

DIVISION OF
POLICY AND
PLANNING

WORKING PAPER

WOMEN'S AND CHILDREN'S RIGHTS IN A HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT

SAVITRI GOONESEKERE
RANGITA DE SILVA-DE ALWIS

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Health, Education, Equality, Protection
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Executive Summary

The paper examines the linkages between children's and women's rights in the context of the Convention on the Rights of the Child (CRC) and the Convention Against the Elimination of All Forms of Discrimination Against Women (CEDAW). The paper demonstrates how reading these conventions together can enrich the promotion and protection of children's and women's rights in three major ways. First, the provisions of the CRC and CEDAW overlap in many areas; thus, reading them together enables a more comprehensive human rights based approach that takes into account specific vulnerabilities based on both age and gender. Second, in some instances, one convention addresses an issue of concern to children or women where the other convention is silent. Third, in many instances, protection of women's rights is important for the achievement of children's rights and, conversely, protection of children's rights is important for the achievement of women's rights. Consequently, the two conventions are both mutually reinforcing and complementary.

The first section of the paper provides an overview of human rights based approaches to development as a strategy for the advancement of children's and women's rights. Rights based approaches emphasize the obligations of duty bearers, primarily States but also UN agencies, and the entitlements of claims holders, including women and children. Rights based approaches use human rights norms to hold States Parties accountable for the realization of rights, rely on these norms as a guide for development work and for assessing programmatic impacts, and emphasize the importance of participation and empowerment of individuals and groups, particularly the most vulnerable among them. UNICEF's policy documents since the 1990s have referred to the importance of programming to achieve children and women's human rights. This approach was clarified by the 1994 policy statements on gender equality and women's empowerment and the 1998 Executive Directives for Human Rights Based Programming Approach.

The paper highlights aspects of the human rights based approach that are particularly relevant for the achievement of children's and women's rights. First, the achievement of civil and political rights is indivisible from the advancement of social, economic and cultural rights. Consequently, States have positive obligations to protect and fulfil both civil and political rights and economic, social and cultural rights through actions such as legal reforms and budgetary allocations. Additionally, human rights law has increasingly recognized the impact of multiple forms of discrimination, acknowledged violence against women as a human rights violation, and placed emphasis on women and children as rights holders. Norms are also being developed to hold non-State actors accountable for violations of the rights of women and children. The paper outlines essential elements of a human rights based approach to programming for women and children, including programming aimed at eliminating the disadvantages faced by women and children, prioritizing support to good governance, building capacity of duty bearers and rights holders, using gender-disaggregated data and analysis, and participating in and strengthening the work of the treaty bodies.

The second section of the paper discusses more specifically the relevance and benefits of linking the CEDAW and CRC in the context of programming areas. A number of provisions of the CRC are of specific importance to the girl child, such as the requirement that States Parties take measures to abolish harmful traditional practices and the provision that States Parties protect

children from various forms of violence. The Committee on the Rights of the Child has been proactive in addressing gender in the context of children's rights, including placing requirements of sex disaggregated data in country reporting guidelines, raising issues, questions and concluding comments specific to the girl child when considering States' reports, and holding special sessions on issues related to the girl child. CEDAW contains several provisions specific to children, including emphasizing that the interests of the child are to be the paramount consideration in matters related to children's upbringing and development and the requirement that States reduce female student dropout rates. Additionally, the CEDAW Committee adopted a General Recommendation requiring States to take measures to abolish female circumcision and frequently references the situation of the girl child in its concluding comments.

CEDAW and the CRC should be viewed as complementary and reinforcing. When read together, the Conventions protect the rights of girls and women throughout their life cycles. The CRC provides that the rights protected apply equally to boys and girls and grants certain protections to women, such as pre- and post-natal care, education on the advantages of breast-feeding, and family planning education and services. The CEDAW is not age-specific. Both conventions provide protections for children and women inside the private sphere and prioritize the best interests of the child. Additionally, both conventions prohibit discrimination on the basis of sex and implicitly call for affirmative action policies or temporary special measures, such as preferential access to girls in education, in order to achieve substantive equality.

The bulk of the second section of the paper focuses on specific programmatic areas, providing the relevant provisions of CRC and CEDAW for each area, examples of how the CRC and CEDAW have been linked in various countries, and concrete recommendations to further advance these linkages. Areas addressed include law reform, rights in the family, violence against women and children, health, HIV/AIDS, education, trafficking, and institution building and monitoring. For example, in the area of law reform, countries have passed Constitutional amendments to provide married women the right to pass their nationality to their children and guarantee the right of mothers to pre-natal care and maternity benefits. Additionally, countries have passed statutes that provide for a shared responsibility of mothers and fathers in child bearing and prohibit discrimination against women who bear girl children. Recommendations in the area of law reform include preferential access of girls to education in countries and regions where women have historically been disadvantaged, review of macro-economic policies that reinforce gendered notions of family and undermine a shared role in parenting, and analysis on the linkages between the problems facing women and children in various countries.

The paper thus presents how the CRC and CEDAW can be linked to effective programming by States and international agencies to advance children's and women's rights globally. UN agencies can further this mission by supporting national governments in legislative, policy and budgetary reforms aimed at fulfilling their human rights obligations as well as building the capacity of civil society, particularly children and women, to secure their rights. Effective programming in this regard requires a human rights based approach that integrates gender analysis, participatory methods, and international human rights norms.

PART ONE: INTRODUCTION

“Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.”

-Vienna World Conference on Human Rights 1993

This paper looks at how women's and children's rights are inextricably linked and complementary and explores strategies for further strengthening these linkages. It is important to highlight in all programming areas that the girl child is entitled to all rights specified in CEDAW. If the girl child is only viewed as a child, she runs the risk of being excluded from the discussion of women's rights and the broader scope of human rights. Neutral rules do not take into account the extent to which historical stereotypes and material realities impact on women's and girls' lives. On the other hand, a gender analysis of children's rights will locate children's rights as human rights. While women's rights enrich the rights of children, children's rights can help promote the advancement of women's rights. The quest for gender equality among children must be the first step toward gender equality among adults. As women's inferiority to men begins in childhood, efforts to combat discrimination must begin in childhood.

UNICEF was one of the first agencies to introduce the concept of children's rights in its programme of work by incorporating the 1989 Convention on the Rights of the Child (CRC) in its 1996 Mission Statement.

The first international consensus on the centrality of human rights in the women's rights and children's rights agenda was forged at the World Conference on Human Rights in Vienna in 1993.

The human rights of women and the girl child are an inalienable, integral and indivisible part of human rights. The full and equal participation of women in political, civil, economic social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.

-The Vienna Declaration and Platform of Action

Human Rights as a Strategy for Development

The link between human rights and development is of recent origin. Rights-based approaches are aimed toward enforcing accountability in the development process by identifying claim-holders and corresponding duty-bearers. These approaches examine the positive obligations imposed upon duty bearers and the entitlements of claim-holders. Such approaches also seek development of strong laws, policies, institutions and administrative practices and call for the adoption of benchmarks for measuring progress and accountability. Rights-based

approaches require a high degree of participation from all peoples, including women and children.

