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Overview

In Council *Resolution 7/29* on the rights of the child adopted in March 2008 the Human Rights Council (the Council) affirmed its commitment to ‘effectively integrate the rights of the child in its work and that of its mechanisms’. The Council decided to incorporate into its programme of work sufficient time, at a minimum an annual full-day meeting, to discuss different specific themes on the rights of the child and to assess the effective integration of the rights of the child in its work.

In the light of this Resolution and the 20th anniversary of the *Convention on the Rights of the Child* (Convention), the first annual full-day meeting on the rights of the child took place on 11 March 2009 under Item 3 of the 10th session of the Council. Two expert panels were held, each of which were followed by an interactive discussion with States, national human rights institutions and NGOs. The first panel focused on promoting the implementation of the *Convention on the Rights of the Child* at the international level and the second panel on national implementation and monitoring. The discussions showed that many activities have been undertaken to incorporate the obligations of the Convention, which enjoys almost universal ratification. However all stakeholders stressed that despite observable improvements on the rights of the child in the last years many pressing concerns still need to be addressed and at both the international and national levels to ensure the protection and fulfilment of all rights of the child.

First panel on promoting the implementation of the Convention at the international level

The five panellists for the first session comprised of: Mr Dainius Puras, Member of the Committee on the Rights of the Child; Mr Philip O’Brien, Director Private Fundraising and Partnerships, UNICEF; Ms Asma Jahangir, Chair Coordination Committee of Special Procedures; Mr Alan Kikuchi-White, NGO Group for the Convention of the Rights of the Child; and Ms Maud de Boer-Buquicchio, Deputy Secretary-General of the Council of Europe.

The presentations by the first panel addressed in particular the current international context, the main challenges to the implementation of the Convention, and the integration of the rights of the child into the work of the Council (including the UPR and special procedures). During the interactive dialogue, States did often not respond directly to the question of implementation on the international level but elaborated on their national activities to ensure the protection of the rights of the child and the implementation of the Convention. All speakers acknowledged that much has been achieved since the adoption of the Convention; children are now viewed as right-holders and States are more aware of their obligations to ensure those rights.

Panellist and member of the Committee on the Rights of the Child Mr. Dainius Puras, identified the problems **the Committee on the Rights of the Child** (the Committee) is currently facing in fully implementing the Convention.¹ He pointed in particular to the increased work load of the Committee, and the need to increase its members from 10 to 18, to meet three times a year and to sit in two chambers in 2010 as a result of the growing backlog of reports. Mr. Puras emphasised that even though this will temporarily relieve the situation in 2010, a long term solution to this problem needs to be found. He stressed that a robust secretariat is essential for the effective work of the Committee. However, despite the increase of the Committee and its work the secretariat decreased in size. Another issue that hinders the effective implementation of the Convention and the monitoring work of the Committee is that some reports, including initial reports from six States (names not mentioned), have been long overdue.

Mr Puras also recognised the existence of **broad reservations** to the Convention as a worrisome obstacle for the full enjoyment of rights. Several States² urged the withdrawal of existing reservations and the ratification of the two Optional Protocols to the Convention.³ Malaysia announced in the discussions that it is currently reviewing its reservations. Mr. Puras also reported on the recent work of the Committee and drew attention to the general recommendations the Committee made to the Secretary General to conduct in depth studies on two specific issues: children affected by armed conflict and violence against children. Another outcome of the recent work of the Committee was its recommendation to draft guidelines on the protection and alternative care for children without parental care. Chile (on behalf of GRULAC) strongly supported in its statement the adoption of these guidelines. In this context Haiti invited States to work together on a draft resolution regarding shared custody that would protect children who are born outside of marriage..

