Governance and the Rights of Children

B. Guy Peters

Office of Research Working Paper

WP-2012-11 | June 2012
THE UNICEF OFFICE OF RESEARCH

In 1988 the United Nations Children’s Fund (UNICEF) established a research centre to support its advocacy for children worldwide and to identify and research current and future areas of UNICEF’s work. The prime objectives of the Office of Research are to improve international understanding of issues relating to children’s rights and to help facilitate full implementation of the Convention on the Rights of the Child in developing, middle-income and industrialized countries.

The Office aims to set out a comprehensive framework for research and knowledge within the organization, in support of its global programmes and policies. Through strengthening research partnerships with leading academic institutions and development networks in both the North and South, the Office seeks to leverage additional resources and influence in support of efforts towards policy reform in favour of children.

Publications produced by the Office are contributions to a global debate on children and child rights issues and include a wide range of opinions. For that reason, some publications may not necessarily reflect UNICEF policies or approaches on some topics. The views expressed are those of the authors and/or editors and are published in order to stimulate further dialogue on child rights.

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

Extracts from this publication may be freely reproduced with due acknowledgement. Requests to translate the publication in its entirety should be addressed to: Communications Unit, florence@unicef.org.

For further information and to download or order this and other publications, please visit the website at www.unicef-irc.org.

Correspondence should be addressed to:

UNICEF Office of Research - Innocenti
Piazza SS. Annunziata, 12
50122 Florence, Italy
Tel: (+39) 055 20 330
Fax: (+39) 055 2033 220
florence@unicef.org
www.unicef-irc.org
GOVERNANCE AND THE RIGHTS OF CHILDREN: POLICY, IMPLEMENTATION AND MONITORING

B. Guy Peters
University of Pittsburgh and Zeppelin University

Abstract. Ensuring the proper functioning of public institutions is integral to good governance, yet ensuring and monitoring the requirements of human rights instruments is difficult and measurement of children’s rights even more so. This paper explores some of the factors which impede and promote the public sector responsibilities towards children. The purpose of this analysis is to seek methods of assessing the performance of governments in their roles as protectors of the rights of children according to their international commitments. That assessment must extend beyond simple procedural responses to demands and consider the performance of governments in providing services to children and in protecting their rights. The multiplicity of actors involved in the process is described and the related problems for cooperation and effective implementation considered.

Keywords: Convention on the Rights of the Child, governance, evaluation, monitoring, participation, civil society organizations, non-governmental organizations, legal systems, implementation, government structures

Acknowledgements: The author would like to warmly thank Julia Fleischer, Peter Hupe, Violeta Pallavicini and Patrycja Suwaj for their review and comments. The paper was produced under the overall guidance of Beatrice Duncan, Andrew Mawson and Vanessa Sedletzki.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>6</td>
</tr>
<tr>
<td>1. Basic Concept of Governance</td>
<td>7</td>
</tr>
<tr>
<td>1.1 Difficulties of Implementing Children’s Rights</td>
<td>8</td>
</tr>
<tr>
<td>2. Implementation Structures</td>
<td>11</td>
</tr>
<tr>
<td>2.1 Formal Structures of Implementation</td>
<td>11</td>
</tr>
<tr>
<td>2.2 Links with Other Programmes</td>
<td>15</td>
</tr>
<tr>
<td>3. Monitoring Implementation</td>
<td>18</td>
</tr>
<tr>
<td>3.1 Defining Criteria of Success</td>
<td>18</td>
</tr>
<tr>
<td>3.2 Performance Management</td>
<td>20</td>
</tr>
<tr>
<td>3.3 Who Are the Monitors?</td>
<td>20</td>
</tr>
<tr>
<td>4. Summary and Conclusions</td>
<td>28</td>
</tr>
<tr>
<td>References</td>
<td>30</td>
</tr>
</tbody>
</table>
INTRODUCTION

The Convention on the Rights of the Child (CRC) occupies a special place in the global discourse as the most widely ratified human rights instrument, subscribed to by 192 countries to date. Ratification creates obligations on State Parties to take all measures necessary to secure implementation of the Convention in its totality, and requires them to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in article 4. In its General Comment No. 5 (2003), the Committee on the Rights of the Child provides guidance on “General Measures of Implementation” (GMI) for the specific fulfillment of this article. It refers to, among many other steps, the creation of national mechanisms for coordinating implementation. Ensuring the proper functioning of public institutions is integral to good governance, identified as central to human rights realization and development.

This paper explores some of the factors which impede and promote the public sector responsibilities towards children. It concentrates more specifically on the manner in which the public sector operates towards implementation of the CRC. This analysis of implementation will be conducted within a general framework of governance, asking general questions about how this policy area performs and how the policy outcomes are evaluated. This perspective provides a more comprehensive picture of the policy area and the involvement of a wide range of actors in the process. Although governance models do open the analysis of this policy area to the involvement of non-governmental actors, the emphasis will be on the central role of the public sector. This emphasis is particularly important in the case of the CRC because it is an international agreement for which the national government is responsible.

The purpose of this project is to assess the performance of governments in their roles as protectors of the rights of children under their international commitments. Given that, the project also requires some consideration of how the implementation of rights programmes is conducted, and what impacts the patterns of implementation have on the children whom the programme is meant to protect. Therefore, a good deal of the project will address monitoring and evaluation of performance. Further, that assessment must extend beyond simple procedural responses to demands and consider the performance of governments in providing services to children and in protecting their rights.

Most studies concerned with human rights tend to consider those of children from a legalistic or moral dimension. While those perspectives are certainly valuable, this paper will consider human rights, and specifically the rights of children, in a somewhat more mundane manner. That is, I will be considering these rights as policies that, like all other policies, must be implemented in order to have any real impact on the lives of their target populations.
1. **BASIC CONCEPT OF GOVERNANCE**

The study of governance is most fundamentally about how the public sector, with or without the involvement of private sector actors, can steer the economy and society. Stated somewhat differently, the question is to what extent the public sector is able to achieve the goals that it pursues, and how it can learn from the success and failure of its attempts to govern. While they may perform the basic tasks involved in governance differently, to govern requires the public sector to:

1) *Establish policy goals* – determining what government wants to do.

2) *Create coherence among these goals* – ensuring that the numerous goals adopted within government are compatible with one another.

3) *Implement policies designed to achieve those goals* – putting government programmes into effect through the public bureaucracy, perhaps with private sector actors.

4) *Evaluate the success and failure of programmes and revise them* – was the programme implemented properly, did it work, and what lessons can be learned to improve policies in the next round of policymaking?