Human rights and sustainable human development are interdependent and mutually reinforcing. For example, human rights are enhanced when gender equity or poverty reduction programmes empower people to claim their rights. The links between human rights and development are clearly present in the people centred, rights-based approach to development, poverty eradication, human rights mainstreaming, good governance and globalization.

In 2003, the United Nations endorsed a “Common Understanding of a Human Rights Based Approach to Development Cooperation.” This agreement lays out the requirements that underlie the application of a human rights-based approach to development programming. They are:

- **All programmes should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments;**
- **Human rights standards and principles should guide all development cooperation and programming in all sectors and in all phases of the programming process, and;**
- **Development cooperation should contribute to the development of the capacities of duty-bearers to meet their obligations and/or rights-holders to claim their rights.**

The Common Understanding further identified the core principles that inform human rights; these are:

- **Universality and Inalienability:** Everyone, everywhere is entitled to certain rights and no one can take away these rights or renounce them.
- **Indivisibility:** The promotion of one right may not justify the violation of another right.
- **Inter-dependence and Inter-relatedness:** The promotion of specific human rights must be part of a comprehensive effort to realize human rights in a holistic way.

At the operational level, the core principles that follow from a rights-based approach have been identified as:

- **Equality and Non-Discrimination:** All human beings are equally entitled to their rights, whether political, social, etc., regardless of gender, race, religion, etc.
- **Participation and Inclusion:** Particular attention must be paid to the empowerment of vulnerable groups so that they can claim their own rights.
- **Accountability and the Rule of Law:** Rights can only be upheld if there are mechanisms to enforce the duty-bearers' obligation to meet the claims of right-holders.

A human rights-based approach to programming takes these principles as a guide in the design, development, implementation and assessment of programmes.

Some **practical advantages** of the rights-based approach are that it can help ensure that development programming is more:

- Sustainable: the holistic approach addresses the root causes of development failure and makes a point of applying mutually supporting principles at all stages of the development process. This approach seeks to create a sense of ownership.
- Legitimate: the rights-based approach anchors development in the international treaties from which the UN derives its mandate given by the international community.
- Equitable: the rights-based approach pays special attention to the most vulnerable groups and puts emphasis on the need for disaggregated data to identify those excluded, including minorities.
- Effective: by involving the community and using participatory approaches it can help reduce resistance to change and create a sense of ownership. International treaties also provide clear and identifiable standards and targets, which can improve programme monitoring and evaluation.

Some UN Documents that Incorporate Human Rights in Development

- The UN Programme for Reform adopted in 1997 and further reinforced by the Secretary General in 2002. In the Programme for Reform, the Secretary General recognized human rights as cutting across all fields of UN work and called on all entities of the UN system to mainstream human rights into all activities and programmes within the framework of their respective mandates.
- UNDP's Human Development Report in 2000 takes as its theme, "Human Rights and Human Development."
- The 2003 UN Inter-Agency "Common Understanding of a Human Rights-Based Approach to Development Cooperation" (see above).

Examples of UNICEF's Policy Documents Incorporating Women's and Children's Rights

- UNICEF's policy documents in the 1990s, during the post-CRC era, refer to the importance of programming to achieve the human rights of both women and children.
- Policy statements on gender equality and women's empowerment of 1994.
- The Executive Directives on human rights based programming in 1998.

These documents recognize that the realization of women's human rights is central to the programming for children, both on the basis of a life cycle approach to girl children, and as a method of ensuring the full and effective participation of women as agents of change for development in their families and communities.

The complementarity of the CRC and CEDAW is recognized in UNICEF policy statements and they are perceived as mutually reinforcing women's and children's rights.

Mainstreaming a Gender Perspective in Human Rights Treaty Bodies & UN Work and conferences

Gender mainstreaming has been defined by the United Nations in ECOSOC Agreed Conclusion 1997/2 as “The process of assessing the implications for women and men of any planned action, including legislation, policies and programmes, in any area and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres.” The Office of the Special Adviser on Gender has stated that mainstreaming is not an end itself but a strategy, an approach - a means to achieving the goal of gender equality. Mainstreaming involves making sure that goals of gender equality are central to all activities-policy development, research, advocacy, legislation, resource and budgetary allocation, implementation and monitoring of programmes.

The 1998 Report by the UN Secretary General on “Integrating the Gender Perspective into the Work of the United Nations Human Rights Treaty Bodies” provided the following background to the role of the UN system in advancing women’s equality and human rights:

- “The Vienna Conference on Human Rights fully articulated the need to integrate the human rights of women into the work of human rights treaty bodies, stating that:

Treaty monitoring bodies should include the status of women and the human rights of women in their deliberations and findings, making use of gender-specific data. States should be encouraged to supply information on the situation of women *de jure* and *de facto* in their reports.... Steps should also be taken by [the Secretariat] to ensure that the human rights activities of the United Nations regularly address violations of women's human rights, including gender-specific abuses.
- Since 1994, in follow-up to a recommendation by the Commission on the Status of Women, the integration of a gender perspective in the work of the treaty bodies has been a regular theme of the meetings of the chairpersons of the human rights treaty bodies. The chairpersons have stated their support for the relevant recommendations contained in the Vienna Declaration and Programme of Action and have proposed a number of recommendations for action by each treaty body in order to integrate effectively gender considerations into their work practices. The chairpersons' discussion at their eighth meeting in 1997 focused on the reform of the treaty system and also included discussion of gender perspectives....

- In the Platform for Action, adopted at the Fourth World Conference on Women in Beijing in September 1995, Governments committed themselves to the promotion of an active and visible policy of mainstreaming a gender perspective into all policies and programmes, including with regard to human rights of women. The Platform also emphasized that the goal of the full realization of human rights for all required explicit attention to the systematic and systemic nature of discrimination against women in the application of international human rights instruments.
- Since the convening of the Vienna and Beijing Conferences, steps to integrate a gender perspective within the United Nations human rights framework have been taken in various forums. The General Assembly and the Economic and Social Council have given detailed guidance with regard to the principles and practical implications of the gender approach. Most notably, the Economic and Social Council adopted agreed conclusions 1997/2 on "Mainstreaming a gender perspective into all policies and programmes in the United Nations system". These provided a definition of the concept of gender mainstreaming, a set of principles, and specific recommendations for action by intergovernmental machinery and at the institutional level. The agreed conclusions also make repeated reference to the need to mainstream a gender perspective systematically in all areas, including human rights.
- In its review of the critical area of concern "Human Rights of Women", the Commission on the Status of Women recognizes the central role of human rights treaty bodies in strengthening the enjoyment of human rights by women. It, therefore, invited treaty bodies within their mandates "to continue to promote a better understanding of the rights contained in international human rights instruments and their particular significance to women". The Commission on Human Rights has decided to reflect a gender perspective under all its agenda items while also including a standing item on the integration of the human rights of women and a gender perspective."