The importance of **children's participation** was raised by, Ms de Boer-Buquiccio, Ms Jahangir, Mr Kikuchi-White, Mr O' Brien, several States, the European Commission and NGOs.⁴ In a joint NGO statement submitted by World Vision International, the World Organisation Against Torture, Terre des Hommes, and Plan International (on behalf of the NGO Working Group for a Communications Procedure for the CRC) the Council was called upon to establish an open-ended Working Group to draft an **Optional Protocol to the CRC for the creation of a communications procedure** under the Convention. It was argued that this proposal was not new and had been already raised during the drafting process of the Convention. The NGO Working group claimed that the reporting procedure and the Committee's concluding observations on States' reports, revealed persisting grave breaches of the full range of children's rights. The establishment of a communications procedure would therefore not only allow communications from children and their representatives to be dealt with by the Committee, but would complement States' reporting obligations, enabling individuals to take up cases of non-compliance directly to the Committee. In her response Ms Jane Conors, representing OHCHR, welcomed the elaboration of an optional protocol with the support of Mrs de Boer-Buquicchio and Mr. Kikuchi-White.

¹ Lithuania, Czech Republic (on behalf of the European Union),

² Czech Republic (on behalf of the European Union), Pakistan (on behalf of the OIC), Lithuania

³ Optional Protocol on the sale of children, child prostitution and child pornography and Optional Protocol on the involvement of children in armed conflict

⁴ Defence for Children International, European Commission, Ombudsman for Children in Poland, National Human Rights Commission of the Republic of Korea on the Rights of the Child, Norway, Slovakia, Philippines

The delay in the **appointment of a Special Representative of the Secretary-General on violence against children**⁵ as a follow up to the respective study that was issued two years ago, was considered as another major shortcoming in regards to full implementation of the Convention by the panellists, many States and NGOs.⁶ Panellist Ms Asma Jahangir stressed that the appointment of the Special Representative ‘will promote greater coordination and cooperation among all mandates in the relevant areas’.

Cooperation and coordination between the different mandate holders, UN instruments and HR mechanisms was identified by the panellists as one way forward to address existing gaps in the international framework. Panellist Philip O’ Brien, Director of Private Fundraising and Partnership of UNICEF, argued that partnership is the key strategy at the global, regional and country level. Not only partnership with the Committee or the NGO Group, but also **private-public partnerships** with corporate and philanthropic foundations are proving to be effective in leading child rights campaigns at the global level.

On the question on how the **Council can further integrate a child-rights perspective into its work**, Ms Asma Jahangir stated that **special procedures** play a crucial role in this regard as their work informs the Council’s debate and deliberations. Therefore Council *Resolution 7/29* from 2007 requests ‘special procedures and other human rights mechanisms of the Council to integrate the rights of the child into the implementation of their mandates and to include in their reports information on and qualitative analysis of child rights.’ Ms Jahangir reported that a number of mandates, by their very nature, pay specific attention to the situation of children⁷ and monitor the rights of the child.⁸ Additionally sections of both thematic and country visits reports by special procedures have analysed the specific situation of children. Last year the annual meeting of the coordinating committee of special procedures discussed the integration of children’s rights into their work, and the fact that there remained variations in standards depending on the mandate, type of reports and country visited. It was also highlighted that more attention needs to be drawn to the **situation of girls**. These findings were supported during the interactive discussion by New Zealand, Spain and the Netherlands.

Concrete suggestions were made on how special procedures can strengthen their work regarding children rights during last year’s annual meeting of special procedures. For example mandate holders should have more regular exchanges with the Committee on the Rights of the Child and with children and young people. Ms Jahangir reported that several steps have been taken in this direction as meetings with children’s rights organisations and children themselves have been encouraged and facilitated during missions. She pointed out that participation remains a major challenge in all regions. Ms Jahangir announced a number of thematic mandates which will focus in their future work on children rights, such as the Special Rapporteur on the human rights of migrants.

Several States asked whether the **universal periodic review (UPR)** can sufficiently ensure that gaps in the protection of children’s rights will be closed.⁹ Panellist and member of the NGO Group for the Convention of the Child, Mr. Alan Kikuchi-White, acknowledged that child rights have found a space in the UPR, but criticised that ‘there have been situations where child rights issues have potentially been misused to avoid scrutiny of more politically touchy or egregious issues.’ Secondly, there have been occasions when a pressing child rights issue has dominated child rights discourse in the dialogue to the virtual exclusion of other child rights issues. Thus the issue of how to avoid misuse, duplication and repetition during the review process needs to be addressed. Furthermore he argued that there is a need for continued scrutiny to ensure that the system of support for recommendations as

⁵ The mandate for the Special Representative has been established a year ago by the General Assembly

⁶ Mr. Kikuchi-White, Ms Conors (OHCHR), Czech Republic (on behalf of the EU), Chile (on behalf of GRULAC), Norway, China, Republic of Korea, Monaco

⁷ Special Rapporteur on the sale of children, child pornography and child prostitution, Special Rapporteur on the right to education, Special Rapporteur on trafficking in persons, especially women and children.

