

Monitoring the Implementation of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child

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1. Introduction

South Africa in ratifying the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child is legally obligated to implement and monitor the implementation of the rights of children, as set out in these instruments. In order to measure the progress towards achieving the objectives and aims set out in the different Articles of these instruments, as well as in the South African constitution, and legislation, there needs to be a systematic approach to monitoring the implementation of these rights at national, provincial, local, district and community level.

This paper outlines the strategy or vision that the Monitoring Task Group (MTG) of the National Programme of Action Steering Committee (NPASC) has with regard to developing a permanent monitoring mechanism for child rights in South Africa. It also contextualises this broad vision by focusing on approaches that have been developed by other countries and international organisations. This paper begins with a brief look at the goals that human rights statistics and indicators serve in monitoring the implementation and violations of human rights. Within this broad discussion specific emphasis is placed on the aims and objectives of monitoring child rights.

2. Aims and Objectives of Monitoring Child Rights

Emad Omar (1998), in his paper on *Human Rights and Statistics*, presents a broad but very relevant discussion on the need for human rights statistics and its relevance to the goals and actions for the various international instruments that covers men, women and children's rights. More specifically, he (1998: 2) argues that the main goals that statistics and indicators should serve is to:

- Find a measurement tool of the human rights status in all fields of concern to human rights standards;
- Integrate the indicators into the country reports for the treaty-bodies in order to support the analysis of human rights status in a country;
- Help human rights organisations to design scientific methods for monitoring human rights situations in specific fields of concern and to co-operate with the experts and statisticians in considering the human rights dimensions in their efforts in order to improve and develop statistics indicators;
- Support the credibility of monitoring and reporting in human rights situation;
- Improve the human rights instruments and plans of action to include some indicators related to promoting the rights included in those instruments;
- Assist governments as well as the civil society, to formulate an efficient human rights national plan and to specify the priorities with the availability of data. It will also help in evaluating the implementation and effectiveness of the policies and plans;
- Play a role in building an efficient warning system for potential mass violations of human rights in order to take preventative measures to avoid them.

According to Judith Ennew (1997) of Childwatch International, monitoring children's rights have two objectives:

- To fulfil the government's obligations as a state party to the Convention on the Rights of the Child (CRC), to show the progressive achievement of children's rights - and in South Africa's case this will include the African Charter on the Rights and Welfare of the Child; and
- To maintain systematic information systems on the national conditions of children's lives in order to plan, implement and evaluate interventions for their welfare.

These goals and aims are important to our understanding that human and especially child rights, and the national and international instruments that protect and monitor these rights, require a monitoring mechanism that is sustainable, applicable to the situation and needs of a country and that inputs into the policy, programmes and advocacy strategies of a country. Therefore, monitoring should be a mechanism for supporting, establishing and catering for the needs of children by government, civil society and non-governmental organisations. The idea of monitoring must be to support government (and others) in the development of policy, programmes and the proper process of governance in the development of the next generation of citizens. It should not be a means of locating and denouncing violations of children's rights. Instead it should lead to positive actions and implementation of effective measures, programmes and policies.

The Committee on the Rights of the Child (UNICEF, 1998: 67) has also prioritised the need for a monitoring system at national, local and regional level that can gather all qualitative and quantitative information on children. In terms of quantitative data this has to be disaggregated according to gender, age, population group, region, urban/rural etc. The CRC argues that without the sufficient collection of data, which is disaggregated, it is impossible to evaluate and monitor the extent to which a State party has implemented the Convention. Reliable statistics and data collection methods are significant not only to monitoring the implementation of the CRC but also help to determine which groups of children are experiencing a violation of their rights and require protection.

3. International Approaches and Experiences to Establishing Monitoring Mechanisms

The need for, and the importance of developing a systematic approach to monitoring and collecting data on child rights and the role that the National Programme of Action plays in this important process, is emphasised by Ledogar (1994). He writes that:

“One of the most hoped-for dividends of the NPA process is the improvement in the national systems and capacities for monitoring progress towards child survival, development and protection goals. Measuring progress is necessary for good strategic management of the programmes themselves, but the production of reliable and timely data (properly disaggregated to reveal regional, ethnic, gender, age and other disparities) can, if properly packaged and disseminated, become a powerful tool for mobilizing political and public opinion in favour of the NPA objectives.”