In incorporating a gender perspective in policy analysis, the formulation of a national water strategy can be taken as an example. A gender perspective in this analysis would result in the following questions: Whether or not women's and men's uses and priorities for water are different? It is important that this analysis includes sex-disaggregated data on uses, access to water, priorities etc. It is also necessary to collect input from women on how policy options will affect them. These questions would also include, for example, how different approaches to water pricing affect poor women in comparison with poor men? What options would have the most equitable distribution of costs and access?

Another example of gender mainstreaming in policy making would be budget allocations for infrastructure and programmes. For example, investments in curriculum reform to eliminate gender stereotypes, investments in teacher training, choices regarding investments in primary or secondary system can have different benefits and costs for women, girls, boys and men.

Emerging Human Rights Trends in the Context of CEDAW and CRC

It is important to recognize some trends that have emerged in the last few years in the context of the CRC and CEDAW:

a) The Indivisibility of Civil and Political Rights and Social, Economic and Cultural Rights

“All rights are indivisible and interrelated, each and all of them being inherent to the human dignity of the child. The implementation of each right set forth in the Convention should therefore take into account the implementation of and respect for, many other rights of the child.”

- The Committee on the Rights of the Child

The notion of the indivisibility of rights, a fundamental principle of international human rights law, is incorporated in both the CEDAW and CRC Conventions. Both conventions recognize civil and political rights as well as economic, social and cultural rights. Many of the rights enshrined in the CRC, such as the right to the highest attainable standard of health, to education, or to protection from abuse or neglect are interdependent and interrelated and it is necessary to look holistically at the full regime of rights.

The CRC refers to the realization of economic, social and cultural rights in terms of allocation of the “maximum extent of available resources,” rather than the traditional standard of “progressive realization.” At the same time, citizens under CEDAW should be viewed as rights holders with claims on the State, and not as mere beneficiaries of State policy. The clear affirmation is that children and women are subjects of rights and not objects of charity.

The following points address the ways in which civil and political rights and social, economic and cultural rights should intersect in Programming. The realization of these rights is the responsibility of all actors in development within the international community, within States (at both the national and international levels), and within the United Nations system:

- Treaty obligations and concluding observations by treaty bodies must be implemented through accountable planning and budgeting, resource allocation, partnerships with civil society and the corporate sector. The concept of the indivisibility of human rights imposes in addition a proactive obligation on the State to fulfil economic, social and cultural rights. This will require budgetary resources in areas such as training and law enforcement, or introducing systems of registration of birth.
- According to the Committee on Economic, Social and Cultural Rights, as duty bearers under international treaties, States Parties must use their treaty obligations in negotiating with International Financial Institutions. In turn, structural adjustment programmes should take the lead in setting human rights standards and promoting the awareness and implementation of those standards.

- Sustainable human development programming should focus on eliminating poverty and targeting disadvantaged or excluded groups (women, children, minorities, migrant workers, and people with HIV/AIDS).

Human rights are no longer associated exclusively with negative obligations of non-violation and protection. They encompass positive obligations of fulfilment and require allocation of resources for realizing both civil and political as well as economic, social and cultural rights.

b) Recognizing Multiple Forms of Discrimination

Multiple forms of discrimination, due to several combined factors such as gender, disability and ethnicity, reinforce exclusion and discrimination against women. In order to address the history of discrimination suffered by women and children especially girls around the world, it is important to broaden the understanding of equality in order to achieve substantive equality. For example, the Indian Supreme Court has developed a jurisprudence based on equality as a human right.

c) Redefining Violence Against Women as Inequality

Since the Vienna World Conference in 1993, when women's rights were defined as human rights, gender-based violence has been reinterpreted as a form of discrimination against women. This has made it possible to redefine violence against women as a human rights violation.

d) Civil Society Participation in Norm Creation

The submission of 'shadow reports' by NGOs to treaty bodies, and civil society participation in pre-sessional meetings of treaty bodies (when they examine country reports to treaties such as CEDAW and CRC) have become important tools to monitor State action.

The Optional Protocol to CEDAW (2000) allows both individuals and groups of individuals (subject to specified conditions) to submit complaints of infringement of treaty provisions to the CEDAW Committee once local remedies have been exhausted.

e) Holding State and Non-State Actors Accountable Under the CEDAW and CRC

Globalization and economic transformation has expanded the role and responsibility of non-State actors. Many infringements take place in the context of the private sphere of community and family.

Human Rights Conventions that Acknowledge such State Party and Non-State Party Liability:

- Article 2 of the CEDAW requires States Parties to take all appropriate measures including legislation to eliminate discrimination against women by any person, organization or enterprise.
- The UN Declaration on the Elimination of Violence against Women (1993) and provisions in CEDAW and CRC can be interpreted as imposing liability for human rights violations on non-State actors.
- The Statute of the International Criminal Court (Rome Statute) specifies acts of individual criminal liability for genocide, war crimes and crimes against humanity, building on early international humanitarian law contained in Common Article 3 of the Geneva Convention (1949). This Article recognizes State and non-State accountability to human rights in situations of armed conflict.
- The jurisprudence of the International Criminal Tribunals for the former Yugoslavia and Rwanda (ICTY and ICTR), the Inter American and European Courts on Human Rights, and the Statute of the International Criminal Court have also transformed and recognized the responsibility of both the State and individual non-State or private actors for sexual and other violence against women and children.

f) Women and Children as Rights Holders

Traditional programming tends to perceive women merely as limited to their role as mothers and as conduits to improving the situation of children rather than as a distinct group whose rights must be respected, protected and fulfilled. However a more dynamic approach to programming for women and children advances the notion of women's equality in the private and public spheres. This is why CEDAW standards must guide all programming for children and be combined with gender sensitive situation analysis.

Research on economic growth and education reveals that the failure to invest in women's education can lower the gross national product. Research shows that countries in which the ratio of female-to male-enrolment in primary or secondary education is less than .75 can expect levels of GNP that are roughly 25 percent lower than countries in which there is less gender disparity in education. The link between gender inequality and the productivity of the next generation is shown by World Bank reports demonstrating increases in women's well-being result in future productivity. For example, the probability of children being enrolled in school increases with their mothers' educational level, and extra income for mothers (compared to extra income to fathers) impact positively on household nutrition, health and education of children.

A human rights based approach to programming will create a context for integrating both women's rights and children's rights agendas into all development work.

Essential Elements of a Human Rights Based Approach to Programming for Women and Children

a) Realizing Equality and Eliminating Discrimination

Under international human rights treaties, governments are perceived as duty bearers bound by these treaties. UN agencies must link development assistance to the broad objective of helping governments and peoples to realize treaty standards. This means, in the case of women and children, programming must address the elimination of disadvantage. The goal is to realize equality in practice.

b) Good Governance

Good governance must now be perceived in terms of realizing all human rights norms, including the actualization of CEDAW and CRC at the domestic level. The UNDP policy document “Governance for Sustainable Human Development” defines governance as:

The exercise of economic, political and administrative authority to manage a country’s affairs at all levels....Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources.