Governance is a generic phenomenon and extends beyond just the role of the public sector in reaching certain goals. While the public sector – the collection of public actors in government or closely allied with government – has a role to play in any policy area, increasingly governance involves a range of non-governmental actors. Also, although governance is a more generic phenomenon, this paper will focus on the implementation of the CRC. The issues of goal setting and goal coherence have to a great extent already occurred through the adoption of the CRC by the member states and it functions as a set of goals for the governments that are signatories. Further, although there are a number of dimensions of the rights of children contained within the Convention, these goals have as their common objective the protection of the rights of children to enable them to reach their greatest human potential. There is thus a single encompassing objective to which all the components of the CRC can be related, even if the various components within this set of goals may vary and may be implemented by many different organizations.

The question therefore is not what set of policy goals is to be implemented, but rather how those goals are to be implemented. This implementation involves first the prioritization of some of the goals as well as the interpretation of goals within national frameworks of law and government. Implementation is not an insignificant question, however, because the extent to which a programme is implemented and the manner in which it is implemented ultimately determine the effects of the initial legislation. Studies of implementation in domestic politics indicate the frequent presence of “policy drift” as the programme as implemented can be significantly different from the intentions of the framers (Gildiner, 2007). That is, interpretations of the meaning of laws or treaties may move the policy as implemented away from the intentions of those who developed it.¹

Given the numerous different political and legal systems at work in the implementation of the CRC, it would be quite understandable if there were some slippage between the goals of the Convention

---

¹ This drift may be intentional when organizations interpret laws to suit their own interests, or may rather be unconscious interpretations derived from standard operating procedures or organizational culture.
and the actual implementation of the programmes involved. It is particularly important therefore to establish clear standards of adequacy on the policies derived from the CRC and also to establish means of assessing the extent to which those criteria have been achieved.

This paper will therefore address two central questions concerning the implementation of the United Nations Convention on the Rights of the Child. The first is the processes through which the Convention is implemented. We are not able to track all the processes for each country, but we can identify the actors involved and the strategies that different systems adopt in order to implement the treaty. Further, we will identify the actors and processes that have been designed in order to monitor implementation. The purpose of these evaluations is to frame assessments of the effectiveness of the existing arrangements for implementation, and to learn how to improve the quality of implementation. This process is, as is often the case, complex because of the number of alternative interpretations of the Convention, the diversity of actors with different political and social interests, and the multiplicity of interrelated goals involved.

1.1 Difficulties of Implementing Children’s Rights

As important as it is to promote the rights of children from a normative perspective, actually ensuring those rights may be difficult within many - if not most - political systems, and perhaps even more so than for other sets of human rights. This is apparent even though children possess important symbolic resources, and it is difficult for any political or social actor to openly oppose granting benefits for children. However, although children can make a strong moral claim on society and on their governments, the practical issues of ensuring their rights may be substantially more problematic as the normative claims encounter both political weakness and social and cultural traits that may undervalue the rights of children.

The first major problem for ensuring the rights of children is that this group is relatively powerless in the political process. Although one of the rights contained within the CRC is that children should have the opportunity to express their views and be heard, these participatory rights are rarely as meaningful as the participatory rights of adult citizens. Politicians may want to consider the rights of children but are also aware that they do not vote, whereas other groups with claims to specific rights, such as women and people with disabilities, are able to vote. Unfortunately, given the relative political invisibility of children their rights may be very much traded off against those of other groups who should be their natural allies – notably women.

The general political powerlessness of children rests partly on the notion that accounts given by them of their situation may be fanciful and exaggerated. Thus, unless there is physical evidence of abuse, their claims and concerns may not be taken seriously by executive, administrative and judicial officials. Children are considered to lack experience and expertise and therefore can easily be dismissed as active participants in protecting their own rights by government officials. Developing specialized institutions to deal with the rights of children is therefore all the more significant in protecting those rights.

In addition to this fundamental political problem for advocates of child rights, there are some aspects of public policy and the policy process that pose additional difficulties for ensuring those rights. The most significant of these questions is that the breadth of the CRC means that a wide range of policy areas need to be integrated and coordinated in order for the Convention as a whole.
to be successful. In addition to attempting to prevent, for example, the exploitation of children in the labour market or as child soldiers, the policy arena involved in reaching that comprehensive set of goals tends to include law enforcement and the judiciary, the social services, education, health and virtually every other department in a contemporary government to some extent.

Within government problems of coordination are exacerbated because the CRC was negotiated and accepted in most instances by the foreign affairs ministry of the state party. After adoption of the Convention, it must then be implemented by the domestic ministries and these two sets of organizations do not always coordinate effectively. All public programmes raise coordination questions (Peters, forthcoming; Challis et al. 1988) but they appear extreme in the case of the CRC. A number of domestic organizations do not seem to recognize the relevance of this international agreement for the day-to-day management of their programmes.

A third difficulty in implementing the Convention is that monitoring rights-based policies is perhaps more demanding than is monitoring more tangible services. Saying that a child has a right to education may mean a number of different things in different economic and cultural settings, and establishing clear criteria for fulfillment of a policy goal is difficult. But having clear criteria for fulfilling goals is crucial for effective evaluation (see Rossi, Lipsey and Freeman, 2006). Evaluating implementation of the CRC will therefore require more judgment than would be true for many other types of policy that have more tangible and measurable outputs. Efforts to measure the “child friendliness” of countries can provide important markers for the implementation of the CRC, but even more detailed investigations through case studies will ultimately be required to understand the dynamics of the role of the public sector in this area.

This point raises one additional problem concerning the difficulties in protecting the rights of children. Although there are a number of components of the CRC that are more tangible and may be more directly measurable, challenging questions of measuring the adequacy of policy responses from the public sector still remain. For example, if a government is capable of reducing child poverty by 30 per cent is that outcome, while highly laudable, sufficient to say that the government has been successful, or does it actually represent a failure on the part of government to address the underlying poverty problem, and to pursue the goal of equality?

Implementing the CRC also involves significant transnational elements of enforcement. Provisions in areas such as trafficking of children and exploitation through means such as the Internet and other emerging technologies require monitoring and enforcement across national borders, diminishing the capacity of any one country to implement its commitments under the Convention. Again, this aspect of enforcing the Convention will involve close cooperation between the bodies responsible for a government’s external affairs and its domestic policy, hence posing yet another policy coordination issue in this area.

As well as horizontal coordination within government and externally with other national governments, central government organizations will also have to communicate internally with other levels of government in order to be successful in implementing the CRC. As discussed in greater detail below, many policies with the greatest relevance for children’s rights are administered by

2 See p. 13 Links Across Multiple Levels of Government
sub-national governments, and therefore there will be a need for close cooperation across all levels of government. That may be difficult enough in a unitary political system, but in federal systems the challenges will be even greater, given the autonomy of the sub-national units.

Finally, more than for other types of policies, implementing programmes on the rights of children may require the involvement of civil society organizations. Many civil society organizations are directly involved in attempting to guarantee the rights of children around the world and are crucial actors in this process transnationally. The presence of these organizations constitutes a major resource for governments attempting to comply with the CRC, but also presents some challenges. As already noted, there may be disagreement on whether a particular goal has been achieved or not, and civil society organizations may set higher goals than many governments. We will note below that these organizations can help to monitor compliance and act as implementation partners, but their own perspectives must be effectively harmonized with those of governments.

