Child Rights Governance

A "How to" Note
Incorporating Child Rights Governance into your
Generic Child Rights Situation Analysis

Save the Children

A "How to" Note

This "how to" note is intended to be read alongside the existing guidance on the development of Child Rights Situation Analyses (CRSA)[i]. Since the late 1990s the CRSA has been a central part of Save the Children's planning cycle and will continue to be so in Save the Children International's programmes.

A Generic CRSA is essential both to help determine country or regional strategies, and to make decisions as to which specific thematic programmes to develop.

The aim of this document is to encourage country programmes, regardless of their current focus, to examine child rights governance issues when carrying out their generic CRSAs. This should then enable informed decisions to be made about addressing issues of governance either through Save the Children's own direct programming, policy or advocacy work or through working through or in collaboration with others. Should a country decide that a Child Rights Governance Programme is a strategic priority a more detailed thematic analysis will be necessary.

Child Rights Governance Global Initiative

The Child Rights Governance Global Initiative is one of six global initiatives included in Save the Children's Strategy 2010-15 to achieve Save the Children's thematic goals. Child Rights Governance work focuses on creating and/or strengthening the governance infrastructure – that is the systems and mechanisms that need to be in place to effectively make children's rights a reality. The purpose of the Child Rights Governance Global Initiative is to support country programmes to encourage states to move forward faster in fulfilling children's rights; holding states to account for what they have or have not done; and mobilising civil society and possibly other actors to promote and defend children's rights and children's agency as citizens.

The two strategic objectives of the Child Rights Governance Global Initiative are:

• **Strengthened state institutions and mechanisms for the implementation and monitoring of children's rights**
• **Increased awareness and capacity in civil society and among children to promote children's rights and hold duty bearers accountable**

When the generic CRSA guidance was last updated in 2009 CRG was not yet an explicit sector for SCI. For that reason it has been necessary to produce this short guidance note to ensure that the issues relevant to child rights governance are fully captured in CRSAs being carried out in the future.

A Conceptual Framework

Children's Rights have been established throughout the UN Human Rights Treaty Body System, starting with the Universal Declaration of Human Rights and extended through the two International Covenants of the International Bill of Rights and many of the other treaties that have come into force over the past 70 years. At the present time the main point of reference for children's rights is the UN Convention on the Rights of the Child and its three optional protocols.

Article 4 of the UNCRC makes it clear that once a country becomes a State Party to the UN Convention on the Rights of the Child (i.e. it has ratified the UNCRC), it has an obligation to put into place the means by which children's rights can be realised. The Committee on the Rights of the Child's General Comment No5[ii] sets out concrete steps that all governments must take to put in place the infrastructure necessary to implement the Convention. These obligations are what are known as the `General Measures of Implementation´of the UNCRC and form the core focus of any CRG programme and analysis.

The General Measures are as follows;

1. Ensuring that legislation is fully compatible with the Convention, and removal of reservations and ratification of UNCRC's optional protocols and other human rights instruments for children, (including regional instruments).
States parties should review national legislation and ensure that national laws are compatible with the rights set out in the CRC. Additionally, States are urged to review and withdraw any reservations made on Convention articles and to ratify other relevant international instruments such as the three Optional Protocols.

2. Ensuring that there is a systematic process of assessing new laws, policies or programmes for their impact on children's rights ("Child Impact Assessments")
A Child Impact assessment can be described as a *prior assessment of the impact* which a decision about laws, policies or programmes may have on all children or specific groups of children affected by it. It makes the best **interests of the child a primary consideration in government decision making.**

3. Developing a detailed, comprehensive national strategy or agenda for children, based on the Convention, and taking into account policies of decentralisation, federation and privatisation.
In order to promote and protect the rights of the child at all levels, States parties need to develop a comprehensive national strategy for children based on the CRC. The strategy must set realistic and achievable targets and must include adequate allocation of human, financial and organisational resources.

4. Ensuring adequate resource allocation and making children "visible" in budgets.
States are expected to allocate budget resources for children "to the maximum extent of their available resources". Steps should be taken at all levels of Government to ensure that economic and social planning and decision-making, and budgetary decisions are made with the best interest of children as a primary considerations and that children are protected from the adverse effects of economic policies or financial downturns.

5. Developing permanent mechanisms in government to ensure the effective co-ordination, monitoring and evaluation of implementation.
Full implementation of the CRC requires effective coordination both horizontally between government agencies and departments and vertically between different government levels, from local, provincial to central,levels but also between the government and the private sector.