To achieve equality and set standards of good governance the following factors should be considered in programming:

- Development work in all sectors and all phases of the programming process must be guided by the human rights standards set out in the UDHR, CEDAW and CRC. This process must contribute to strengthening the capacity of duty bearers (States, UN agencies, international financial institutions (IFIs)), to fulfil their treaty obligations, and for rights holders (women and children) to realize their rights. UN agencies must therefore give priority to dialogue with the State, and women and children, in all phases of the programming process.
- Information sharing, policy dialogues and human rights education on women and children’s rights within UN agencies, government partners and civil society, and for the community at the national level is an important aspect of a human rights based approach to programming. A human rights culture supportive of the human rights based approach must be central to development work.
- Effective programming for human rights will require that all programmes incorporate gender sensitive analysis, gender impact assessment, and the generation of gender disaggregated data.

- Multi-pronged strategies supportive of social policies on health and education, law reform, regulatory systems, institutional arrangements and enforcement mechanisms that can safeguard rights must be adopted. Social policies, resource allocation and implementation mechanisms must support legislative reform in the realization that legislative reform alone is insufficient to realize rights.
- A holistic approach to programming should be guided by the Concluding Comments and Observations and relevant General Recommendations of the treaty bodies, especially the CRC/CEDAW, and the Millennium Development Goals.
- Strategies for implementation, with time-based goals and targets, and budget analysis of resources should be given priority in institution-building.
- Development agencies should also participate in and strengthen the work of the treaty bodies, including supporting the State party reporting process, NGO shadow reporting, and sharing views at the closed sessions of the Committee, and the Pre-Sessionals.
- The concept of a “Constructive Dialogue” with the State, and the willingness of treaty bodies to receive NGO shadow reports support the idea that agency involvement is a legitimate activity. There is no conflict of interest in supporting either the State Party in its programme of work or monitoring the performance of the State Party through facilitation of the “shadow reporting” process.
- Integration of the Millennium Development Goals (MDGs) and perceiving them as a strategy for realizing the higher standards of CRC, CEDAW and other human rights treaties which States may have ratified is another tool to operationalize human rights programming.

The Millennium Development Goals and Human Rights-based Development

“Human Rights are and should be instruments for the empowerment of the MDG agenda”
 (Jeffrey Sachs, Special Adviser to the UN Secretary-General on MDGs)

Human rights and the development goals contained in the Millennium Declaration are two sets of interdependent and mutually reinforcing commitments. While there are important differences between them, in many respects they have complementary purposes. It is therefore important to recognize that, throughout the Millennium Declaration, States have committed themselves to: respect and fully uphold the Universal Declaration of Human Rights; strengthen the capacity for democracy and human rights; implement CEDAW; ensure respect and protection for the rights of migrant workers and their families; work collectively for more inclusive political processes allowing genuine participation by all citizens; and ensure freedom of the media and public access to information. These are all fundamental elements to be reflected upon in any MDG strategy/campaign. After all, the Millennium Declaration is a carefully negotiated ‘political’ consensus document, and should be appreciated accordingly. Any ‘blind’ separation of the MDGs from their political context would undermine the concept of human development, moving the development discourse back twenty years.

A human rights-based approach, built around the constituent values of the Millennium Declaration such as *freedom, equality, solidarity and tolerance*, would address these concerns to a great extent. It would not only look into the results-based strategies based upon aggregates around the small number of quantifiable and time-bound numerical targets, and the specific human rights content issues related to these (and each of the MDGs could be regarded to fulfil a particular civil, economic, or social rights), but it would also look more profoundly at issues around how to reach the targets and who will be affected. It would, in other words, ensure an equally important focus on quantitative and qualitative elements of human development.

Rights-based strategies for MDG realisation recognize people as key actors for their own development, rather than passive recipients of commodities and services, treating poverty reduction as a matter of entitlement (and correspondingly, obligation) rather than discretion or charity. Human rights empower people to make claims against those with a duty to respond, strengthening accountability for development outcomes. Rights-based strategies for MDG realization seek to identify the immediate, underlying and basic causes of development problems. As such, they reveal structural constraints impeding human development, a factor too often overlooked in the past.

Human rights sharpen strategies for realizing the MDGs by addressing the discrimination, powerlessness and weaknesses in systems of accountability that often lie at the root of poverty and other development problems. It is particularly the principle of non-discrimination in reaching the MDGs- based on ethnicity, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status- that cannot be overstated. Discrimination is a form of social exclusion, and often a cause of poverty. In extreme cases, discrimination and exclusion may lead to conflict. Systemic discrimination moreover reduces the ability of individuals to benefit from and contribute to human development. In Amartya Sen's words: "no concept of poverty can be satisfactory if it does not take note of the disadvantages that arise from being excluded from shared opportunities enjoyed by others".

This assumption leads us to ask the following questions from a human rights-based perspective when focusing on for example MDG 1 on halving world, national, regional and local poverty:

- ⇒ Which half are we talking about when reducing poverty?
- ⇒ Who constitutes the other half and why are they not benefiting?
- ⇒ What will be the consequence of this exclusion for sustainable human development in the country?

It will thus be clear that quantitative and qualitative data are crucial, and that data must be disaggregated as far as possible. As a minimum, data should focus on people in their individual and group capacities grounded in the non-discrimination clauses of human rights law. After all, aggregates are often misleading (for example provincial ones) and **the poor** as a category simply do not exist (but poor people do).

PART TWO: LINKING THE CEDAW AND CRC

When human rights based programming is integrated into development work, it is possible that UN agencies will be faced with the challenge of reconciling conflicting interests among different categories of right holders. Thus, it is important to examine the issue of conflict and compatibility between CEDAW and CRC, and the mutually reinforcing relationship between the two.

Although, historically, children's rights did not develop along gender lines, there exists a strong link between women's and children's rights especially for girls from a life-cycle perspective. Unfortunately, this link has not been thoroughly explored which has given rise to the misconception that women's and children's rights are incompatible. Some of these fears stem from the notion that integrating women's and children's rights will restrict women to the role of caregiver of children.

Distinct human rights conventions allow human rights law to address the unique experiences of women and children. While having separate human rights conventions enables human rights law to address the different circumstances facing women and children, it is important to acknowledge the interconnectedness of these rights and examine how this partnership benefits both.

The UDHR is the foundational document for both CRC and CEDAW and certain core values underpin both these conventions. These common values include: non-discrimination, the equality of each individual as a human being, the inherent dignity of each person, and the rights to self determination, peace and security.

The very existence of gender specific abuses such as female genital mutilation, female infanticide, sex slavery, and sex tourism underscore the proposition that women's and children's rights are interrelated. Girls are particularly vulnerable to human rights abuses as they become victims of abuses against children as well as those violations which target their gender.

The CEDAW advances girls' human rights by reinforcing certain rights already covered by the CRC. As will be shown below, both the CEDAW and CRC contribute to the realization of children's and women's rights.

Protections of the Girl Child in the CRC and CEDAW

- Of special importance to the girl child is Paragraph 3 of Article 24 of the CRC on health which recommends that, "States Parties shall take effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children." Paragraph 4 of the same article goes on to state that that, "States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article."