⁸ For example the Special Rapporteur on torture and the Special Rapporteur on violence against women have tackled the issue of female genital mutilation; the Special Representative on IDPs touched upon issues such as displacement of children and recruitment by armed groups and displacement and sexual exploitation. The Special Rapporteur on adequate housing discussed the vulnerability of children in the context of evictions. The Special Rapporteur on torture also discussed issues of corporal punishment and of children in pre-trial detention and non-penal institutions.

⁹ Chile (on behalf of GRULAC), Turkey, Italy, Australia, Belgium

expressed by the State under Review is not misused as a ‘quasi form of appeal’ for concluding observations adopted by the treaty bodies in general and the CRC in particular, and that the complimentary relationship between UPR and the treaty bodies is maintained.

Mr. White pointed out that very important issues such as violence against children, corporal punishment, sexual exploitation and trafficking, juvenile justice, status-based discrimination, and children affected by armed conflict was reflected in the stakeholder documentation of the UPR. Whilst not an exhaustive list of issues from stakeholders, these predominant child rights issues seem generally well-reflected. However Mr. White claimed that the documentation, while respecting CRC principles, focused largely on violations of the rights to life, survival and development, and discrimination-based abuses. He acknowledged that these issues are grave breaches of child rights, but that such focus confined children to the role of recipients of protection. He suggested that efforts are required to ensure certain overlooked clusters of rights, such as civil rights and freedoms, family environment and alternative care and child participation in all spheres of social life, are appropriately represented in the UPR. Finally, he demanded clearer outcome recommendations and criticised the fact that some important questions and observations raised during the dialogue did not crystallize into listed recommendations. He stated that the process could be made more effective by submitting focused, logic and evidence-based problems during the UPR, resulting in specific and time bound recommendations for follow-up.

During the discussions several States regarded **the global financial crisis** as a potential threat to the full implementation of the Convention and emphasised that sufficient financial resources need to be allocated to programmes and institutions dealing with the protection of child rights.

States and NGOs expressed concern at the violation of children rights in various areas such as children in armed conflict,¹⁰ child marriages,¹¹ child executions,¹² sexual exploitation and violence¹³, food insecurity,¹⁴ juvenile justice,¹⁵ trafficking,¹⁶ the situation of the girl child¹⁷ and children of migrants,¹⁸ access to education¹⁹ and sanitation²⁰ and the right to identity,²¹ and urged the Council, and the international community to take action in the respective areas. At the end of discussions panellist Philip O’Brien pointed out that effective implementation of the Convention at the international level comes down to implementation at the national level. Thus, he made two major recommendations: firstly, to develop capacities of families, community leaders, local and national government and the private sector to realize children rights; and secondly, to make the best interests of children the primary test of governance. This meant that national laws should be reviewed, financial and political support should be given to independent institutions to monitor and report on the situation of children, and national coordinating mechanisms for the promotion of children’s rights should be implemented.

Second panel on national implementation and monitoring

¹⁰ Russian Federation, Yemen, Belgium, Singapore.

¹¹ International Humanist and Ethical Union.

¹² Italy, International Humanist and Ethical Union.

¹³ Chile (GRULAC), Pakistan (on behalf of OIC), Cuba (on behalf of NAM), Netherlands, Tunisia, Spain, Philippines, Save the Children.

¹⁴ Cuba (on behalf of NAM), Indonesia, Malaysia.

¹⁵ World Alliance of YMCAs.

¹⁶ Burkina Faso.

¹⁷ New Zealand, Cuba (on behalf of NAM), Spain.