Civil society organizations may not be the only informal components of these implementation structures. Families obviously should be crucial actors in promoting the rights of children, as should local communities. In short, the entire environment of the child has some role to play in promoting rights if they are to be successfully protected and promoted.
2. IMPLEMENTATION STRUCTURES

The implementation of public policies has never been simple, but the process has become increasingly difficult. This is in part because of the increased fragmentation of the public sector, with programmes being implemented by a number of autonomous and quasi-autonomous organizations, rather than by more integrated ministries (see Verhoest et al., 2010). Implementation has also become more complex because of increasing involvement of non-governmental actors in the process. While this shift toward the use of non-governmental actors might be seen as enabling the public sector to off-load some of its responsibilities onto other actors, it may actually increase the complications of implementation. In particular, the increasing political demands from non-governmental organizations for greater influence and involvement have generated conflict within implementation processes, based on different conceptualizations of the issues and different priorities.

One means of conceptualizing these complexities is as “implementation structures” (see Hjern and Porter, 1981). The assumption is that implementation is now rarely conducted through a “single lonely organization”, so that even if there is strong or dominant public sector involvement in the delivery of services, that implementation can rarely be achieved through any single body or authority. Indeed, most public policies are implemented through collections of public and private organizations. The linkages between the public and private sector actors may be hierarchical, or through market or more cooperative mechanisms, but the general pattern is one of complex interactions and often attenuated processes. Those complex interactions among a range of actors may, in turn, make tracing accountability for outcomes in a policy area all the more difficult.

2.1 Formal Structures of Implementation

The State bears primary responsibility for implementing the CRC, and the formal government structures are the most relevant actors in implementing programmes to protect the rights of children, notably the CRC. While other actors may have some importance for governance in this area, the formal structures tend to have primary responsibility, both within government itself and for reporting implementation. Further, the nature of the structures chosen for implementation is indicative of the importance which governments attach to implementing the Convention.

Ministries

The most significant expression of government attaching a high priority to the protection of the rights of children would be the existence of a ministry dedicated to the provision of services to, and the protection of, children. This important structure for service provision and protection may become involved in providing the necessary services for children directly, but more commonly the majority of their work involves coordinating the services provided by other government organizations. Children require a range of services supplied by governments, such as education, healthcare, social protection, and protection from exploitation, and it may be difficult to include those services in a single department without producing a good deal of duplication.
Relatively few governments of the world have ministries dedicated exclusively to children and their rights. Rather, the general pattern is to include children’s issues with similar concerns within several ministries.

1) The most common pairing is to associate women and children’s issues within a single ministry. For example, there is a Women and Children’s Ministry in Bangladesh and a Ministry for Women and Children’s Affairs in Ghana.

2) Other countries - such as Norway - link children’s issues directly with broader human rights issues such as equality and social inclusion.

3) Still others link children’s affairs with broader issues of the family. For example, there is a ministry for women and the family in Malaysia.

4) Finally, children’s issues may be included within relatively comprehensive ministries of social affairs. For example, in Nepal the Ministry of Women, Children and Social Affairs covers a range of programmes directed toward families and various social issues.

Even when the protection of children falls within a more inclusive ministerial structure there is often a more dedicated section designated with responsibilities for children. For example, within the ministry of Gender, Children and Social Development in Kenya there is a Children’s Services Department which concentrates on the rights of children. Similarly, the Ministry of Gender Equality and Child Welfare in Namibia has a Directorate for Children’s Services that also focuses on children.

While an agency or directorate of this kind may not be in as powerful a position as a dedicated ministry, the existence of an organizational structure responsible for children’s issues and rights is of considerable importance. The danger, as indicated above, is that - as a less politically powerful group - the interests of children will be treated less favourably than more powerful interests falling within the same structure. For example, if the ministry’s budget has to be reduced, a disproportionate amount of the cuts may well be taken from children’s concerns. As noted, children may not have as strong a political voice as other interests in the public sphere and therefore it is politically easier to cut funds from their programmes.

**Other Formal Structures in the Executive Branch**

Although ministries may be the most powerful political institution to hold responsibility for the governance of children’s policies and the protection of the rights of children, other executive branch organizations may also be assigned responsibility. In particular, the international popularity of the New Public Management has been associated with the widespread use of executive agencies to implement public policies (see Pollitt and Talbot, 2004). Executive agencies are generally defined as autonomous or quasi-autonomous executive organizations given responsibility for implementing one or a limited range of policies. The assumption is that concentration on a limited range of issues improves both efficiency and accountability of the organization.

---

3 This reflects in part the tendency of governments to reduce the size of cabinets and to attempt to find ways to put programmes that complement each other into larger units in order to enhance coordination across policy areas. That said, political interests tend to advocate having individual ministries to make and implement programmes for specialized concerns. Specialized ministries for children tend to be found at sub-national government level rather than at the central government level (see below).
Several countries have established agencies with responsibility for implementing children’s rights and issues. For example, the National Children’s Institution in Angola can be seen as a presidential agency that plays a significant role in making and implementing policy. Likewise, the Children’s Youth and Family Welfare Organization in Ethiopia is a quasi-autonomous agency also directly responsible for implementing the Convention.

An alternative model for protecting and promoting children’s rights is to address these issues through more strictly rights-based organizations. In a number of countries, especially in Central and Eastern Europe, equality commissions are major players in the implementation of the CRC. While these organizations certainly have expertise in the legal dimensions of rights, and are based on a human rights philosophy, they may find greater difficulty in coping with crucial issues such as education, protection from exploitation in employment, health care and other types of services that are important for meeting the full range of objectives of the Convention.

In addition to the restricted scope of these equality committees and commissions, the majority were founded to deal primarily with the rights of women and ethnic minorities. For example, most of the equality commissions in African and Latin American countries were established to deal with women and ethnic minorities, but many also assumed responsibilities for children. It may appear logical to attach another set of equality issues to these commissions, especially since the rights of children may be closely related to the rights of women. However, organizations often tend to maintain a focus on their original tasks and to give less attention to any new responsibilities added subsequently. Understanding whether the rights of children are indeed protected adequately under these arrangements requires additional and more precise empirical research.

**Autonomous and Judicial Actors**

In addition to the executive agencies responsible for implementing the Convention on the Rights of the Child, relatively autonomous actors have also been charged with those responsibilities. One clear example are the Children’s Commissioners in the four regions of the United Kingdom. These offices came into being in large part to coordinate the services to children in the aftermath of several extreme cases of child abuse in which a range of public services – police, schools, hospitals and social workers – failed to share information and to protect children.

