a better understanding of it.<sup>164</sup>

This paper demonstrates that NGOs' work for children covers all the general measures of implementation of the CRC. NGOs operate in different legal, political, economic and societal settings, resulting in varied modalities of work and impacts. They have different levels of human, organizational and financial capacity to carry out child rights-related activities. As civil society is a complex and diverse mix of organizations and structures, operating on different geographic, thematic and professional levels and with many different approaches and mandates, no specific rule or model approach to implementation of the CRC was identified through the research for this paper. A diversity of models and approaches has been identified.

Donor policies and the child rights issues they support also influence the relevance and impact of civil society's engagement in CRC implementation. Emergencies generated further shift in NGO programming. All these factors have influenced the pace, quality and nature, of civil society roles and its impact on implementation of the CRC.

The analysis for this paper leads to the following specific conclusions:

- NGOs have played a significant role in law reform, training, education, research and monitoring. Civil society organizations have had growing influence in State policies, including budgets, as well as in the child rights coordination activities of governments. Over the years they have increasingly cooperated with other stakeholders, such as NHRIs, international organizations, donors and the private sector.
- The political environment for NGOs has improved in many countries. Cooperation with governments and parliaments has generally improved, although exceptions remain. In many settings, civil society actions in support of human and children's rights are under threat.
- Some of the most visible improvements in realization of child rights have resulted from a synergy of efforts by all stakeholders. Collaboration between governments and civil society, including children, has resulted in new legislation, NHRIs for children, national plans of action for children and the establishment of juvenile courts.
- NGOs have played roles in all areas covered by all articles of the CRC, often through partnerships with other stakeholders. Because of the collaboration it makes, this makes it difficult to assess the specific contributions of each participant.

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<sup>164</sup>Alston Philip, and Tobin, John, 'Laying the Foundations for Children's Rights - An Independent Study of some Key Legal and Institutional Aspects of the Impact of the Convention on the Rights of the Child', *Innocenti Insight*, Florence, 2005.p. 55, available at:<[www.unicef-irc.org/publications/pdf/ii\\_layingthefoundations.pdf](http://www.unicef-irc.org/publications/pdf/ii_layingthefoundations.pdf)>, accessed on 19 March 2010.

- Civil society's contribution to implementation of the CRC is also reflected in broader societal participation in promoting and protecting children's rights, widened understanding of child rights and in respect for civil society organizations. This is particularly evident in the growing participation of children in efforts for girls and boys; it is no longer just adults who advocate and work on children's behalf. Children are more than advocates; they are agents for change, largely due to civil society efforts.
- More research is needed to determine the role and impact of civil society organizations on implementation of the general measures of implementation. This research needs to account for the varied global and local circumstances that shape the capacities of children and civil society.

### **6.1 Challenges to Child Rights and the Role of Civil Society**

There are many challenges in implementing child rights, and all of them affect the role of civil society.

- Financial downturns and crises endanger the well-being of children. UNICEF views the current global economic crisis as threatening to reverse accomplishments in child survival and well-being:

Countries on track to meet the Millennium Development Goals could fall behind, while those that were struggling to advance could be left even worse off. The crisis threatens both the resources of families as well as national budgets, creating serious challenges to the fulfillment of children's and women's rights.<sup>165</sup>

- Decentralization and privatization are seen as providing a more democratic and participatory environment in which people can develop in freedom. But privatizing core services might lead States to abdicate their responsibility to children. It could also make services such as health or education too expensive for poor, marginalized and excluded children and their families.
- Globalization and urbanization bring further challenges, also with consequences for children. Environmental issues such as climate change, pollution and land degradation seriously impede the realization of child rights. Natural disasters often come without warning, hitting even the most economically advanced countries and regions. Crime and violence and internal and international armed conflicts hamper realization of the rights of children. In spite of enormous efforts to prevent violence and protect children by stakeholders in all parts of the world, including civil society organizations, implementing the CRC in such circumstances remains a great challenge.

