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The Convention on the Rights of the Child 1989:
What has been the impact so far?

It is fifteen years since the United Nations first adopted and then ratified the Convention on the Rights of the Child (CRC) and Unicef have just published the first phase of a three year study of 62 countries to evaluate how far the civil, economic, political, social and cultural rights of children have been affected worldwide. The implementation of the Convention is a vast and complex process taking place across the world and is still in its very early stages, but there is already evidence of a unique degree of activity and interest in this area of human rights and the conclusions of the Unicef report so far suggest that there have been many rapid and widespread changes as a result. The study reviews progress to date and among other developments, highlights advances in family law, child health and education and the protection of children from violence, sexual exploitation and abuse.

The role of the Convention as a catalyst for change has been most evident in law reform where there has been substantial progress in many areas. Some countries have adopted National Codes and the legal establishment of independent children's rights institutions in many countries. Some states have moved yet further ahead and set up co-ordinating mechanisms such as children's units, children's commissions or national councils which enable resources to be better accessed and co-ordinated. Egypt is given as example of what can be accomplished under the umbrella of National Councils.

There have been significant changes in family legislation in many countries with nearly all the countries in Asia, Central and Eastern Europe and Latin America adopting new laws. The North African states of Egypt, Libya, Morocco and Tunisia have all made significant reforms, important changes have taken place in Ethiopia, Nigeria, South Africa, India and South East Asia. Most of the new legislation concerning family law incorporates the 'best interests' principle and recognises the right of children to be heard and have their views taken into account. There is now a growing recognition of the right of the child to be raised within a family environment and an increased emphasis on parent's responsibilities towards their children. Here is an extract from Nicaragua's Code of 2003: 'The duty of Parents'

'Family relationships are based on respect, solidarity and the absolute equality of rights and duties of mothers and fathers(who) have the duty to care for the upkeep of the home and all aspects of raising through shared efforts.....with equal rights and responsibilities.'

New legislation in some countries now permits children to be removed from their parents in order to protect them and in many places where children have been separated from their family's institutional care is now seen as a last resort. Adoption has been the focus of special attention in many countries, with new laws to restrict inter country adoption. Paraguay, where some five thousand children were adopted by foreigners in the early nineties; some in dubious circumstances; has now suspended inter country adoptions and all children freed for adoption since 1997 have been adopted nationally.

Children's health has been given major attention in most countries; the child's right to health is now enshrined in legislation in countries as diverse as Nepal, Belarus and Rwanda but the extent to which it is applied can be very varied. The state of Goa for instance, recognises the rights of pregnant mothers to health care, immunisation programmes for babies and health education for girls while India's reforms are so far restricted to issues around breast feeding.

Nearly all the countries in this study have undertaken law reform in relation to the right of the child to education, with many adopting new laws. School leaving age has been raised in many places; the rights of children to be educated in minority languages, the prohibition of physical punishment, respect for freedom of opinion, gender equality and the promotion of democracy are other examples. In Italy a Charter of Rights for secondary school students was adopted in 1998 which defines school as a:

'.... community of dialogue, research and social experience, informed by democratic values and aimed at the growth of the individual in all his or her dimensions. Here each person with equal dignity ... works to guarantee a training in citizenship, the realisation of the right to study, the development of each child's potential and the overcoming of situations of disadvantage'

Laws to protect children from all forms of violence, abuse and neglect have also been strengthened; in some countries this has been done by heavier sentences for offences; in others the law has been changed through new forms of protection for victims or by introducing obligatory reporting of suspected abuse.

The impact of domestic violence on both women and children has received widespread attention; taking South Africa as an example the police must now provide prompt assistance to victims of domestic violence and the law enables child victims to apply for protection orders and suspected perpetrators to be arrested without a warrant. Since a regional treaty was signed in the Americas in 1994, there has been strong support there for criminalising violence by any member of the family and this includes causing psychological trauma, particularly to children, through witnessing such violence.