Another organizational strategy that has been important in attempting to implement the CRC is the creation of inter-organizational commissions or committees. The logic of this approach is to institutionalize attempts to coordinate the numerous programmes involved in addressing children’s issues. This mechanism is often adopted to address coordination gaps in government, but is often ineffective. All organizations and programmes want to protect their autonomy and their perspective on policy, and even with an encompassing goal such as the welfare of children it may be difficult to achieve effective coordination among them. Simply having a committee to discuss coordination does not necessarily produce it (Challis et al., 1988).

---

4 There are cases, however, in which protecting children may mean to some extent disempowering women. For example, if child labour were used to support the family then eliminating that practice may place additional burdens on mothers.

5 For one of the more egregious examples see The Victoria Climbié Inquiry Report, and formal minutes together with oral evidence, House of Commons, 25 June 2003 (London: National Archives).
Hybrid executives or “czars” represent yet another set of autonomous actors for enforcement. These individuals are given a substantial degree of freedom from the formal institutions of government, although they are public officials, and are empowered to advocate for children within government and within society; they have sometimes been referred to as “czars” for children. Having relatively little staff of their own, they must therefore operate primarily through cooperation with other public bodies and through appeals to the public and to parliament. Thus, while they have substantial independence, they also lack significant enforcement capacities of their own.

**Participatory Structures**

A final set of government institutions involved with providing services to children allows them to have some participatory influence over relevant government policies and actions. The CRC contains a provision that articulates children’s right to express their views in matters affecting them. This is an explicit recognition that children must have opportunities to express their own opinions and to advocate for their concerns if there is to be substantial improvement of their position in society. This recognition is especially important given their position of relative political weakness in many countries.

The structures that have been created to foster participation by children provide at least some level of democratic legitimation for policies that will affect the lives of children, and they also provide a locus for the articulation of the wants and demands of children. Despite that, these structures may have more symbolic than real influence over the rights of children. Given that they are not voters within the political process, and are not themselves capable of directly exerting political pressure, it is necessary to develop alternative structures for these younger citizens to become involved in the policy process.

The creation of these participatory structures, even if largely symbolic, may assist children to overcome some of the power imbalances they would otherwise experience. As well as providing a focus for involvement of children and for the NGOs which support their rights, these channels provide a public voice for children and “advertising” for their interests. For example, when a Children’s Parliament presents a set of ideas or proposals to the national parliament then this often makes a powerful public statement about the wishes of these often invisible and disempowered citizens.

There are several useful examples of Children’s Parliaments and other participatory structures for advocating the rights of children. One of the more commonly cited examples is found in the Democratic Republic of the Congo (see McCrummen, 2007). This Children’s Parliament was initiated by the United Nations in 2002 in response to the exploitation of children during wars there and has become effective in advocating for more just treatment of children and for other disadvantaged groups within the society. Another well-developed example of parliamentary models for the participation of children is found in Denmark. Children are given some level of direct access to legislation, making proposals for new laws (Folketinget, 2008).

---

6 The government of the United Kingdom has created a number of so-called “czars” responsible for a wide range of policies. See Smith (2011). These czars are somewhat analogous to ombudspersons but tend to have more executive powers in addition to the investigative and advocacy powers of the ombudspersons.
Although special parliamentary bodies for children are interesting innovations, there may also be opportunities for children to participate in the regular parliamentary institutions. The Interparliamentary Union and UNICEF (2011), for example, have produced a guide for means of enhancing the participation of children, as well as some of the potential pitfalls of these methods. But, like all citizens, children should be encouraged to participate in a variety of ways when seeking to affirm their rights, not just through formal structures such as parliaments.

### 2.2 Links with Other Programmes

Even when there is a children’s ministry or an agency responsible for providing benefits to children and protecting their rights, it may be impossible to actually meet the targets and standards in the United Nations Convention on the Rights of Children. Many of the rights involved in the Convention can be realized readily by other organizations in government rather than creating any duplicative service provision organizations. The rights to education, good health care, protection from exploitation as workers or soldiers, all require the involvement of other parts of government to achieve success.

It is easy to say that all programmes and structures within a government need to cooperate in order to provide the range of services required, and to protect the full range of rights identified in the CRC. It is substantially more difficult to integrate and coordinate those services. Policy coordination is always difficult in the public sector, but it may be more difficult in this case simply given the range of services that apply to children. Further, some of those policies, e.g. services for women, may be at least in part competitive with the rights of children.7

### Links across Multiple Levels of Government

As well as linking programmes that serve children horizontally across programmes such as education and family policy, there must also be a vertical link to other levels of government. Decentralization has been a popular trend in government (Falleti, 2005), and has been sponsored by many donor organizations which have argued that decentralization will improve both democracy and efficiency in public programmes. The concept of “multi-level governance” (Bache and Flinders, 2004) has come to be used to describe the complex arrangements that now exist in the delivery of any important public service, not least the protection of the rights of children. The basic argument of this approach to governance is that policymaking tends to involve multiple levels of government and cannot be understood without considering formal (federalism) and informal means of implementing across levels.

Federal structures of government obviously represent the clearest case of decentralization. In these constitutional arrangements a range of services are granted to each level of government, although in practice there is a good deal of overlap at all levels in many if not most policies.8 In most federal systems policy areas such as education, social welfare and family policy tend to be reserved to the

---

7 In other words, in the competition for resources, the group with more direct political power in the form of having a vote may be more successful than those without such power.

8 The central level of government tends to become involved in services that are nominally reserved to the lower level(s) simply because the financial resources of the centre tend to be greater than those of the lower levels. But when central government gives money, controls generally follow.
states or provinces (see Fenna and Hueglin, 2004). This is of special relevance for the rights of and services to children, given that these policy areas relate directly to them.

The challenge in protecting children’s rights in federal systems is that although international commitments tend to be made at the national level, the subnational levels usually have greater responsibility for their implementation. In many federal government systems the primary responsibility for programmes that serve children lies with the lower tiers of government. This distribution of functions results from the utilization of federal constitutional solutions to manage cultural and religious differences within a country. By granting cultural and educational programmes to decentralized units the various social segments can preserve their own distinctiveness to a greater extent.

While the preservation of those social and cultural differences satisfies important political demands, it may in turn impede the preservation of the rights of children within the context of international standards. Thus, there is a need to monitor the commitment of subnational structures to the goals of national policy. The logic of federal states is that there should be some autonomy, but in this case autonomy concerns achievement of goals, rather than their substance or the policy itself.

However, not all federal systems are the same, and they vary markedly in the extent to which central government is capable of controlling the activities of the sub-national units. In some federal systems, such as Germany and Austria, central government can coordinate the activities of subnational units through both law and policy. In less centralized federal systems, such as the United States, Canada or Brazil, central government has fewer instruments for control, and must bargain with the more autonomous provinces or states over implementation of government priorities. State government generally has greater financial resources with which it can implement policies, or influence subnational levels to comply with central policy goals.

Further, even unitary state systems may delegate some aspects of child oriented policies, and the enforcement of the CRC to subnational organizations. As noted above, policies concerning education, culture and the family are often considered the particular preserve of lower levels of government, and this is also true for nominally unitary states. To understand what is actually happening as regards enforcement of the CRC it may therefore be necessary to track the delegation of responsibilities and monitor what is occurring at lower levels of government.

