Monitoring implementation of the UN Convention on the national level

MALFRID GRUDE FLEKKØY

Principles for monitoring mechanisms

The majority of existing models function in industrialized countries but even in developing countries the following principles are important.

1. *It should be a voice for children*
   This should be the fundamental guiding principle of any structure monitoring the fulfilment of children's rights. Serving as a "voice" or channel of communications between children and the health, welfare and education systems, the judiciary, the local planning boards and, in general, any area of government where decisions affecting children are being made. The monitoring mechanism would:
   - transmit information from children;
   - make the needs and rights of children publicly known;
   - impart to children information they need to know, making sure that children are aware of the Convention and its relevance to their daily lives;
   - ensure that the literal voices of children are heard – that is, that the concerns and opinions which children themselves have actually expressed are taken into consideration.

2. *As far as possible, it should be independent in relation to political administration, legislature and political organisms*
   "Independent" is used very specifically in this context to mean that the monitoring structure should not be manipulated by the government or by political parties, that government officials should not be able to intervene in its functioning and that it should be able to respond honestly to individuals seeking help.

   A public Ombudsman or Commissioner or a monitoring organization may have an administrative connection to a governmental branch, a precise mandate limiting the scope of activities and a budget within which to work. Nonetheless, "independence" can be maintained if the following principles are observed:
   - In order to be able to observe and, if necessary, criticize government and legislature for lack of action for children, the Ombudsman, Commissioner or monitoring mechanism should be protected from arbitrary dismissal by the government.
The public monitoring structure should, preferably, have constitutional support.

To ensure permanence and stability in the services for children, the structure should represent a state policy and not the policy of a specific party or government. The office must be neutral in relation to political parties, although not in relation to political issues.

Independence should also mean freedom from the ordinary bureaucratic rules for handling cases.

In practical terms in federations of states, such as Australia or the United States, I suspect that independence should also be such that the national monitoring mechanism could intervene and report on any level, i.e. not be limited to either the local, the State or the Federal level. This does not mean that there could not or should not be monitoring mechanisms on e.g. the State level as well, with their own independence. But it would mean that there would have to be very clear lines and levels of communication, responsibility and accountability. It is so easy, particularly where non-voters like children are concerned, to pass responsibility from one level to the other or from one administrative branch to the next, with the result that necessary measures simply are not carried out. This is why I believe the national Ombudsman should not only be responsible for keeping an eye on the national/federal level, but also be empowered to comment and criticize when he/she discovers holes in the safety net on other levels.

If an Ombudsman (or ombudsman-related mechanism) is to uphold its independence and autonomy in relation to government, the national mechanism cannot be given responsibility for providing the State Party Report to the Expert Committee. This report will naturally present the views of the political party/parties in power. The role of the monitoring structure would be that of providing information needed to provide better services, pointing out areas of concern etc.

3. It should be financially independent

This principle is closely connected to the preceding one. The "financial independence" of a government monitoring office on whatever level means that its funding is guaranteed by public sources and not dependent on the party in power. If funded in toto or in part from private funds or if the monitoring body is non-governmental this kind of independence must be attained by having a broad base of financial support.

4. It must be accessible to the population, preferably including children themselves

Access to a monitoring structure should be as direct and easy as possible. Children and families should be able to relate easily to the structure. This could be facilitated by identifying the structure with a person or, in some situations, with an institution or an organization which is widely regarded as