There have been developments in many countries in relation to corporal punishment; since 2000 corporal punishment, psychological injuries and humiliating behaviour towards children has been prohibited in Germany, in Iceland parents are now obliged by the 2003 Children's Act to protect the child from any physical or mental violence and in Kenya it is now illegal to use whipping as a punishment for juvenile offenders. In 2004 both Ukraine and Romania became the latest countries to fully prohibit the corporal punishment of children. Here is an extract from the Romanian Law on the Protection and Promotion of the Rights of the Child:

'Disciplinary measures concerning the child can only be taken in accordance with the child's dignity and under no circumstances are physical punishments allowed, nor punishment which might affect the child's physical and mental development or emotional status'

Here in the UK, a recent attempt in Parliament to outlaw physical violence by a parent towards a child failed and parents continue to have the legal right to use reasonable chastisement.

An increasing awareness of the sexual exploitation of children around the world has led to the introduction or strengthening of new laws, sentences have been increased, loopholes closed, and the definition of sexual offences extended. In some countries the law now extends to offences committed by a national abroad such as sex tourism or child trafficking; elsewhere in most countries in Asia, Latin America and Western Europe children are offered better protection as victims and treatment as witnesses. Half of the countries reviewed are also signed up to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography 2002.

Law reform, the drawing up of National Codes, establishing Children's Rights Commissions are all stages along the way to implementing the Convention on the Rights of the Child. Progress is hampered by both major and minor events; local politics, national disaster, regime change, lack of resources but a worldwide commitment to the aims of the Convention appears to have become established with remarkable efforts to improve the rights of children taking place in some instances, often in many of the poorer and less developed countries.

Reference;

Summary Report of the Study on the Impact of the Implementation of the Convention on the Rights of the Child

Available from:

www.unicef-icdc.org/publications/pdf/CRC_Impact_summaryreport.pdf

PAPER 2

Sometimes you've got to shout to be heard!

We're all committed to participation. Or, more accurately, we all appear to be committed to 'hearing' children's 'voices'. From project workers to policy officers, from local councillors to the Minister for Children, Young People and Families, children have been asked what they think about the decisions we have made, or are making, or will make on their behalf and in their interests. As the Minister for Children, Margaret Hodge said:

'I am delighted that our determination to place children and young people at the heart of our programmes has been so clearly demonstrated by the fact that 3,000 of the 4,500 responses that we received (to Every Child Matters) came from children themselves'

This seems simple enough. More challenging is the question of the relationship between these voices we are hearing and the policies or practices we adopt. We rarely talk about including children and young people's views as part of our commitment to evidence based policy and practice, which begs the question: are children and young people providing valued evidence for our decision making, or are they simply serving to confirm the decisions we've already made?

As part of this process Barnardos has spent much of the last year talking to children to find out their views and this is a summary of some of the key issues, compiled by Nancy Kelley, Principle Project Officer from Barnardos.

Every Child Matters was published in September 2003 and forms the backbone of the Government's Change for Children Programme, a programme which includes the Children Act 2004. It is important to consider the extent to which **Every Child Matters** and the Children Act illustrate children's influence on and inclusion in policy making for a number of reasons. Firstly, this is the most significant reform agenda for children's services since the Children Act 1989, and we need to get it right. Secondly, from its genesis, the Change for Children process has referred to children's views as a key driver; indeed, the five outcomes of **Every Child Matters** and s7 of the Children Act are attributed to children, young people and families. Finally, **Every Child Matters** was unique in that it was published alongside a children and young people's version; this is the first major legislative development in England to deliberately and systematically target children and young people as key stakeholders. It would appear that this is an agenda about children, driven and shaped by children. This is, to paraphrase the Minister, a programme with children at its heart.