¹⁸ Commission on Human Rights of the Philippines, Philippines.

¹⁹ Cuba (on behalf of NAM), Tunisia, Spain, Indonesia.

²⁰ World Vision International.

²¹ Italy.

The afternoon discussion was dedicated to assessing the progress made at the national level and identifying main challenges and obstacles to the implementation of the Convention on the Rights of the Child (the Convention). The panel was comprised of Mr. Jorge Freyre, Coordinator de la Red Latinoamericana y Caribena por la Defensa de los Derechos de los niños, niñas y adolescentes, Mr. Anders B. Johnsson, Secretary-General of the Interparliamentary Union, and Mr. Trond Waage, Senior Fellow at the UNICEF Innocenti Research Center. Major concerns expressed by the panellists included violence against children and the emergence of new forms of sexual exploitation, children's participation in decision-making processes, the visibility of child rights in the national budget, access to effective remedies, cooperation between Government and civil societies through legislative reforms, national strategies, and monitoring and ensuring child impact assessment. However, States then proceeded to primarily advertise their achievements in legislative reform, with very few referring to challenges. Nevertheless some noteworthy best practices and suggestions were presented by delegations and experts that could provide for further development in national implementation if States were to take them into account.

Progress in national legislation and policy

All panellists agreed on the tremendous progress made over the last 20 years throughout the world in **reforming legislation and adopting policies in line with the Convention.**²² Several States²³ referred to their ratification and incorporation of the Convention and the two Optional Protocol into domestic law, and that the rights of the child are a national priority as reflected in the legislative and executive framework. These included: a code for children,²⁴ a Ministry for children,²⁵ national plans of action for children,²⁶ or various policies in the field of health, education, poverty, migration, child labour, sexual exploitation, aboriginal children, underage children in the army, and social exclusion.²⁷ Regarding best practices, Thailand has established governmental bodies at national and lower levels dealing with children issues, while Morocco has created National Observatory for the Rights of the Child as well as communal councils in the field of violence against children;

Nevertheless as emphasised by Mr Johnsson, Secretary-General of the Interparliamentary Union, simply adopting laws is not sufficient, as they should also be regularly assessed to meet the need of a changing society.²⁸ A realisation of children's rights would only be achieved when they are mainstreamed not only in legislation and policies but also in the budget and decision making processes. The panellists therefore pushed States toward a wide dissemination of the Convention, financial and human resources being allocated to the realisation of programmes and, above all, making States accountable through systems of checks and balances, including independent monitoring mechanisms within Government institutions and effective remedies for children.

Regarding **children's participation in decision making processes**, it was noted that in Albania children are invited to talk in Parliament on issues of concern to them. Poland announced that they had established the first Parliament for children in Europe. However, as expressed by Mr Johnsson, States generally could give more

²² Article 4: States shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.

²³ Czech Republic on behalf of EU, Uruguay, Singapore, Austria, Vietnam, India, Nigeria, Brazil, Canada, Japan, Germany, Myanmar, Slovenia, Thailand, Peru, Poland, Colombia, Zambia, United Republic of Tanzania, Qatar, Slovakia, United Kingdom, France, Russian Federation, Romania, Bosnia-Herzegovina, Norway, Korea, Australia, Lithuania and Morocco.

²⁴ Uruguay.

²⁵ Brazil.

²⁶ Uruguay, India, Canada, Germany, Slovenia, Bosnia-Herzegovina.

²⁷ Germany and the United Kingdom of Great Britain and Northern Ireland declared that they will soon accede to the Optional Protocol on the sale of children, child prostitution and child pornography.

²⁸ For example, in the fight against terrorism, States should watch out that the laws they implement do not affect the rights of children.

importance to creating child friendly environments. In this regard, Defence for Children International added that States should give children access to relevant and suitable information and receive adequate support from adults to ensure their true participation..