- Article 19 of the CRC calls on States Parties to take measures to: “Protect the child from physical or mental violence, injury abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has the care of the child.”
- Article 24 (3) of the CRC demands that nations take appropriate measures to abolish traditional practices affecting the health of children; and Article 37 denounces the exposure of children to torture or cruel, inhuman, or degrading treatment.

CRC Committee on the Girl Child

The 1998 Report by the Secretary General on “Integrating the Gender Perspective into the Work of United Nations Human Rights Treaty Bodies” provided the following explanation of the ways in which gender has been incorporated into the work of the Committee on the Rights of the Child:

- “[The CRC's comprehensive reporting guidelines] include sex as one of the grounds wherever a request is made for disaggregated data. They also contain an umbrella clause requesting States parties to provide information disaggregated by sex on the situation of particular groups of children, and in relation to a number of articles. Its guidelines for periodic reports also request information on measures taken to eliminate discrimination against the girl child, in follow-up to the Beijing Platform for Action. . . .
- The Committee has incorporated gender concerns in its dialogue with States parties since its first session in 1991. The lists of issues and the oral questions raised during consideration of State parties' reports increasingly reflect a gender perspective. The following issues of particular relevance to the girl child have been addressed by the Committee:
 - Legal and de facto equality of girls, and measures taken to ensure to girls equal rights;
 - Discriminatory and stereotypical attitudes, prejudices and practices towards girls;
 - Marriage age, especially early marriage age of girls, and forced marriage;
 - Violence against girls, including traditional practices harmful to girls and women, female genital mutilation, sexual abuse, incest, trafficking, sexual exploitation, girl servants, bride price, female pre-natal sex selection, rape and impunity for rape when followed by marriage;
 - Child prostitution, child pornography;

- Girls' health, including family planning education, abortion rates, clandestine abortions, high mortality rates for girls; lack of access to health care and reproductive health care;
 - Teenage pregnancy rates;
 - Education and literacy rates of girls, school retention and drop out rates;
 - Inheritance rights of girls;
 - Girl child labour;
 - The situation of girls in single parent, female-headed households;
 - Maternal health care, including pre-natal services, breastfeeding, paid maternity leave.
- While the Committee addresses a variety of issues on a case-by-case basis, the issues most commonly addressed are girls' early marriage age; early/teenage pregnancy; the low status of girls in society; adverse health practices; sexual abuse and exploitation; educational opportunities for girls; and family planning education and services.
- . . . The [status] of the girl child has been considered in a number of different contexts [by the Committee], including economic exploitation and the family. The Committee also devoted its general discussion day at its eighth session (1995) to the topic of the girl child as part of the preparations for the Fourth World Conference on Women. In 1997, the Committee held general discussions on traditional practices detrimental to the health of women and children, in particular female genital mutilation, and on traditional attitudes and stereotypes, and the special situation of, *inter alia*, the girl child, child victims of sexual abuse and exploitation, and refugee children.
- The CRC Committee has designated one of its members to follow on a regular basis the work of the Committee on the Elimination of All Forms of Discrimination against Women. In November 1996, a first joint meeting took place in Cairo, Egypt, between members of the CRC and the CEDAW, to discuss working methods, and the development of concrete social indicators on child rights and women's rights. A workshop to examine ways to coordinate action to promote the two conventions was also held. UNICEF has convened several meetings to address issues of common interest in the framework of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.”

The Protection of the Girl Child in Other UN Documents

1) The Third Committee of the General Assembly regularly adopts resolutions pertaining to children's rights: Paragraph 8 requests the Secretary General to urge:

" All the organizations and bodies of the UN system focusing on the advancement of women to make commitments to goals and actions relating to the girl child in the revision and implementation of the system-wide medium term plan for the advancement of women for the period 1996-2001, as well as in the medium term plan for the period 1998-2002."

2) Section 11 of the World Summit Plan of Action, Specific Actions for Child Survival, Protection and Development, lists two actions particularly aimed at improving the condition of the girl child. The first action calls for ensuring the availability of clean water and safe sanitation, which are "not only essential for human health and well being, but also greatly contribute to the emancipation of women from drudgery that has a pernicious impact on children, especially." The second action emphasizes education, urging the "primary education" or equivalent learning achievement by at least eighty percent of the relevant school age children with emphasis on reducing the current disparities between boys and girls" is needed. The goals of the Appendix support the above actions by calling for "special attention to the health and nutrition of the female child" and universal access to primary education with special emphasis for girls.

3) The Special Rapporteurs on the Sale of Children, Child Prostitution and Child Pornography in each report cover the special problem of the girl child. The reports consider the incidence of forced marriage, child marriage, trafficking in girls, child labour involving girls' child marriage and infant foeticide.

The Status of the Girl Child in the CEDAW

- **Similar to Article 24 (3) of the CRC**, the CEDAW in Article 5 asks governments to abolish traditions and practices which are discriminatory to women, and to modify practices based on the notion of female inferiority. The second paragraph of Article 5 illustrates the status of children within the Women's Convention. This Article asserts the need to "ensure that family education includes a proper understanding of maternity as a social function" and further asserts the "common responsibility of men and women in the upbringing and development of their children." Article 5 concludes with the requirement that "the interest of the children is the primordial consideration of all cases." Article 16 too echoes this principle and states that in all cases the interests of the children shall be paramount.
- Although there is no specific mention of child marriage in the CRC, reading the CRC in the light of the CEDAW will bring to light the need to abolish child marriage. Paragraph 2 of Article 16 of the CEDAW states specifically: "The betrothal and the marriage of a child shall have no legal effect, and necessary action, including legislation, shall be taken

to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”

- At the CEDAW’s ninth session in 1990, a general recommendation that, “appropriate and effective” measures be taken with a view of eradicating the practice of female circumcision” was adopted. Some of the measures mentioned included the collection of information on female circumcision by universities, medical and women’s groups; support by women’s organizations to help end the practice; political, professional and religious attitudes; and educational and training programmes about problems associated with the practice.
- **Article 10 (f)** among other things calls for the “reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely.”

Mutually Supportive Relationship in CRC and CEDAW

One of the most important features of the CRC is the protection of the girl child. The CRC is the only one of the major international human rights instruments currently in force which consistently uses both masculine and feminine pronouns throughout, and makes explicit that the rights apply equally to female and male children. The Convention also confers certain benefits upon women where they are integral to the enjoyment of rights by children, such as **Article 24 (d) and (e)**, which obliges States Parties to take all appropriate measures to provide pre and post-natal care for expectant mothers, education relating *inter alia* to the advantages of breast feeding, and family planning education and services. Furthermore, Article 18 of the Convention recognizes the up-bringing of children as a common responsibility of both parents.

In this context, it is important to examine the CRC from the standpoint of CEDAW.

The CEDAW applies to all ages (including the girl child) since no specific age group is specified. Both the Committee on the CRC and the Committee on the CEDAW have stressed the complementary and mutually reinforcing features of the CRC and the CEDAW. The mutually reinforcing nature of the two Conventions advances the rights of girls and women throughout the life cycle. For example, a large percentage of infant deaths are attributable to the poor health and nutrition of the mother during pregnancy and in the immediate post-partum period. Another reason for high mortality rates among female infants is cultural attitudes of son preference which result in poor care of the female infant.