But to what extent have the 'voices' of children and young people really been listened to and reflected in the development of the Children Act? Looking in more depth at the consultation process it is clear that their input has not been treated as evidence from key stakeholders, but as validation of already fixed policy at best, irrelevant material at worst. Perhaps the starkest example of this is this is found in proposals for information sharing databases, called Information, Referral and Tracking (IRT) in **Every Child Matters**, and Information Sharing and Assessment (ISA) in the context of the Children Act.

Every Child Matters set out a proposal to build on Information, Referral and Tracking pilots to develop databases with records of all children listing basic information, details of any services they access, and 'flags' indicating where professionals *'have a concern about a child which in itself may not be a trigger or meet the usual thresholds for intervention.'* These databases would be used by a wide range of professionals in contact with children from housing departments to schools, from the police to speech and language therapists.

What did children and young people say about information sharing? Barnardos ran focus groups on **Every Child Matters** with over 100 children and young people from all over England. NSPCC ran focus groups with 69 children, and the Department for Education and Skills, assisted by statutory and voluntary sector partners, ran focus groups with 750 children. All of these children and young people were given an opportunity to voice their opinions on information sharing, and their opinions are very consistent.

Children and young people are happy for basic information, such as name and address, to be recorded on a database and accept that where a child is at risk, information might need to be shared without consent. Apart from these situations, children and young people feel that they should decide what information gets shared and with whom. Here are some of their responses:

'we should decide who knows what about us'

'I think it should be the choice of the kids or young person you know – who should see their personal life'

'young people should know what information is kept or passed on about them and information should only be passed on or shared with the consent of the young person concerned except in the case of serious danger to the young person'

Further, children and young people have some very specific concerns about particular services being able to access or record information without their knowledge or consent:

'housing don't need to know anything – they might not house you and we should all be treated the same'

'I would be really embarrassed if like some teachers knew some medical thing about me'

'young people with a parent in prison did not want people (in school) to know'

Overall, this is a very clear message for Government: sharing information without consent where a child is at risk makes sense to children and young people. Other information sharing should be something that is negotiated with the child or young person themselves. So how well did the Government respond to the 'voices' of these children and young people?

Clause 9 of the Children Act sets out a power for the Secretary of State to establish, or require Children's Services Authorities to establish databases containing information on all children. The range of information recorded on the database includes but is not limited to; name and addresses, name of parent or carer, contact information for all services the child uses (from a school to a sexual health clinic), information as to 'the existence of any cause for concern', and any other information specified in regulations. The range of services using these databases has expanded from the already long list in ***Every Child Matters*** to include bodies such as registered social landlords and the Commissioners of Inland Revenue. There is no requirement that a child or young person be consulted before information is shared, and their right to confidentiality is waived where necessary to enable the process of recording information on the database.

Children and young people's views on information sharing were assiduously sought by Government, and yet have been equally assiduously ignored. It is difficult to assess the possible consequences of this failure to respond. Perhaps, as children fear, the databases will damage the quality of their relationships with adult service providers. Perhaps their fear itself will cause damage, as children become wary of approaching services such as those offering support around sexual health or drug and alcohol misuse. Certainly this consultation process will sit alongside a whole range of others where children have been asked for their views, only to have them discounted.

Where next, for children's participation in policy development? This isn't just about ignoring what children tell us. It's about the questions we ask. If ***Every Child Matters***, then we should do more than ask them to comment on our ideas, we should respond to priorities they identify. If you ask children and young people what's important to them, they don't answer 'single line commissioning', or 'high level accountability'. They say things like, good quality accessible transport; more help in school, being safe in their own communities, more things to do in their free time and adults who will support them in a caring and respectful way. We've all heard these 'voices' before; the question for both Government and for us is why we haven't yet learned to listen to them.

This is an edited version of a paper given by Nancy Kelley to a Reconstruct conference 'Loud Noise, Small Voices' in December 2004

For further information on Information Sharing and Assessment:
www.dfes.gov.uk/isa