The virtue of the unitary state system for implementation of the Convention is that the lower levels of government can claim no particular right to do things in their own way. The shared sovereignty of federalism generates autonomy for the subnational governments. That said, such autonomy does, at times, permit implementors at the subnational level to surpass the performance of central government. Even in devolved states such as the United Kingdom some units appear to surpass national standards.

---

9 Mr. Justice Brandeis in the United States once argued that the states were the “laboratories of democracy”, often innovating in areas in which the federal government was reluctant to legislate.
Non-Governmental Actors

The principal responsibility for implementing the CRC will reside with the public sector, and particularly with national governments. These are the signatories to the Convention and therefore have the legal obligation to ensure that it is implemented. In spite of these formal obligations, the public sector will generally require assistance in order to guarantee that implementation. Even if the public sector were capable of providing all the means necessary for implementation, leveraging support from outside government may make the implementation more effective and more efficient. Further, in settings in which the public has some distrust of government, then using more informal structures may be substantially more effective.

The most obvious set of non-governmental actors to assist in implementing the CRC are groups specifically concerned with the rights of children. Most of these groups function at the national level. For example, the Children’s Rights Project in the Republic of South Africa is specifically concerned with implementing the CRC, along with the provisions of the African Charter on the Rights and Welfare of Children, and the Pies Descalzos (Barefoot) Foundation in Colombia attempts to protect children in the midst of political and social disruptions. Most of the organizations are concerned with a range of policy concerns affecting children, but some focus on specific issues such as the exploitation of children (Fight Against Child Exploitation, Thailand) or the excessive punishment of children (Stop Child Execution, Iran). In all cases, however, the NGOs assume some direct responsibility for implementing as well as advocating programmes.

In addition to those national organizations that work to defend the rights of children, there are also international organizations involved in child protection. Some are well known advocacy and charitable organizations such as Save the Children, and other are religious organizations operating in areas including health and education. Other organizations like Defence for Children International (based in Switzerland), are oriented specifically toward the rights enumerated in the CRC, while some, such as the Coalition to Stop the Use of Child Soldiers, focus on central issues in the range of CRC measures.
3. MONITORING IMPLEMENTATION

The most fundamental concern in the evaluation of the implementation of programmes designed to ensure the rights of children is to guarantee accountability of governments and relevant actors. Accountability is a central concept in the analysis of public administration, although conceptualization of this term may vary among different cultural groups. Indeed some administrative systems, such as those related to the Iberian tradition, have no direct translation for the word accountability. Diffusion of this concept through international organizations and globalization has ensured that accountability is now a central criterion for evaluating the performance of the public sector. Government organizations responsible for implementation must be accountable for their actions and defend the methods chosen and results achieved.

3.1 Defining Criteria of Success

If the effectiveness of the implementation of the CRC is to be monitored there must then be some clear means of assessing that implementation. While that statement may appear obvious, developing the criteria for success and finding appropriate indicators for implementation is not simple. The study of implementation (see Winter, 2012) has focused on alternative definitions of success, ranging from legal compliance through attempts to measure more precisely the extent to which stated goals have been achieved.

Legal and Procedural Approaches

Perhaps the simplest means of monitoring the performance of public sector organizations in implementing any programme is to determine if the procedures have been followed appropriately so that the laws and agreements can be implemented. This style of implementation monitoring is especially important in countries with civil law systems, such as those in the Napoleonic tradition, the Central and Eastern European countries and the countries of Latin America (see Nef, 2010). The legalism inherent in this style of administration emphasizes procedures and formal compliance, as was apparent in a number of the research projects already undertaken by UNICEF to monitor the legal procedure to compliance with the CRC.

As the matrices for the legal aspects of enforcement demonstrate, following through with reforms on behalf of children in a legalistic manner does not necessarily equate with real services, or real protection. There may well be formal, legal adoption of instruments that could in principle protect children’s rights, and provide them with the necessary range of services, but those formal statements would require confirmation through some evaluation of actual performance, and some measure of the effectiveness of the programmes being delivered.

The broad strategies for effective implementation are contained in the CRC itself as well as in other treaties and related instruments. The first point of reference is article 4 of the CRC which calls on States Parties to “undertake all appropriate legislative, administrative, and other measures” for the implementation of rights recognized in the Convention. The interconnectedness of these measures and the importance of holistic approaches in relation to their implementation are clearly set out in

---

10 The word “responsibilidad” is used but is interpreted rather differently from the usual interpretation of accountability. There is less sense of the political need to hold decision-makers accountable for results.
this article. Through its General Comment No. 5 (2003) on “General Measures of Implementation”, the Committee has provided guidance on specific measures to be undertaken in the light of article 4. The term “General Measures of Implementation” (GMI) refers to measures that do not concern any specific right, but rather form the foundation of efforts to realize all the rights and principles contained in the Convention. They include:

1. the creation of national mechanisms for coordinating implementation
2. law reform and judicial enforcement of the rights of children
3. awareness-raising, training and education
4. resource allocation and “making children visible in budgets”
5. monitoring and data-collection
6. the creation of independent commissions
7. participation of civil society in implementation of the CRC
8. international cooperation
9. ratification and application of other relevant international standards.

Even this detailed list, however, encounters the risk of being formal and legalistic, rather than addressing actual implementation. Some attention must therefore be given to substantive indicators of implementation.

**Substantive Criteria**

While fulfilling procedural criteria is certainly important as a means for achieving the goals of governance in the area of children’s rights, it may be insufficient for determining the actual translation of laws and agreements into actions. The emphasis on monitoring should therefore be extended to cover more substantive forms of monitoring and evaluation. The difficulty in creating more substantive monitoring systems lies in identifying appropriate indicators (Bouckaert and Peters, 2002). Developing indicators for any type of policy is challenging, but is even more problematic in the case of rights-based programmes.

Despite the difficulties involved in measuring the performance of organizations or governments in providing for the rights of children, some efforts have been made. For example, academics have begun to develop instruments for assessing the performance of organizations and governments as a whole in delivering programmes to children (see Parton and Frost, 2007; Bullock et al., 2004). At the national level, the government of the United Kingdom developed something approaching a full-scale performance plan for their “Sure Start” programme providing a range of services to vulnerable children (Department of Education, 2002). Finally, any government organizations with responsibility for implementing aspects of children’s programmes have more simplistic, yet useful, instruments to measure the attainment of goals.

---

11 Similar provisions are contained in article 2 of the International Covenant on Civil and Political Rights (1966) and article 2 of the International Covenant on Economic, Social and Cultural Rights (1966).