Both the CRC and the CEDAW dismantle the public/private dichotomy and recognize that certain situations demand State intervention into the private sphere. In CEDAW Article 2, States are obliged to correct discrimination against women in private life. Other articles that reach into the private sphere include: Article 10 which calls for equality in education, and Article 16 which ensures equal rights in marriage and family life. Under Article 5, States have to take appropriate steps to end private discrimination to guarantee their compliance with CEDAW. CRC Articles 18-20 grant parents primary responsibility of raising their children, with the State

assuming secondary responsibility should parents prove to abuse their duties. At the same time, children are independent bearers of rights.

Also well known is the strong positive correlation between women's literacy and girls' education levels. Women who are educated are in a better position to take **decisions** on the education of their children, especially daughters.

Both the CEDAW and the CRC give primacy to the "best interest" of the child concept. The "best interest" of the child concept must be interpreted within the framework of a girl child's right to be protected from violence and traditions that infringe her right to health and well being. For instance, female circumcision and "labola" or marrying a rape victim to the rapist have been identified by the CEDAW Committee as customs that infringe the rights to health and personal safety. Article 16 (2) of the CRC and Article 5 of the CEDAW address the need to take measures to address negative customs and traditions that infringe women's rights.

Linkages of CRC and CEDAW: Exploring the Interconnectedness of Women's and Children's Rights in Programming

"Education for girls helps them and their future children. Girls and women are enabled to fulfill their potential. Fewer women will die in pregnancy and childbirth unnecessarily. Fewer infants will die. More children will be better nourished and healthier all around. Families will have additional income. More women will marry later and more will have fewer children. More women will serve in leadership roles. More women will be involved in decision making. More women will contribute to social policy. More girls and women will enjoy the full range of their rights".

-Graca Machel, Promotion and Protection of the Rights of Children, Impact of Armed Conflict on Children: Report of the Secretary General, A/51/306, at 91 (1996).

Children's rights and women's rights are inextricably interwoven and often the discrimination girls suffer leads to subsequent violations of women's human rights. The Commission on the Status of Women (CSW) recommends referring to standards set in both the CRC and CEDAW when issues pertaining to girls are indicated. In other words, rather than looking at the Articles in the CRC in a gender neutral manner, one should look at their general provisions as offering a wide range of possibilities to address violations that are specific to girls only. By reading the CRC with the CEDAW, the distinctive needs of the girl child can be prioritized.

The following measures illustrate how women's rights and children's rights can intersect and complement:

- Special provisions for girls' education and vocational training enhance employment opportunities for women.

- Legal reform on a child's right to nationality and women's right to inherit property has been critical to the care and development of children. Law reform on nationality and violence against women is an area that clearly links women and children's rights. Support for family law, inheritance and property law reform, birth registration, compulsory education, migrant work and child labour reform, impact invariably to prevent exploitation of women and girls.
- Family support services provide protection for women and child victims of gender-based violence.
- The right to access information on sexual and health care will ensure equal access to both adolescent boys and girls to such information.
- Child care facilities for protecting the best interest of the child and provide support to women's economic participation.
- Alliances with civil society organizations as a cornerstone of the effective private/public collaboration are essential to both CRC and CEDAW implementation. The work of other civil-society organizations should also be complementary.

Just as much as girls are doubly discriminated because of their age and gender, they can also avail themselves of the protection of both rights regimes.

What follows is a discussion on how programming could help translate the synergy between the CRC and the CEDAW into concrete action in a few selected areas of rights.

1. Equality

Equality rights apply equally to men and women and all children irrespective of gender. As the most widely ratified human rights Convention, the CRC has wide application in almost every corner of the world. Thus, the prohibition under the CRC to discriminate against any child on the basis of sex reinforces the CEDAW provision of equality.

The equality provisions of the of CEDAW overlap with equality rights in the CRC:

- The Preamble to the CEDAW and Articles 1 and 2 highlight the importance of achieving equality between men and women. Article 2 (e) **of the CEDAW** directs that all appropriate measures must be taken by States to eliminate discrimination against women by any person, organization or enterprise. Article 2 (f) **of the CEDAW** recommends that all appropriate measures be taken to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. Thus the failure of a State to act to redress even private wrongs against the female child constitutes a human rights violation. Thus, Article 2 affirms the right to equality between all males and females and

extends the protection of the female child both in the public as well as the private spheres. **The anti-discrimination clause of Article 2 of the CRC** and Articles 2 and 3 of the CEDAW complement and mutually reinforce each other. The CEDAW covers both formal and substantive equality and aims at achieving equality of result. This anti-discrimination clause covers both the intended and unintended consequences of laws and extends equality to *de jure* and *de facto* equality. To achieve *de facto* equality, the CEDAW allows temporary special measures or affirmative action policies. These measures might call for preferential access of girls to education.

- **Implicit** in Art 4 of the CEDAW Convention, and in Art 2 of CRC, is the concept of affirmative action, which focuses on achieving equality in result and impact, rather than eliminating inequality in a formal sense. The concept of affirmative action or temporary special measures (laws, policies and programmes) based on a reasonable classification which enables unequal to be treated differently, with a view to providing equal access and life chances. Several Constitutions, including the Canadian and German Constitutions recognize the concept of affirmative action. In some countries affirmative action has been established through judicial fiat. For example: Jurisprudence developed by the Indian Supreme Court and in South Africa supports the view that the right to life includes the equal right of access to basic health services and education, freedom from poverty and access to economic resources.

The Beijing Declaration

Apart from the CEDAW, the Beijing Declaration and Platform for Action of the Fourth World Conference on Women in 1995 refer specifically to the girl child and outline several steps for States to take in order to eliminate discrimination against girls.

The Beijing Declaration affirms:

[A]ll barriers must be eliminated to enable girls without exception to develop their full potential and skills through equal access to education and training, nutrition, physical and mental health care and related information.

The Beijing Platform for Action

The Beijing Platform for Action strives to eliminate:

[H]armful attitudes and practices, such as female genital mutilation, son preference – which results in female infanticide and prenatal sex selection- early marriage, including child marriage, violence against women, sexual exploitation, sexual abuse, discrimination against girls in food allocation and other practices related to health and well-being.

The linkages between children's rights and women's rights are powerfully articulated in the Beijing Platform for Action. It notes:

Girls are often treated as inferior and are socialized to put themselves last, thus undermining their self esteem. Discrimination and neglect in childhood can initiate a lifelong spiral of deprivation and exclusion from the social mainstream. Initiatives should be taken to prepare girls to participate actively, effectively and equally with boys at all levels of social, economic, political and cultural leadership.