Lack of self-assessment of challenges and obstacles

Regretfully, very few States expressed challenges when it came to implementing the Convention and due to the lack of time questions raised by delegations were only briefly addressed by panellists.²⁹ Issues raised included: street children in Uruguay, juvenile justice in Austria, the integration of Vietnam into the international economic system, geographical constraints in Indonesia, the for Japan of submitting reports every five years to the Committee on the Rights of the Child, the influx of displaced people in Thailand, and the global financial crisis and its impact on the economy for Nigeria.³⁰ It was regretful that no advice was given to States on how better to enforce children's rights in the midst of the financial crisis. It was also notable that violence against children and extreme poverty were seldom mentioned.³¹ However, when asked by Brazil about the major problem that children faced in the world, Mr Johnsson answered that it was **violence against children** in all its forms. He also mentioned the financial crisis as one of the challenges for the years to come, adding that States should accompany legislation with budget lines for this very reason.

Despite the positive achievements underlined during the debate and few allusion to them, NGOs and panellists felt it was necessary to stress the numerous problems that children face, including extreme poverty, violence, war, and disease (as mainly emphasised by World Vision International). NGOs' interventions helped to balance the positive picture put forward by States and recalled the severe conditions that children face in many countries. Defence for Children International drew the attention of the panel to **juvenile justice**, noting that many adolescents are detained in adult prisons and urged States to ask the Committee for assistance as well as the Inter-Agency Panel on Juvenile Justice, a coordinating body mandated by ECOSOC which is, in her view, underutilised. The NGO World Alliance of Young Men's Christian Associations (YMCA) criticised the Convention itself for not properly addressing this issue. According to them, a major obstacle for States was the stigma for and discrimination against young offenders. Nevertheless, the Republic of Korea presented a good example of how to respond to this through the creation of a Special Commission on Youth comprised of relevant professionals and teenagers from cities and provinces.

Areas for improvement

Some inputs for improving the national implementation of the Convention could be drawn from panellists' statements and States best practices:

First of all, the importance of having an **Ombudsman for children** was first brought forward by Mr Waage from the UNICEF Innocenti Research Center. He explained that Ombudsmen are directly in contact with the concerns of children and could monitor the Convention, receive complaints, report concerns to Parliament and submit alternative reports to the Committee on the Rights of the Child. The representative of the Office of the Ombudsman on Children's Rights of Poland, the only NHRI to take part in the debate, also testified to the need to establish such a body as it can also represent children before the Court.

Mr Jorge Freyre also emphasised the benefit of enhancing **collaboration between Governments and civil society**, He tribute to NGO capacities, including: contributing to the UPR, reporting on States' endeavours to abide by their commitments, and organizing conferences to publicise the provisions of the Convention. To his

²⁹ States mainly asked the panellists about best practices in the field of children participation, interaction between national level and international mechanisms, obstacles to the realisation of CRC, education program in the field of children's rights and on how to disseminate the Convention.

³⁰ In this regard, Nigeria called upon the international community for assistance.

³¹ Chile, Brazil, Germany, Poland, Costa Rica, Lithuania, Morocco,

mind, international documents were made legitimate thanks to the work of civil society. A joint Statement on behalf of International Movement ATD Fourth World International Catholic Child Bureau, IIMA, VIDES, Dominicans, and Franciscans International encouraged States to increase their collaboration with NGOs. Uruguay and South Africa mentioned their efforts to engage all stakeholders of societies in the realisation of the rights of the child.

As far as a **monitoring mechanism** is concerned, Mr Waage recalled a usual misconception of its use; it should not be seen as a mean to hold States accountable but as a tool to assess the implementation of the Convention at national and local levels. For instance, in Germany, a mechanism of complaints based on the Convention is already being discussed. A National Commission for Protection of Child Rights in India can undertake periodic reviews of the implementation of the Convention and receive complaints. In Zambia, a Sector Advisory Group on children and youth is responsible for the overall steering of the implementation process.

Finally, the drafting of an **Optional Protocol to the Convention on individual communications**, already largely discussed at the first Panel, was evoked by Uruguay and its application was then emphasised by Mr Freyre as having the potential to increase the value of the Convention. Jane Conors, on behalf of the Office of the High Commissioner for Human Rights shared her view but underlined that it might trigger legal obstacles at national levels on the basis of exhaustion of remedies and how children will have access to them.

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