12 This programme was developed under the Labour government and has been de-emphasized under the current Coalition government.
3.2 Performance Management

The use of substantive measures of the performance of governments in reaching their goals in implementing children’s policies could be, and to a limited extent has been, related to performance management in those organizations responsible for implementation. Few if any goals in the public sector are implemented perfectly, and therefore a good deal of emphasis in public management is placed on assessing the quality of the implementation and then driving the organizations involved toward better performance in the policy area.

Using performance in a policy area related to children is more complex than in many other areas, for several reasons. The first is that measuring the attainment of some of the rights accorded to children in the Convention is challenging. For example, it may be relatively easy to determine if there are any child soldiers in a country or not, but determining if the participatory rights of children are being attained will be more difficult. Are the participatory structures in place meaningful or are they merely perfunctory attempts to appear to involve children without achieving any real effects on government policies.

The second difficulty in evaluating performance is that even though a single organization may be legally responsible for implementation, its success will depend on the actions of many other actors. There have been some notable efforts at attempting to relate the activities of multiple organizations and/or programmes to broader government-wide goals. For example, the government of New Zealand attempted to relate broad goals (“Strategic Results Areas”) to the goals of individual programmes (“Key Results Areas”).

3.3 Who Are the Monitors?

Given the importance of monitoring for ensuring that governments are indeed fulfilling their commitments under the CRC, it is important to identify the actors responsible for that monitoring. As already noted, the use of independent agents to monitor the actions of those responsible for implementation will facilitate accountability. That said, using the organizations responsible for implementation may maximize the expertise of the actors involved in the process.

Ministries

Ministries provide an easily-identified set of possible monitors. Ministries are closely associated with the programmes being delivered and have access to the fullest information. Despite these advantages government ministries are not perhaps the most desirable evaluators, due to their close links to the programme and may not readily identify failings in the programmes. Previously ministries have built relatively autonomous evaluation offices, but in most cases these have been abandoned in favour of shorter-term performance measurements. Comprehensive evaluation methods are expensive and time-consuming, while performance indicators provide quick, if less complete, information.
General Evaluative Organizations within the Executive

As there are clear problems with using ministries and other implementing organizations to evaluate what they themselves have done, other organizations may exist within the political executive that can provide greater objectivity. In a more or less politically integrated executive branch there may appear to be some difficulty in obtaining the requisite objectivity, but some evaluations have been carried out. These tend to be the work of performance auditing organizations, or internal think tanks for governments.

However, within the executive branch there may be structures which can provide some objective evaluations of performance in the public sector. Central agencies – such as ministries of finance, for example – may be used for evaluation purposes. Performance evaluations of other ministries are often undertaken by them as a part of their regular duties, and extending this function to monitoring the CRC is not exceptional. In addition, there has been a proliferation of inspectorates and other analogous organizations as means of assessing performance in a wide range of policy areas (Hood et al., 1999). These inspectorates are often operational for schools, hospitals, prisons, and other institutions that exercise significant levels of control over individuals. Again, for children, the difficulty may be in integrating information from the full range of inspectorates for agencies that affect the rights of children.

Legislative Organizations

Legislative institutions, including investigations by parliament, are commonly used as the means for enforcing accountability on public organizations (Inter-parliamentary Union, 2008). Perhaps more importantly, the committees of legislative organizations can be useful investigative bodies and provide better opportunities for control (Strom, 2000). For example, the Grand National Assembly in Turkey in 2008 created a committee to monitor the rights of children, and accepted that children should play a role in the committee’s deliberations.\(^{13}\)

In addition to parliament and its committees as a whole, in many legislatures a number of specialized organizations are used for purposes of accountability. The most important of these legislative institutions are public auditors who typically report to the parliament or the Congress. Although these auditing organizations historically undertook exclusively financial accounting, they have now evolved substantially and focus much of their energies on performance auditing (see Wollmann, 2003). These organizations now examine the efficiency and effectiveness of public programmes, as well as whether the money involved was spent according to the legal provisions.

For the purposes of holding the implementors of programmes associated with the CRC accountable, these legislative organizations are often the central accountability institution, having both formal powers to investigate the activities of organizations and, in many cases, the analytic capacity to assess the performance of programmes. This movement toward changing the nature of public auditing was initiated in the United States and in the northern European countries but has now been adopted widely (see National Audit Office in Tanzania as a well-developed African example).

Specialized Organizations (Ombudsman, Commissioners)

Autonomous monitors for the CRC, and for children’s rights more generally, could also be represented by a specialized official charged with monitoring government activities in the area. A number of countries now have a Children’s Ombudsman who has responsibility for monitoring. Modeled on officials originally created in Scandinavia, these are independent officials with their own staff who can investigate abuses and then either take direct legal action or - more commonly - refer the issue to the legislature or to the courts. Originally, ombudspersons were responsible to the legislature but they may now have judicial status as well.

Ombudspersons for children are most commonly found in the countries of Western Europe where the model originated, but the concept is now widely diffused. For example, the majority of states in the US and most provinces in Canada now have an officer with this title, albeit with fairly widely varying powers to investigate and pursue cases on behalf of children. In addition, the idea has spread to Africa (Mauritius, Ethiopia, Republic of South Africa), Latin America (Guatemala, Colombia) and to Asia (Pakistan). In all cases the independence of these officers from political control is crucial for them to serve as effective advocates and enforcers of the rights of children.

Other public officials, not necessarily known as ombudspersons, have some independent status to protect the rights of children. In a number of countries there is a commissioner for children, sometimes associated with, or a component of, a commissioner’s office responsible for families and women’s rights. For example, in Nicaragua there is a Commissioner for Human Rights of Children, and in Ecuador and Peru there are national commissioners for human rights with special emphasis on the rights of children. Also, the Children’s Commissioners in the four components of the United Kingdom are independent of the remainder of government and have special responsibilities for the implementation of the CRC.

Judicial Organizations and the Law

There are other options for developing independent mechanisms for monitoring and evaluating the implementation of the CRC. One such group of mechanisms depends upon judicial or quasi-judicial organizations to perform this task. This style of monitoring is most common in political systems utilizing the code law system. In these systems public administration is conceptualized as primarily a legal activity, and therefore monitoring activities through administrative law courts and officials is the logical means for assessing the performance of implementing institutions.

The role of the judiciary in monitoring the implementation of the CRC can also be defined by the ability of private individuals to challenge the actions of government. Most legal activity concerning human rights is driven by the public sector itself, or by non-governmental organizations, while individuals are the subjects of abuse. The concept of legal action initiated by individuals is more typical of common law countries and those in which there are ample protections for individuals who can claim mistreatment by official actors and seek some personal redress.

---

14 The officer will also monitor private actions that may harm children.

15 The Ombudsman Office in Sweden is now involved with training programmes attempting to diffuse the idea of the Ombudsman in Asia, apparently with special concerns about reducing levels of sexual exploitation of children.
This fact highlights the importance of the differences in legal systems among countries implementing the CRC. The manner in which programmes for the rights of children will be implemented will depend in part upon the legal system in use in the country in question. National legal systems are based on broad concepts of law which affect not only the law per se but also have more generalized consequences for the style of governing (Damaska, 1986). The legal system may also affect the manner in which non-government actors (civil society organizations) can be involved in the process of implementing and monitoring policies.