6. Developing training, education and capacity-building for all those involved in the implementation process.
Awareness raising on the CRC should be geared towards adults and children alike. The text of the Convention should be widely available and be presented in understandable language, e.g. by publishing a child-friendly version of the CRC. Additionally, State reports submitted to the Committee should be easily and widely accessible by the general public.

As part of the process of creating awareness, children need to learn about their rights and the CRC. This should be incorporated into the school curriculum at all stages. Furthermore, education should extend to training and capacity building of personnel working with children. These include child psychologists, teachers, health and social workers, the police and others.

7. Creation of a mechanism or process to ensure all state and non-state service providers (e.g. the private sector, faith organisations, NGO/civil society) respect the Convention.
The committee makes it clear that the state has an obligation to ensure that non-state service providers operate in accordance with the Convention. It states that the best interests of the child shall be a primary consideration in all actions concerning children, whether undertaken by public or private bodies. Article 3(3) requires the establishment of appropriate standards by competent bodies (bodies with the appropriate legal competence), in particular in the areas of health, and number and suitability of staff. This requires rigorous inspection to ensure compliance with the Convention. The Committee proposes that there should be a permanent monitoring mechanism or process aimed at ensuring that all state and non state service providers respect the Convention.

8. Promoting co-operation and co-ordination with civil society - with professional associations, non-governmental organisations, children and so on.
Implementation of the UNCRC is an obligation for States Parties, but they need to engage all sectors of society, including children themselves. NGOs, the media, civil society and in particular children and young people should participate and be directly involved in the process.

9. Ensuring the development of appropriate indicators and sufficient data collection on the state of children.
The Committee encourages States to use different methods for the collection of qualitative and quantitative data. These should include interviewing children directly and asking them for their opinions and views. However, it is important that data are not only collected, but also properly analysed, evaluated and the outcomes used to influence policy.

10. Promoting international co-operation in implementation
The CRC understands the importance of international cooperation in improving the lives of children in every country, particularly developing countries. State Parties to the CRC who are able to provide other States parties with support for the realisation of children's economic, social and cultural rights should do so where needed and to the maximum extent of their available resources. The design and implementation of development assistance should be child rights based.

11. Creating statutory children's rights institutions / ombudsmen offices
The establishment of independent human rights institutions for children should not substitute, but rather be complementary to, self-monitoring governmental institutions. These institutions should be geared towards promoting and safeguarding the rights of the child. Increasingly, states are establishing independent human rights institutions for children – separate children's ombudsmen, children's rights commissioners, or focal points on children's rights within general human rights commissions or ombudsman offices.