The Beijing Platform for Action has a special section/critical area on the Girl Child (section L) with the following strategic objectives:

- Eliminate all forms of discrimination against the girl child;
- Eliminate negative cultural attitudes and practices against girls;
- Promote and protect the rights of the girl child and increase awareness of her needs and potential;
- Eliminate discrimination against girls in education, skills development and training;
- Eliminate discrimination against girls in health and nutrition;
- Eliminate the economic exploitation of child labour and protect young girls at work;
- Eradicate violence against the girl child;
- Promote the girl child's awareness and participation in social, economic and political life;
- Strengthen the girl child's awareness of and participation in social, economic and political life;
- Strengthen the role of the family in improving the status of the girl child.

Equality between men and women can be achieved only if laws and practices help to achieve equality between boys and girls. If not, subordination of women will be the natural result of discriminatory treatment of girls.

Examples of how CRC and CEDAW have been Programmatically Linked

Promoting Gender Equality and Combating Discrimination Through Law Reform

Law reform seeks to put the law in place, and also harmonize local traditions and customs with international standards. In several countries in South Asia and the Pacific, Constitutional and legal changes which promote and protect children's and women's rights reinforce the rights of each group under CRC and CEDAW. Such changes, by ensuring gender equality and strengthening women's status in the family, and community, and their access to economic resources, ensure the rights of children. Empowered women contribute to the well being of their families and communities. Successful programming to realize women and children's rights therefore should adopt a broader approach to law reform identifying areas of gender equality and human rights. The central goal of development is the promotion of human well-being. For

example, legal rights can enhance living conditions for the family by legislating against gender bias in employment, discrimination in pay and incentive, violence and harassment. Legal rights can contribute toward increasing women and the girl child's capabilities by giving them equal property and inheritance rights, better access to credit and other reproductive resources, increased political participation and representation.

- Constitutional amendments in **Maldives** and **Fiji** give married women the right to pass nationality to their children, and legal changes in **India** and **Sri Lanka** remove the gender inequalities in this regard in Citizenship laws.
- NGOs and women and/or child rights social activists in **India** and **Sri Lanka** have used the Constitutional provision on fundamental rights to life or equality to challenge economic or development policies perceived as infringing children's and or women's rights.
- In **India**, the Supreme Court interpreted the right to compulsory education up to the age of 14 as an element of the right to life. This decision led to a Constitutional amendment in 2003 that recognizes this as a justiciable fundamental right. Previously, education featured in the chapter on social policies rather than justiciable rights.
- Several countries have incorporated important provisions of the rights of the child, including the best interest of the child concept into their constitutions. The Constitutional Courts of **Belarus and the Czech Republic** have found parts of the family codes in those countries incompatible with the CRC. Article 28 of the Constitution of the **Republic of South Africa** provides for the rights of the child and stipulates the need for parental care. Article 27 of the **Nicaraguan Code of 2003**, goes so far as to enumerate that "mothers and fathers have the duty to care for the upkeep of the home and all aspects of raising through shared efforts, with equal rights and responsibilities. Countries in **Latin America** include provisions concerning the rights of mothers to parental health care and other maternity benefits. **The Children's Act adopted by Goa** covers the immunization of new-born children and the provision of reproductive health education to girls.
- In **South Africa, Latin America and Central and Eastern Europe**, as part of the drafting of new constitutions, provisions of the rights of the child have been added. In countries such as **Italy, Panama, Belarus and the Czech Republic** provisions of the CRC have been incorporated into Constitutional law through Supreme Court or Constitutional Court decision.
- The 2001 law on Population and family Planning in **China** "prohibits discrimination and ill-treatment against women bearing girls...so as to protect the girls' right to birth and existence." This provision of the law demonstrates very powerfully the interrelatedness of the two treaties.

Recommended Concrete Action to Implement Substantive Equality or Equality of Result:

- Preferential access of girls to education should be made available in places where women have been historically disadvantaged. For example, education policies in Bangladesh provide access to free education for girls up to Grade 8. Policies in Tamil Nadu provide incentives for girl's education.
- Gender mainstreaming policies which seek to provide equal opportunities for both men and women must address social, cultural and economic factors that have historically denied women equal access to resources. For example, programmes that provide access to loan and credit for women in certain rural communities must address community practices which seclude and exclude women from public life.
- Similarly, macro-economic policies which reinforce the gendered notions of family and undermine a shared role in parenting must be reviewed.
- Analysis should include the causes of problems facing women and children and an understanding of the linkages between problems.
- Ensure that data is disaggregated by sex, geographic origin, age and ethnicity in order to expose disparities.
- Examine whether the allocation of national resources actually reinforce discrimination against women, girls, certain ethnic groups or disabled children.
- Women's voices can make important contributions to constitutional and legal change. Women's groups in Latin America and South Africa have made use of the constitutional reform process to give priority to international human rights conventions in their new constitutions.

2. Rights in the Family

Article 18 of the CRC recognizes the common responsibilities of both parents for the upbringing and development of the child. Policy formulation must support a family environment that enables shared parental responsibility for children and the reversal of gender stereotypes which segregate and subordinate women in the family and public life. Similarly, Article 16 (d) of the CEDAW asserts “the same rights and responsibilities as parents …in matters relating to their children; in all cases the interest of the children shall be paramount.” CEDAW’s Article 5 too clearly states that the best interest of the child is the primary consideration in all instances and the General Recommendations of the Committee address the need to modify cultural patterns of conduct of men and women such as female circumcision and child marriage. Article 16 of the CEDAW requires States Parties to eliminate discrimination against women in the context of marriage and family relations and requires States to provide a minimum age for marriage and to give no legal effect to child marriages. Moreover, Article 5 addresses the need for the common responsibility of men and women in the upbringing and development of their children. Thus both

the CRC and Article 16 and Recommendation 21 of the CEDAW bestow shared responsibilities on both parents regarding their children. According to the CEDAW Committee jurisprudence, this right also includes securing child support payments after the dissolution of marriage.

Recommended Concrete Action to Actualize Rights in the Family:

- In keeping with Article 18 (2) of the CRC and the above stated provisions of the CEDAW, programming must provide both men and women with equal opportunities to perform “child-rearing responsibilities” and fill nurturing roles. If the State and legal system prioritize the welfare of the family, then both men and women will enjoy equal opportunity to fulfil caretaking roles in the family.
- In compliance with Article 19 of the CRC, programming must address sexual abuse of children.

3. Violence against Women and Children

The CRC in Article 19 prohibits “all forms of physical or mental violence” and in Article 39 asks that States Parties take all “ appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment...” In conformity with these articles read together with Article 24 (3) of the CRC, States Parties should denounce and reform all laws, practices and policies that allow harmful cultural practices such as son preference, crimes committed in the name of honour and genital mutilation. Although the CEDAW does not cover issues of violence against women, Recommendation 19 of the CEDAW and the Declaration on the Elimination of Violence against Women (DEVAW) were drafted to address violence against women. Recommendation 19 urges States Parties to take all measures to provide effective protection to women, including: “effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence including *inter alia* violence and abuse in the family.” Recommendation 19 also asserts that family violence is one of the most insidious forms of violence against women and that it is prevalent in all societies. It recognizes that “*women of all ages* are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetrated by traditional attitudes” (emphasis added). The Comments to Recommendation 19 frame domestic violence in terms family violence and recommend the establishment of family support services including the provision of specially trained health workers and counsellors. Similarly, the DEVAW defines violence against women to include violence “occurring in the family” including practices traditionally harmful to women such as female genital mutilation. The appointment of a Special Rapporteur on Violence against Women in 1993 further supports the UN’s commitment to addressing violence against women as a major infringement of human rights.