The users of civil or code law comprise the largest group of countries in terms of their legal systems. Within that group many states use a legal system derived from the Code Napoléon. This group includes France and other European countries influenced by French code law such as Italy, Spain and Greece (see Ongaro, 2010), as well as the numerous former French colonies, primarily in Africa.16 Many South American countries have also imported some of the precepts of the Code but have also developed them into a strong legal tradition of their own.

Although the Code Napoléon is the primary source of code law, there are other codified legal systems. The countries of Central and Eastern Europe, as well as those of the Caucasus such as Armenia, have highly codified legal systems. After the collapse of the Soviet Union these legal systems have been revived, although the content of these codes is generally different from those in the Napoleonic systems. Likewise, the remaining communist political systems have a codified system based on Marxist legal principles, combined with some traditional elements, depending upon the country in question.

Not only is the influence of code law on the rights of children evident in the specific elements of law that affect the rights of families and children, but also in the impact of administrative law on the implementation of public programmes. In code law systems administrative actions are conceptualized in legal terms, and tend to involve ex ante approval on a legal basis. For example, in many of these countries there is a Conseil d’Etat or its equivalent that approves actions prior to their being implemented. This legalism in administration does ensure that minimal standards are achieved in implementation, but does not necessarily ensure efficiency or effectiveness of programmes.

Common law is one major alternative to code law. While the logic of code law is that all activities must be specified as being legal or illegal, and that the Code should in principal cover all issues, the logic of common law is more evolutionary. In common law, in addition to the formal acts of legislatures, legal principles that are common to the people exist and form the basis of decisions. These common principles include widely understood principles of individual rights that, whether codified or not, form a foundation for the law.17 The use of these principles in law is also governed by precedents from previous decisions that provide guidance for judges in applying the law, as well as for interpreting formal legislative actions.

---

16 The legal Code has obviously been modified significantly in the course of its existence, but many of the original basic principles remain in place. There are general principles of equality within the Code, albeit relatively few specific statements concerning the rights of children, and these might be ramified to enhance the rights of children.

17 Canada, for example, codified its understanding of individual rights in the Charter of Rights and Freedoms in 1982. This enshrined many of the commonly understood rights of individuals, while adding others that were perhaps less widely understood. For the purposes of this analysis, there was a statement of equality on the basis of age, although no specific statement of the rights of children.
Common law is found primarily in Anglo-American political systems, including a large number of former British colonies which have maintained this legal system after independence. While common law is a major component of the legal system in these former colonies, some utilize it in conjunction with either traditional law or Sharia law (see below). To some extent the flexibility and adaptability of common law make such combinations easier than would be true for code law. For example, in Canada, Sharia law has been accepted as a parallel system of adjudication, especially for family law (Bakht, 2004), the area most relevant for the rights of children.

Common law may also be more amenable to identifying and enforcing the rights of children than other legal systems. While code law depends upon the enumeration of legal rights and obligations, common law depends upon more general legal principles, many of which are concerned with the rights of individuals (also treating children as the holders of those rights and indeed, at times, of special rights). Thus, even if there is no specific legislation or regulation granting rights to children, the general understandings concerning individual rights can readily be extended.

However, common law may also be piecemeal and ad hoc. Because the nature of the system is not to be systematic then this tradition tends to deal with issues as they arise rather than to codify a coherent set of legal requirements. The flexibility that is to some extent the strength of the system may also then be a weakness when attempting to clarify and ensure a comprehensive set of rights.

The third major legal option is the use of Sharia law, based on the Koran. This legal system is obviously found in Muslim dominated countries, although it may be found in some parts of countries with a significant Muslim population, especially when that population is geographically concentrated. For example, several states in the northern part of Nigeria utilize Sharia law, while the remainder of the country has a combination of common and traditional forms of law.

While Sharia law does not appear to deal with many of the issues involved in the CRC, it does make some fundamental points about the rights of children. In particular there are clear statements concerning the obligations of families to provide identity and support for children, something that may, for example, be lacking in common law. Although there are limited references to the responsibility of the public sector to enforce these rights for children, with the society as a whole and the family bearing most responsibility for their enforcement, the clear statement of such rights does provide some obligation for governments using this system to comply.

The fourth major option is to utilize traditional legal systems. In many areas of Africa, in parts of Asia, and in parts of other countries a traditional form of law is still being used, or has been reintroduced. This form of law is often utilized in conjunction with other systems. One common pattern is for relatively minor legal issues, especially civil disputes, to be handled through the traditional system while more serious concerns are addressed through the more formalized system.

---

18 See http://www.unicef.org/policyanalysis/files/Legislative_Reform_related_to_CRC_in_diverse_legal_systems.pdf

19 For example, in Canada and the United States the indigenous population has been given the right to utilize their own systems of law in those areas of the country over which they have been granted sovereignty. This shift in legal systems was adopted after decades of using the common law system. The Maori in New Zealand have relatively similar powers within certain areas of the country, as do indigenous peoples, albeit to a lesser extent in Australia. The important question in all these cases is the applicability of the traditional law to individuals who are not members of the indigenous populations.
Some elements of traditional law and traditional governance systems may be especially conducive to protecting the rights of children. For example, the “Queen Mothers” in northern Ghana represent a set of women responsible for protecting women and children through traditional legal means. Moreover, many elements of traditional law tend to emphasize the role of the family in society and thus protections for children and other vulnerable members of society. That said, however, these traditional values in law may not support some of the elements of the CRC in areas such as the status and naming of children born out of wedlock.

**International Organizations**

Given the international foundations of the United Nations Convention on the Rights of the Child it is logical to involve international organizations in monitoring the attainment of its goals. We have already noted the involvement of numerous international non-governmental organizations but some international governmental organizations have also been involved in monitoring and evaluation of the performance of national governments. The most sweeping option for evaluations of this type is provided by the Committee on the Rights of the Child. Article 44 of the CRC requires States Parties to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized in the Convention and on the progress made on the enjoyment of those rights: (a) within two years of the entry into force of the Convention for the State Party concerned; and (b) thereafter every five years. This process facilitates reporting and monitoring on all aspects of the Convention, based on a specific format, and a review is conducted every four years. Although it is managed by the member states this review does provide continuing analysis of the protection of human rights, including those for children.

In addition to the general monitoring of the protection of rights, more specialized monitors also function at the international level. For example, the International Labour Office is active in the area of child labour and other forms of child exploitation in the labour market, and reports infractions of international standards. Also, the Food and Agriculture Organization monitors child hunger and malnourishment as components of their more general role regarding food insecurity around the world. INTERPOL, the international criminal police organization, also actively monitors a number of types of crime against children.