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<sup>165</sup> Information available at: <[www.unicef.org/socialpolicy/index\\_49070.html](http://www.unicef.org/socialpolicy/index_49070.html)>, accessed on 2 June 2010.



- Poverty represents an overarching challenge. Yet poverty alone is not the only root cause for the failure to fulfil children’s rights; many children from wealthier societies and families do not fully enjoy their rights.
- Other challenges are related to social norms and values. Although values and traditions vary around the world, States parties to the CRC have agreed to a set of rights. Yet many States parties find it challenging to implement the CRC due to prejudices, stereotypes and practices that are deeply rooted in local cultures and norms and thus are reflected in legal frameworks. These difficult challenges require patient efforts by all actors.
- Many States lack political commitment to implement the general measures. Taking into account all other challenges, those related to effective and efficient governance remain of the paramount significance for fulfilment of the CRC.
- Responding to all the challenges of implementing the CRC is a huge task, requiring the involvement of national and international organizations, States, the private sector and civil society. Civil society organizations are expected to respond to all challenges, including emergencies, yet it is exactly these challenges to children’s rights that threaten the work and even the existence of these institutions. A State facing a crisis may choose solutions that harm children, such as reducing social spending on children. NGOs can help alleviate the consequences of crises for children while maintaining their regular activities, though they too may face falling budgets and struggle to maintain their ongoing activities.
- Civil society is often the strongest voice for the promotion and protection of human rights. Implementing the rights of every child, as set forth in the CRC, should always be the primary consideration. A strong and vibrant civil society is fundamental to keeping child rights high on all agendas.

## **6.2 Implementing Civil Society Contributions**

To ensure an ongoing and improving role for civil society in implementing the CRC, the following actions should be strengthened:

### **6.2.1 States**

- Support NGO activities on children’s rights and CRC implementation.
- Establish separate funds for assistance to child rights and child-focused NGOs.
- Establish transparent procedures for NGO funding applications.
- Adopt legislation that legitimizes the status of NGOs and enables tax incentives for their activities.
- Provide training for NGOs to help them strengthen their capacities, including in child rights monitoring and child budgeting.
- Nurture friendly and constructive relations with NGOs and promote meaningful participation of children and young people.

### **6.2.2. *International organizations***

- Mobilize, support and strengthen the capacity of civil society to actively engage in CRC monitoring and implementation.
- Promote coordination and collaboration among NGOs.
- Support child and youth organizations and other child-led activities in efforts to promote and implement the CRC.
- Strengthen adult capacities to engage children and young people in a meaningful way.
- Encourage and support States in further acknowledging and enabling civil society's activities on national and community levels.
- Prioritize the provision of support to local initiatives and do not implement directly.

### **6.2.3 *Donors, including the private sector***

- Support civil society organizations in their monitoring and implementation of the CRC.
- Engage and support civil society through corporate social responsibility.
- Act to ensure that the activities of child rights NGOs are not hampered by financial crises.
- Make all efforts to ensure that NGOs are included as partners in supporting governments and promoting active participation by children and young people.
- Support NGOs in a sustainable manner and encourage them to build networks to aid in coordinating their activities with like-minded organizations.
- Where appropriate, provide training and education for civil society organizations, including in data collection, monitoring and conducting child budget analysis.
- Promote simple procedures to apply for grants and coordinate these procedures across donor agencies.

### **6.2.4 *Civil society***

- Participate actively in implementation of the CRC, including through the preparation of alternative reports and by following up on the Committee's concluding observations.
- Advocate with States parties to fulfil their responsibilities in implementing children's rights.
- Collaborate with national independent human rights institutions.
- Engage students, volunteers and children in programmes and activities.
- Work to improve organizational, financial and professional capacities for better documentation of activities and lessons learned, and regularly assess and evaluate work to strengthen evidence-based advocacy.
- Coordinate and collaborate with other civil society organizations nationally and internationally.
- Continue building partnerships with governments, yet stay independent of their actions.

Through these steps it can be foreseen that the role of civil society and NGOs, in particular, in implementing the CRC will be further enhanced, leading to activities reaching the realization of children's rights in all areas.