Implementing the right to child protection: a challenge for developing countries

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The UN Convention on the Rights of the Child (CRC) is ratified by all but two countries—Somalia and the USA. Those states that have ratified have made efforts to implement it with varied results.

From ratification to development of child protection policy and legislation can be illustrated by what happens in Africa, where, to meet their obligations under the CRC, countries have produced national programmes of action. The process of developing a programme and planning its implementation has often been spearheaded by UNICEF. Furthermore, Domestic laws have been revised and child-friendly systems, such as Councils and Commissions, have been created. In some countries, such as Kenya and Uganda, comprehensive Children Acts now exist and policies on children and young people have been formulated. Children’s parliaments, too, are common practice in many countries on the continent. Governments are working to improve the effectiveness of their departments that deal with children’s issues, and many have undertaken investigations into the problems that affect children. Other international treaties that deal with specific issues—such as children in commercial sex, armed conflict, and child labour—have been developed by different arms of the UN in collaboration with international organisations such as Save the Children Alliance and Anti-Slavery International, and have been signed and ratified by governments.

Kenya ratified the Convention (September, 1990) and other international Conventions and Protocols aimed at protecting children. The country prepared a national programme of action with the support of UNICEF and started implementation. The government, with support of UNICEF and in collaboration with civil society organisations, prepared and presented the country’s report to the Committee on the CRC in January, 2000, albeit that this first report was supposed to be presented in 1992. A comprehensive Children Act came into force in 2002. This led to the creation of a National Council for Children Services and Children’s Courts countrywide. In addition, there has been the formulation of National policies on Child Labour (2002), Education (2005), and Orphans and Vulnerable Children (2005). Guidelines and regulations on adoption have also been developed and were gazetted in May, 2005. Different arms of government Departments have been trained and, in some cases, children’s rights information has been incorporated in the curricula of police and teacher training colleges. Corporal punishment has been outlawed in schools and judicial institutions.

The CRC has also been used at a local level in Kenya to underpin campaigns to raise public awareness and improve services. In 1996, a Coalition on Child Rights was formed, bringing together key government ministries and various non-governmental organisations, including the National Council of Churches, the Child Welfare Society of Kenya, and the Family Life Association of Kenya. All coalition members received training on children’s rights and child abuse and neglect and have gone on to provide training for others nationwide. Children themselves became involved in the initiative through drama, music, and essay competitions. These competitions are now a regular activity within the Kenyan school system. The Coalition has also worked to strengthen the child abuse reporting system and has helped to create a network of legal services for children and families.

Despite these efforts to improve legislation and the policy framework to protect children, the resources needed to make a real difference are inadequate and unpredictable, both in Kenya and elsewhere in Africa. There has, for example, been an increase in the number of cases of sexual abuse reported in Kenya, but funds available for child welfare during 2005/2006 have been primarily directed by donors towards the prevention of human trafficking and alleviation of poverty. Indeed, children’s issues are affected on a yearly basis dependent on the interests of donors.

There have been many factors to overcome in the implementation of the Convention—in Kenya, the AIDS pandemic, a poorly performing economy that has seen the proportion of the population living below the poverty line reach 58%, a million children not in school despite the introduction of free primary education in 2003, 2 million

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Kenyan police have open departments to deal with child abuse
children working, and 1·1 million orphans. As such, the full realisation of the noble intentions behind the CRC has proven unattainable to date. According to reports,2,3 many countries in Africa have not reported back to the CRC committee or, like Kenya, produced their reports late and only then after intervention by UNICEF. The difficulty, perhaps, is that implementation of the Convention is just one of the many obligations that face African governments, who are bombarded with donor-driven agendas and demands—HIV/AIDS, Education for All, End Child Prostitution, Poverty Alleviation, Millennium Development Goals, to name but a few. As noted by Save the Children in 2003, there is no space left for countries to implement self-defined agendas and owned priorities. Besides creating competing and uncoordinated demands, donor-driven issues and processes often undermine the drive of governments to implement the obligations they undertake. In most of the developing world, UNICEF country offices lead the planning process for implementation of CRC, hiring consultants both to undertake the initial analysis of the situation for women and children and to draft the national programmes of action. Governments themselves are rarely the driving force and may cooperate only to fulfil requirements for donor support.

Although assimilation of the task by non-governmental organisations ensures that the job gets done, governments for the most part, have not taken ownership in the implementation of CRC. This is illustrated by the current UN Study of Violence against Children. Governments, as states parties to the CRC, were supposed to participate and provide leadership in the study. In Kenya, the government formed a committee for the study, but a non-governmental organisation supported by UNICEF took over and appointed a consultant. The government lost the driving role to the non-governmental organisation, resulting in a report that does not reflect the true situation of violence in Kenya. Such a process simply makes governments take a back seat and wait for donors to propel them to act.

In countries such as Kenya, the reforms instigated after ratification of the CRC provide a sound rights-based framework for the development of services for the protection of children and for promotion of their welfare. However, governments must be encouraged to control the process of implementation. This will require commitment to long term planning by both governments and their international partners. Non-governmental organisations, collaboratively speaking with one voice, can influence this process.

Conflict of interest statement
P Onyango declares that she has no conflict of interest. M A Lynch has undertaken consultancies relating to child protection and child welfare funded by UNICEF, British Council, the Palestinian Authority, the Oak Foundation, and Save the Children. She has provided professional advice to the England Department of Health and the Department for Education and Skills and has previously acted as an expert witness in child protection cases.

The views expressed are those of the authors and not those of their affiliated organisations.

References

Statutory advocates and outcomes for children: viewpoint of the New Zealand Children’s Commissioner

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The New Zealand Children’s Commissioner, Cindy Kiro, is an independent advocate for young people. Appointed for a 5-year term, her job is to hold the Government accountable for commitments made to their youngest citizens, including enactment of the UN Convention on the Rights of the Child (CRC). Such accountability is important, since children are not entitled to vote and are therefore denied full participation in the democratic process.

Internationally, children’s Ombudsmen and commissioners fulfil this role. Although fairly new in the UK and Ireland, the positions are well established in other European countries and in New Zealand, where there has been a Commissioner since 1989.

The Commissioner can investigate any individual case, but also systemic issues affecting the rights, welfare, and interests of children. The job also involves responsibility for monitoring of the statutory child welfare agency—the Department of Child, Youth, and Family—to ensure compliance with the Children, and Young Persons and Their Families Act (1989). The investigative function is not limited to the Department, but can include health authorities, schools, and non-governmental organisations (NGOs). In undertaking these functions, the Commissioner must form a view independent of government.

This statutory responsibility means that the Commissioner can use the Convention to affect government policy and practice, and his or her independence allows uncompromised relationships with the legislative, executive, and judiciary branches of government, as well as with NGOs. The Commissioner is in a position to represent the views of one group to another, without any conflict of interest. Two areas in