Achieving these General Measures of Implementation is the key to the long term realisation of children's rights. As systems, mechanisms and institutions they constitute the means by which the rights in the UNCRC (and those in other human rights instruments for children, for example the African Charter for the Rights and Welfare of the Child) are mainstreamed and institutionalised, not just into the functioning of the state, but also into the actions of other key actors in children's lives.
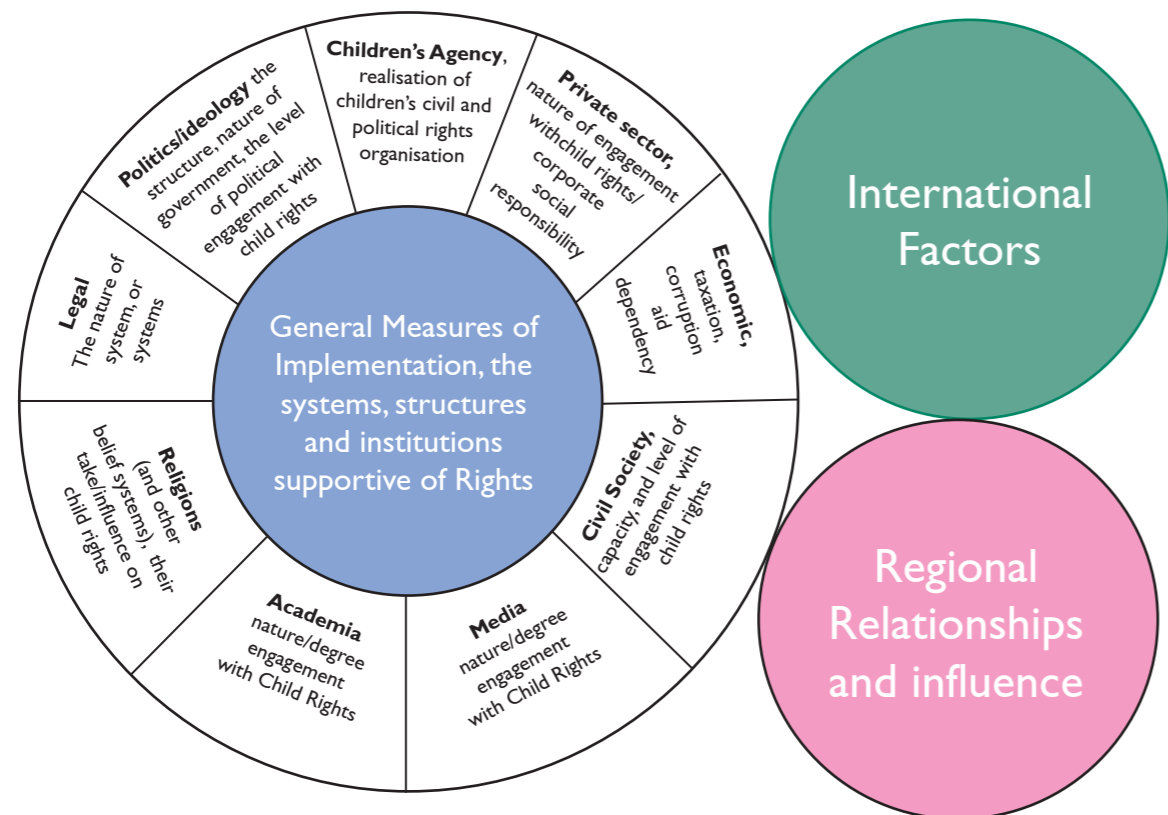
Save the Children's Child Rights Governance framework recognises the importance of the activities, engagement and contributions of these other actors as a fundamental part of the dynamic of change in a country. An analysis of the environment and climate for children's rights needs to take into account both the state's engagement, but also the nature and degree of engagement of children, children's organisations (as claimants for children's rights) and other key actors, for example the private sector, civil society, the media, academia and religious institutions in the rights environment.

In order to strengthen and support the General Measures of Implementation a country programme needs an understanding of the general rights and governance environment in a country. There is a range of components that may have a positive or a negative influence on what the government can achieve and within what timeframe. It is useful to divide these components into three types, those within the country, those in neighbouring countries and the region, and those associated with the international community and its influences.

Child Rights Governance Components of the CRSA

The Child Rights Situation Analysis process should enable a programme to develop an understanding of the following 4 components, both to assist in analysing the root causes and factors behind the non realisation of rights, but also to identify potential interventions that may be able to contribute to realisation of rights.

- General Measures of Implementation ...the governance system needed to deliver rights (the systems, mechanisms and institutions of rights)
- Contributory Factors to the Rights Environment … In Country
- Contributory Factors to the Rights Environment … In the Region
- Contributory Factors to the Rights Environment … Internationally

The four components of Child Rights Governance Analysis each have their own particular importance. The CRSA process will need to identify question lists for each component. The following table provides some macro level guidance as to the nature of the insights to be sought.

General Measures of Implementation

As the state has an obligation under the UNCRC to put into place these means of managing and bringing about the realisation of rights the analysis will need to explore:

a) what is presently in place, and its effectiveness,
b) the nature of any obstacles and constraints that are being experienced,
c) what is being done, and by whom, who is engaged in working to improve the situation, and any trends, positive or negative.

Information should be sought especially from the State as the primary duty bearer for bringing about the realisation of children's rights, from children as rights holders (and parents as co claimants for their children's rights in their early years), and from agencies and institutions who have been in contact with the measures of implementation as supporters or users.

UNCRC	Assessment of Progress of Primary Duty Bearer (compared to what it should be by this point, how does it appear?)					What do you consider the reasons for this level of progress?
Implementation obligation	Negative	None	Minimal	Adequate	Strong	
Ensure that all legislation is fully compatible with the Convention, and that there is a systematic process of assessing new laws, policies or programmes for their impact on children's rights ("Child Impact Assessments")						
Removal of reservations and ratification of UNCRC's optional protocols and other human rights instruments for children, (including regional instruments)						
Develop a detailed, comprehensive national strategy or agenda for children, based on the Convention, and taking into account policies of decentralisation, federation and privatisation						
Ensure adequate resource allocation and "making children visible in budgets"						
Develop permanent mechanisms in government to ensure effective co-ordination, monitoring and evaluation of implementation						
Develop training, education and capacity-building for all those involved in the implementation process						
Ensure children (and their advocates) access to independent complaints procedures and to the courts with necessary legal and other assistance						
Create a mechanism or process to ensure all state and non-state (e.g. private sector, faith organisations, NGO/civil society) service providers respect the convention						
Promote co-operation and co-ordination with civil society - with professional associations, NGOs and so on						
Ensure the development of appropriate indicators and sufficient data collection on the state of children						
Promote international co-operation in implementation						
Create statutory children's rights institutions						