In the Childwatch International (CWI) approach to monitoring the implementation of children's rights the development of indicators is identified as being crucial to assessing the progress, or lack thereof, in the monitoring of children's rights. The community case study projects that CWI developed were in response to the Committee on the Rights of the Child's call for indicators to be

developed for all the Articles in the Convention. These community case studies were carried out in Zimbabwe, Vietnam, Senegal, Nicaragua and Thailand.

A main conclusion drawn from the case studies is that the development of indicators has to be culturally and nationally applicable. Attempting to develop a universal set of indicators was not desirable and universally applicable. There is a need to develop indicators within the cultural, national and social context of the country. However experiences and knowledge gained from the collection of child-centred data needs to be shared on an international scale if there is to be progress towards developing systems for monitoring child rights.

Based on her experiences with the CWI Case Studies and development of indicators, Judith Ennew (1997: 3) divides the monitoring of children's rights into five components:

- *Baseline information*, data collected at a certain period, from which future data can be measured to show improvements or lack thereof.
- *A system of indicators*, which can provide integrated information rather than a list of disparate information.
- *Disaggregated data*, that shows for which group or groups of children's rights have been violated or not achieved.
- *A standardised and integrated set of data*, which in terms of age will improve ability to compare data from different sources.
- *Child-centred statistics*, which provide information on children.

Ennew (2000: 2) identifies the need for a systematic and integrated governmental data gathering system, which can then be utilised in the development of a national monitoring system. She argues that statistics on children is rarely centralised and there is very little intergovernmental integration with regard to the collection and integration of statistics on children.

The Canadian Coalition on the Rights of the Child's (CCRC) approach to monitoring the Convention has been to develop a monitoring framework. An important point raised is that while many governments and organisations have taken steps towards developing a system or mechanisms for monitoring this process, it is by no means easy, but if systematic monitoring of the implementation of the CRC is to be achieved then no shortcuts should be taken (Fanjoy and Sullivan, 1997: 6).

The CCRC acknowledges the approach taken and the conclusions drawn by CWI, especially on the need for a process and a framework that can be culturally and nationally appropriate (Fanjoy and Sullivan, 1997: 4). In developing a framework to monitor the CRC, the CCRC formed an Advisory Committee to guide the process. Developing a framework to monitor the CRC, the Advisory Committee argued that it is not a simple task and that much of it is a trial and error process.

The Advisory Committee came into agreement that the **reporting category approach** was preferred. This approach focused on the eight reporting categories that had been developed by the Committee on the Rights of the Child. This would mean that research would inform the process rather than preconceptions. This process allocated equal importance to all rights and children. After much investigation, the Advisory Committee, proposed a monitoring framework for Canada that had three components (ibid: 9-13):

(a) *A framework grid*

The framework grid identifies filters and presents data that is used in the situational analysis and for the monitoring and evaluation process. To test this approach, they decided to focus on collecting data on children in conflict with the law. Therefore, the data and information

collected by applying the framework grid was used in the process of writing and doing the situational analysis of children in conflict with the law.

(b) Situational analysis

The data and information collected through the framework grid process will be used in the write up of a situational analysis.

(c) Evaluation

The evaluation process determined whether there had been progress or lack thereof in meeting the monitoring obligations set under the category: children in conflict with the law. The evaluation framework consisted of the following criteria: fulfils obligation, does not fulfil obligation and insufficient information.

The table below is adapted from the CCRC document and is an illustration of the framework grid.

FRAMEWORK GRID				
	Federal Jurisdiction	Provincial/ Territorial Jurisdiction	Voices of Children and Youth	
SOURCES OF INFORMATION	Convention Article			
	Interpretation of Article (if applicable)			
	Legislation and Regulations			".....
	Case Laws			".....
	Policy			".....
	Practice			".....
	Statistics and Research			".....
	Public Opinion			".....
	Other Relevant Sources			".....