As with many of the other institutions and programmes encountered in the protection of children’s rights, the major difficulty with international monitoring of enforcement is that a number of different actors are involved. These various actors all have their own priorities and their own particular concerns about the treatment of children. There is therefore a major coordination problem, even if many of the actors involved are constituent units of the United Nations. If the goals of the CRC are to be achieved then, there needs to be effective cooperation among all the actors concerned with the rights of children.

---

21 http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx
**Contract Evaluators**

Finally the evaluation of government performance in pursuing the rights of children can be externalized to contract evaluators and consulting firms. This has become an increasingly common pattern in evaluating the public sector in many areas of the world, especially for the more tangible services provided by the public sector (Saint-Martin, 2000). This use of private sector actors for evaluation represents in part the acceptance of New Public Management ideas concerning the role of non-governmental actors in governing. It also represents a means of externalizing the evaluation process to attempt to enhance the objectivity of the analysis.

While the use of contract evaluators has the virtue of having seemingly autonomous actors to make the evaluation, their autonomy is perhaps not as great as assumed. If they depend upon governments for further contracts then their willingness to be the bearers of bad tidings will be minimal. The use of outsiders to evaluate performance also raises important questions about the level of knowledge such evaluators would have, and their capability of providing useful information for the organizations charged with implementing a programme. The issue of the rights of children may again pose particular problems for outsiders because the criteria for assessment may be quite different from the standard economic criteria used in many, if not most, public sector evaluation exercises.

**Social and Informal Evaluation**

The methods of evaluating implementation of the CRC described above are largely formal. That is not, however, the only approach and there is an on-going social process of evaluating public sector performance. The difficulty arises in channeling these informal processes into effective control over the implementors. In well-functioning democracies, especially those with an active associational life, that process is continuous and can be effective. In systems without such effective structures the informal evaluation of performance may be manifested more in demonstrations and even riots. This behaviour can be a powerful indicator of assessment by at least some of the public on the performance of governments. The role of the media is critical in both protection and monitoring. The CRC endorses the importance of children’s access to and delivery of appropriate information of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.

**Styles of Evaluation and Enforcing Accountability**

Once the range of possible evaluators for compliance of governments with the CRC is clear, we then need to consider the range of options for reporting the success and failure of its implementation. All the monitoring options mentioned above may engage in evaluation but they may be more or less effective in enforcing the demands of the Convention. The question here is not who will do the monitoring and evaluation but how the resultant reports are fed into the political process for further consideration.

The minimum response to perceived problems in implementation is simply to report the outcomes of the process. Making information available to the outside – the public at large, the government, the United Nations and other potentially interested parties – is an important first step in holding the actors accountable. This process for enforcing accountability is especially true if there are active civil
society organizations, media and citizens who attend to political information. When those social and political conditions are not present then using simple reporting of information to enforce accountability is unlikely to be successful (see for example, Power, 1997).

The most important means of enforcing accountability is to enable those organizations responsible for evaluation to intervene and bring about changes in the behaviour of the actors involved. The logic of accountability is that the individual or organization being held accountable should report to an independent authority (Thomas, 2011; Day and Klein, 1987). That independent actor must, in turn, have some means of sanctioning the subject of the evaluation and, when the failings of a public organization are exposed within the legislature, those sanctions may be political.

Given the importance of independence for the institutions or individuals responsible for holding public organizations accountable, one means of promoting independent evaluations is to utilize actors who are external to the public sector. A number of civil society organizations have been involved unofficially in monitoring the performance of public organizations, and have employed publicity and media exposure as their mechanisms for enforcing accountability (see Hood et al., 2004). Civil society organizations are also at liberty to submit Alternative Reports to the CRC Committee as a means of providing a balanced view of the situation of children. Similarly, Special Procedures such as Special Rapporteurs (country and thematic) play an important role in exposing non-compliance with treaty obligations as do National Human Rights Institutions. Extending the option for a more formalized role in evaluating the implementation of children’s rights may provide independent assessment at relatively little direct cost to government.  

---

23 The danger is that the civil society organizations may be too committed to their policy goals and may not recognize the many barriers that exist to the effective implementation of policies protecting children.
4. SUMMARY AND CONCLUSIONS

Ensuring the rights of children as specified in the United Nations Convention on the Rights of the Child represents a significant set of challenges to governments. Those challenges are at least fourfold.

The first is the simple task of implementation, of translating legal commitments into effective action. Implementing any public programme is difficult but implementing programmes for human rights present even more challenges, and implementing those rights for children is all the more difficult.

A second challenge to governments is finding the organizational conditions that can be most conducive to ensuring the rights of children. Government machinery can be complex and seemingly may matter little for the implementation of programmes such as those discussed here. The contention here, however, is that structure does matter. If nothing else structures can express the priorities of a political system. Creating an organization dedicated to a specific purpose, such as the protection of the rights of children, is a strong signal to society of the importance of this activity. Further, a dedicated organization is more likely to focus its attention on that policy area alone, and to work assiduously to pursue those goals.

The third major challenge in protecting the rights of children is to coordinate all the various dimensions of this complex set of issues. To fulfill all the goals of the Convention requires a wide range of government departments and programmes and these must be made to work together. Even if there is an organization responsible for this coordination the integration of services remains a formidable task. There are formal bodies in all signatory countries with that official mandate but these can become excessively legalistic and assume that if a law exists it will automatically be effective. But without creating coherence among programmes there is little if any hope of providing what children require.

Finally, there is the challenge of independent evaluation and assessment of the performance of governments in protecting the rights of children. The implementation process is important but it is also crucial to evaluate the performance of programmes and their effects on the lives of children. This may be done within government itself and perhaps even by the organizations who were themselves responsible for the implementation. While those organizations may have a great deal of information about the programmes they do not have sufficient independence and objectivity to provide fair assessments.

In the evaluation of actions undertaken by governments in implementing the CRC it is also crucial to focus on their actual performance. Too often such evaluations can be legalistic and mechanistic – are laws in place, and procedures followed? – rather than attempting to understand what is actually being done. Legal compliance is an important first step to achieving the goals but needs to be followed by actual delivery of services. Thus, some more detailed mapping of the performance of government in delivering these rights is required.24

In conclusion, therefore, implementing the CRC is a demanding process for the public sector. This involves a number of actors who may have different priorities and different interpretations of the

24 UNICEF has done some of this mapping in papers such as that on Armenia, Barbados and Ghana referred to above.
rights contained in that Convention. The multiplicity of actors involved in the process presents perhaps the most challenging element of the task of ensuring rights. Further, to guarantee the effectiveness of these programmes efficient monitoring and evaluation is required, and must go beyond purely legalistic aspects and consider the impact of programmes on children. None of this is easy, but it is crucial for the lives of children.
REFERENCES


Folketinget (2008), *Sadan skriver I et lovforslag*, Copenhagen, Folketinget.


Inter-Parliamentary Union (2008), *Tools for Legislative Oversight*, Geneva, IPU.