Explanatory Notes - this matrix provides a framework for discussing and analysing progress made in relation to the UNCRC's General Measures i.e. those systems and mechanisms that would be required in order to improve the realisation of rights. The analysis and judgement in the matrix is necessarily somewhat subjective, and should be discussed and compiled by persons who have working contact with the implementation areas. Progress might be considered as:

- strong .. state has shown evidence of a swift and committed shift, prioritising and resourcing
- adequate .. there is a track record of planning, and a steady progress towards implementation on a routine basis
- minimal .. its on the agenda, but only scant movement, words rather than actions
- none .. there is no evidence of any movement having been made in relation to this implementation obligation. Its not on the agenda in any meaningful way
- negative … the duty bearer/ responsible agency has placed significant obstacles in the way of this system/mechanism being established

Contributory Factors to the Rights Environment in Country:

In some countries one or some of these factors may have profound implications for children's enjoyment of their rights. Some of these factors may be desirable, or possible to engage with, either directly, or indirectly. There may already be initiatives engaging with these factors, progress of which should be analysed.

Children's as Citizens

The level of achievement / status of children's civil and political rights, the degree and nature of their acceptance as actors in society, of the development of children's organisations, and the degree of institutionalisation of their voices into state and non state decision making processes.

Government, Politics and power

The structure, philosophy and nature of government including a power analysis of who has the power in the government and how decisions are made. What other powerful actors exist in the country who directly or indirectly affect rights realisation (e.g. the positioning of military actors, UN mandated agencies). The relationship between the state and citizens, the nature of political engagement with children as citizens, with rights / child rights. For example is there Parliamentary Committee engaging with children's rights? Are children viewed as citizens and consulted? Are there definitions of citizenship in the constitution?

Economics

The characteristics of the dominant economic model, the type and practice of financing of public goods and social welfare, the nature of the taxation system, (including an analysis of the local financing of public goods and the existence and use of religious tithes), budget analysis, the nature and degree of corruption, and aid dependency.

Legal Systems

The nature and characteristics of existing legal institutions and systems, their capacity, the institutional challenges they face, the relationship between statutory, customary and religious legal systems.

Religious and cultural attitudes and influence

The relationship of belief systems (whether religious or part of the general culture of a country e.g. with respect to harmful traditional practices or listening to children's opinions)) with the state and the influence (positive or negative) on processes to improve the realisation of children's rights. The nature and degree of service provision by faith organisations. Analysis of religious attitudes, influences, power and opinion leaders.

Private sector

The role of the private sector in the realisation of child rights[iii] . The nature of the relationship between the private sector and the state, nationally, and internationally, in particular the extent to which the state is willing and has the capacity to regulate actors in the private sphere, and contracts or allows its participation in providing children's services. This should also include the private sector's level of engagement with the corporate social responsibility agenda including involvement with the UN Global Compact.

Civil Society

Covering civil society's capacity, and level of engagement with child rights, the nature of collaboration between civil society organisations, the relationship with the state including the nature of any contracted service delivery relationship or, regulation. Any legal or policy restrictions on civil society. Civil Societies support to children's agency. Nature and capacity of children's own organisations, their degree of organisation, and the space and opportunity for these organisations to engage with state institutions.

Media

The importance of the role of media in the realisation of children's rights was recognised in the Committee on the Rights of the Child's Day of General Discussion in 1996. Media is potentially a force for good, monitoring and championing children's rights and providing a means by which children enjoy, for example rights to culture and information and to express their own views and perspectives. Potentially media can also be a violator of privacy or source of abuse, exposing children to information and imagery inappropriate to their evolving capacity and maturity. The UNCRC, through Article 17 does not require the state to direct media, but it does invite guidance as to the positive contributions media can make to the achievement of children's rights and encouragement for the development of appropriate regulation.

Academic Institutions

The engagement of the academic community in "rights analysis", its degree of proactive engagement with rights, researchers' focus on the realisation of children's rights and the incorporation of children's rights in relevant professional and vocational courses.