(Adapted from Fanjoy and Sullivan, 1997)

In effect the CCRC, developed a monitoring framework that was nationally and culturally applicable to Canada. It took into cognisance the Committee on the Rights of the Child requirement of copies of legislative text, judicial decisions, as well as detailed statistical information, indicators and relevant research for monitoring and reporting obligations.

4. South Africa's Approach to Establishing a Permanent Monitoring Mechanism

The Monitoring Task Group of the NPASC in monitoring children's rights contends that its aims and objectives should encompass the following goals:

- To collect and analyse data to monitor progress of the impact of the NPA in implementing child rights.
- To develop a systematic information mechanism/system of collating information, statistics and data on the national conditions of children's lives.
- To develop systematic information mechanisms/system for monitoring children's rights that can serve as inputs to NPA reports (i.e. *Report on the State of the Nations Children*), reporting obligations, for evaluation exercises and as a tool for advocacy, policy and programme development for children.

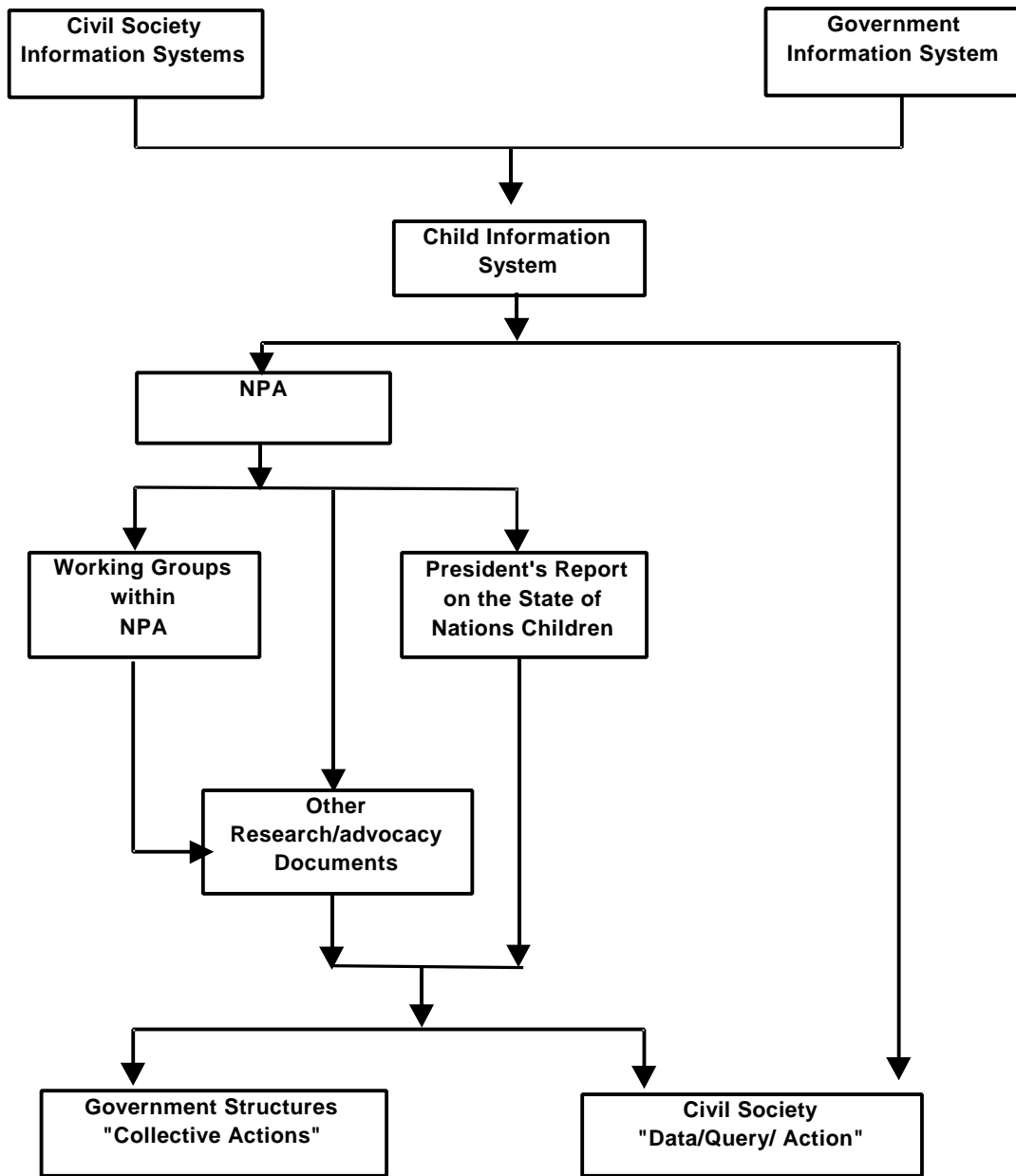
A data based approach with emphasis on the NPA eight-priority area and the developing of a sustainable monitoring system is to be established as a permanent monitoring mechanism. In the data based approach to monitoring, a Child Information System (child-centred database) will facilitate in the monitoring of the CRC and the African Children's Charter.

