CHAPTER 10

Closing the Gap between Social and Formal Accountability: Exploring the Role of Independent Human Rights Institutions for Children

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Abstract

The ongoing discrepancy between the rights articulated in the CRC and their realisation requires considering how accountability for children's rights is exacted. The literature has extensively examined the articulation between the two main forms of accountability – formal and social – to ensure transparent and accountable institutions for citizens, but has paid limited attention to the specific challenges accountability presents in relation to children's rights. Yet the accountability gap, which too often prevents initiatives on the ground from impacting policies, is exacerbated when it comes to children. Children frequently lack the legal capacity, visibility, and political power to draw attention to their situation, to be heard and to prompt change. This chapter argues that independent human rights institutions for children – national human rights institutions with an explicit child rights mandate or specialised child rights mechanisms such as children's ombudspersons – constitute a major instrument for closing this gap and ensuring that children's agency is recognised and encouraged. By combining the characteristics of formal and social accountability and taking a child rights approach, independent human rights institutions offer a unique space for dialogue between society and the state, and between children and adults.

1 Introduction

One significant breakthrough that the UN Convention on the Rights of the Child (CRC) has brought to the political and institutional landscape for children in the past 25 years has been the establishment of independent human rights institutions for children.¹ Various studies have documented their development, role and function. In the context of the post-2015 development agenda, discussions have highlighted the need to reinforce good governance, in particular

by strengthening people’s voices and developing accountability mechanisms. The newly adopted Sustainable Development Goals include a goal focusing on good governance and aiming to ‘provide access to justice for all and build effective, accountable and inclusive institutions at all levels’. A challenge for the continued relevance and visibility of children’s rights lies in the ability of child rights discourse to feed into and appropriate these advances.

It has been emphasised that the implementation of the CRC relies on effective governance systems at the national level, not solely for children but for all. Addressing the ongoing discrepancy between the rights articulated in CRC provisions and their enjoyment in practice requires considering the mechanisms and institutions through which the Convention is enforced. Accountability is a critical element of good governance. It defines the relationship between power-holders and citizens. It seeks to ensure that those in a position of authority fulfil their duties and that if they do not, mechanisms exist to correct the situation. There are two main forms of accountability. Formal accountability mainly involves state institutions and generally consists in internal processes aimed at ensuring performance and respect of the system’s rules. It chiefly addresses the so-called ‘supply-side’ of public action. Social accountability, on the other hand, primarily emerges from and relies on civil society. It is citizen-led and demand-driven.

While the literature has extensively examined the articulation of these two forms of accountability and the conditions in which accountability can be effected for citizens, limited attention has been paid to the specific challenges accountability presents in relation to children’s rights. The accountability gap, which too often prevents initiatives on the ground from influencing decision-makers and impacting policies, is exacerbated when it comes to children. Children frequently lack the legal capacity, visibility, and political power to draw

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3 Transforming our world: The 2030 Agenda for Sustainable Development, UN General Assembly Resolution, A/69/L.85, Goal 16.