Contributory Factors to the Rights Environment in the Region:

Most, if not all countries are part of and or have aligned themselves with regional bodies such as the African Union, the Council of Europe, the Organization of American States, ASEAN and SAARC. In some instances they are States Parties to regional treaties which may provide additional rights and safeguards to children. There may be positive encouragements, or negative constraints provided by neighbouring countries or regional influences which are a factor in change. Are there any regional child rights mechanisms and if so how effective are they? Are there other regional accountability mechanisms? In terms of political mapping at a regional level which countries have an impact on the government and what is their attitude to children and their rights? Have the regional bodies incorporated child rights into their political agenda?

International Factors

Several articles of the UNCRC expressly make reference to the need for countries to access of international assistance and international experience to provide all children with the same quality start in life. The principle is that children's rights are of international importance and that the collective international community has a responsibility to ensure that every child can enjoy their rights.

The rights environment for children in a given country may be influenced, sometimes very significantly, by conditions created or shaped by international actors. Such factors might include international standards, global security considerations, the presence of embargoes or sanctions, or the absence of recognition of a de-facto functioning state (thus presenting an obstacle to negotiating with international financial institutions). There may be relevant Security Council resolutions in place. It may also be that international institutions place countries under pressure to adopt policies that have a detrimental effect on children's rights.

Where to find information on Child Rights Governance

Information about, and analysis of the 4 components of Child Rights Governance as part of a Generic CRSA can be generated from a number of sources, and through a variety of methods.

Key sources

1. Especially important for the CRG analysis are the Periodic Reports prepared as a part of reporting to the Committee on the Rights of the Child, the Human Rights Council (as part of Universal Periodic Review process) and other UN or Regional treaty bodies. UNCRC reports from Government and civil society as well as the Committee's Concluding Observations and Recommendations can provide up to date and detailed information about the situation of children's rights in a country, and can highlight key factors in progress. As Government reports constitute formal state documents they have particular value as a point of reference in discussions with all actors. The most recent addition to documentation is the Universal Periodic Review process by the Human Rights Council[iv]. It is currently concluding its first cycle of human rights reports, and so far 20% of the recommendations relate to children's rights. Reviewing a series of reports can help to identify trends in achieving or not achieving progress.

2. Government's documents determining/describing structures or mechanisms for guaranteeing or implementing children's rights: revisions of policies and laws both in sectoral fields (e.g. education, justice, health etc) and more generally concerning national legislation and planning.

3. UN agencies and organisations reports: especially UNICEF, UNDP, the World Bank, the reports of bilateral donors, INGOs and National NGOs, academic research documents. It should not be forgotten that Save the Children's own documents and reports are potentially a key resource. UNICEF has a database on GMI's in certain countries that could be accessed via UNICEFs national committees in country. See link for details **http://www.unicef.org/about/structure/index_natcoms.html**

4. Key stakeholder Interviews: Wherever possible a good CRSA process should also provide staff with an opportunity to undertake primary research on the enjoyment of rights. , Information about the actual reality of children's rights on the ground can be collected through contact with rights holders, with children and their parents, and with duty bearers at all levels.

Of particular relevance may be explorations with key actors from government (eg Ministries of Law and Justice, Social Affairs, Constitutional Affairs, Foreign Affairs, National Planning) non-government and international institutions and agencies to explore the reasons for the level of progress and the obstacles and constraints that might have been encountered. *Please see the annex containing a list of questions that might be useful.*

Validation / Further Questioning

Once a Child Rights Situation Analysis has been completed it is generally advisable to test the relevant CRG findings against key informants. Who should be consulted on the final validation exercise should be considered carefully in order to generate objective feedback on the findings. Both individual feedback and workshop generated feedback may be considered. As the findings may have implications for future relationships it may be appropriate to be selective in sharing some findings.

Decisions as to whether a sectoral analysis is required

Once the generic CRSA is finished it may become clear that CRG issues are extremely important if we are to realise children's rights and a decision taken to start programming in this area. We would suggest in that case that a more in-depth analysis of CRG issues is conducted to ensure that the CRG programme strategy reflects the needs and context on the ground. A more detailed guidance on CRG-specific CRSA's will be formulated in autumn 2011 by the CRG Global Initiative.

Footnotes

[i] Save the Children Sweden Regional Office for South East Asia and the Pacific (2008), Child Rights Situation Analysis, and CRSA Toolkit (SCUK 2009 unpublished

[ii] All UNCRC General Comments can be found at http://www2.ohchr.org/english/bodies/crc/comments.htm

[iii] Subject of a Day of General Discussion 2002

[iv] http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx

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