The Child Information System is a statistical system that will house data and data sets from different sources. The data and information that will be collected and co-ordinated cannot only be used for monitoring and evaluation purposes but also as an important tool for the other research and reports, for advocacy, mobilisation, and policy review for improving the rights of children in South Africa.

It is envisaged that data, both qualitative and quantitative, should be collected, collated and co-ordinated from a central point. Data on children from government and civil society information systems would be used for monitoring purposes.

The pathways from data to monitoring are illustrated in the diagram below.

Pathways from data to monitoring



The Child Information System is the NPA MTG strategy to use data to study/monitor the situation of children in South Africa. The use of existing data sources from government and civil society information systems will facilitate in the system of monitoring, advocacy, policy review and collective action for improving the situation of children. Wherever possible, use will be made of existing data sources and monitoring systems within the government, civil and private sector. Efforts will need to be made to establish and strengthen monitoring and reporting systems and research capacity within partner ministries and departments. In this way data from all levels of government and civil society can be effectively and meaningfully used for monitoring, evaluation, reporting and advocacy purposes.

5. Concluding Comments

The lack of a systematic mechanism for monitoring children's rights and the lack of a co-ordinated approach to gathering data and statistics on children does not ensure the effective implementation of the CRC and the African Children's Charter, and the reputable evaluation of the progress of child rights. The need for baseline data and different source of data is very important to monitoring and evaluation systems. There is a need for child-centred statistics and data analysis that is comparable across different time periods and from different sources (whether government or non-government data source). The data collected for monitoring purposes should also serve as inputs for/or to the evaluation exercise.

In this regard, at South Africa's presentation of its *Initial Country Report* in Geneva in January 2000, the Committee's concerns regarding data collection were as follows:

"The Committee is concerned that the current data collection mechanism is insufficient to afford the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children"

Its recommendations to South Africa were that:

"... the system of data collection be reviewed with a view to incorporating all the areas covered by the Convention. Such a system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including girls; children with disabilities; child labourers; children living in remote areas, including those in Eastern Cape, KwaZulu-Natal and the Northern Province as well as other disadvantaged Black communities; children belonging to the Khoi-Khoi and San communities; children working and/or living on the streets; children living in institutions; children of economically disadvantaged families; and refugee children."

Clearly the need for developing a systematic mechanism for monitoring children's rights is vital to the process of implementing, monitoring and evaluating the progress or lack thereof of achieving the goals set out in the Articles of the Convention and the African Children's Charter. This system has to take into account disaggregated data and be representative of the situations at national, regional, district, local and community levels. It has to take into account all groups of children from all population and age groups. Such a system cannot be developed, sustained and maintained without the co-operation and collaboration between producers and users of statistics on children, both from the government departments, community-based organisations and non-governmental organisations.

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