Another mutually reinforcing characteristic between the conventions is that, unlike the CEDAW, Article 38 of the CRC and the Optional Protocols to the CRC contain specific provisions regarding women in armed conflict. Guarantees in CRC can, therefore, help to support the rights of women in armed conflict. However, the CEDAW Committee has filled this vacuum by in its Concluding Comments addressing the States responsibility to guarantee women's rights during armed conflict.

The International Criminal Court, Resolution 1325 (2000) of the Security Council also strengthens the linkages between CRC and CEDAW by addressing gender-based violence against women and children in times of armed conflict.

Examples of how CRC and CEDAW have been Programmatically Linked:

- In **Sri Lanka**, UNICEF's work on advocacy and child abuse resulted in the appointment of Committees to review laws on sexual offences against women and children and trafficking, eventually leading to the repeal of provisions in a nineteenth century British colonial Penal Code, in 1995. Because of the National Child Protection Authority's work on child abuse, these laws have also been periodically reviewed and strengthened, in relation to violence against women.
- In **Bangladesh**, the revision of a law on violence against women and children in response to a high incidence of acid attacks on women was a result of advocacy efforts of NGOs and international agencies including UNICEF.
- In **Nepal**, UNICEF supported The Suppression of Violence against Women and Children Act 2000, The Acid Control Act 2002, and the Acid Offences Prevention Act 2002 in an attempt to address weaknesses in the earlier laws and enforcement issues that surfaced in studying the problem.
- UNICEF works with different partners to address domestic violence in many countries. Examples include: the creation of the **Bolivian National Plan for the Prevention and of the Eradication of Violence against Women** (1994) and the **Law against Family or Domestic Violence**; facilitating the **National Jordanian Television** to develop TV programmes on violence against women; and support for the development of an active movement against gender-based violence in **Afghanistan** and other countries in South Asia. UNICEF also works with UNIFEM to coordinate programmes to eliminate violence against women.
- “Drop in Centres” “Women and Children’s Bureaus” in Police stations or municipal services which offer a wide range of services to women and girls who suffer violence, are found in many countries including **Sri Lanka, Bangladesh , Malaysia and all over Latin America.** 24 hour hotlines, support groups for victims, basic child-care and social, psychological and legal services have been created by NGOs in many developing countries, including **Argentina, Chile, El Salvador, Uruguay and many countries in South Asia.**

- In **Namibia** for example, women and child protection units have been established in partnership with the Namibian police, ministries of health and social services and NGOs.
- The **German** civil code recognizes the child's right to a non-violent upbringing and prohibiting psychological injuries and other humiliating measures. The Children's Act of **Iceland** establishes parents' obligations to protect the child against physical or mental violence.

Recommended Concrete Action to Combat Violence against Women and Children:

- Humanitarian assistance programmes with a rights based approach must recognize the centrality of these standards even in a situation where they engage with both State and non-State actors during conflict and in periods of peaceful conflict resolution and transitional justice.
- The strengthening of the standards on violence against children by the Optional Protocols to CRC and the adoption of the individual complaints procedure through the Optional Protocol to CEDAW may strengthen the capacities of the Committees as well as States Parties to address the issue of gender-based violence in the context of armed and other internal conflicts.
- Although the recognition of paedophile sexual abuse has tended to encourage gender neutral approaches to child abuse, the work of the CEDAW Committee highlights the need to view violence against girl children, sexual exploitation and trafficking as a dimension of gender- based violence. What is needed is a gender analysis of development work on child abuse, sexual exploitation and trafficking in children.
- The interface of women and children's rights provides a powerful space to challenge the infringement of women's rights and other forms of violence in the name of culture and hold the State accountable for failure to protect women and children against violence. Strengthen capacity of civil society to monitor violence in the private and public spheres.
- Create multi-layered strategies to address the structural causes of violence against women and the girl child. Enhance women and children's participation in social support networks. Create support services for children traumatized by domestic and societal violence.
- All countries must recognize statutory rape (consensual sex with a minor) and oral sex with a minor as rape.

The Declaration on the Elimination of Violence Against Women calls on States to eliminate all forms of violence against women including "sexual abuse of female children in the household," "forced prostitution" and other forms of violence with application to the lives of girls.

4. Labour

Article 32 of the CRC and ILO initiatives on child labour have strengthened child rights and have supported programmes that prevent young children from being drawn into the labour market. At the same time, Article 11 of the CEDAW addresses the need for child care facilities and maternity leave for women. Similarly, Article 18 (3) of the CRC calls upon States Parties to take all “appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.”

Recommended Concrete Action to Enforce Labour Rights:

- As required by both the CEDAW and CRC, child labour elimination programmes must combine economic opportunities for adult women and adolescent and older girls who can be part of the work force.
- The workplace must be transformed to recognize the role that both parents play in child bearing and child rearing as required by Article 18 of the CRC. This will equalize the burdens of domestic work and enable both parents engaged in caretaking tasks to return to the workplace with minimum loss to job opportunities.
- Benefits afforded by labour laws should be afforded to both sexes in order to facilitate shared parenting and the importance of the fathers role in the child’s life as required by Article 18 of the CRC. These policies should be careful not to link women primarily with the care of children while disadvantaging men who choose the bulk of the childbearing responsibilities.
- Programming should question what kind of assistance is available for both parents to maintain an adequate standard of living (particularly in regard to “nutrition, clothing and housing”) for their children under Article 27 of the CRC. Programming should also examine available child care for working women and what percentage of employers provide child care.
- Poverty alleviation measures must take into consideration the needs of women and children.

5. Health

Women and girls are disproportionately affected by hunger, food insecurity and poverty, largely as a result of gender inequality and their lack of social, economic and political power. In many countries, girls are twice as likely to die from malnutrition and preventable childhood diseases as boys, and it is estimated that almost twice as many women suffer from malnutrition as men.

- The Special Rapporteur on the Right to Food

Studies show that female children are three times more likely to suffer from malnutrition than male children. Further, because of cultural stereotypes that devalue the girl child, the girl child is less likely to receive sufficient nutrition or care before or after birth. This is why a gender analysis of children's health needs is more important than a gender neutral approach to programming and is an approach recommended by the CRC (see Article 24(2)(d) of the CRC) which recommends "appropriate pre-natal and post-natal health care for expectant mothers."

The CRC guarantees the "highest attainable standard of health," under Article 24, and calls for "maximum extent of their [States Parties] available resources" with regard to economic, social and cultural rights under Article 4. Both CRC and CEDAW can help ensure that girls receive appropriate healthcare, and have access education and are protected from abuse and exploitation.

Article 10 of the CEDAW provides that States must take measure to ensure women's equal rights with men to education. Article 12 of CEDAW requires States to provide women with "appropriate services in connection with pregnancy, confinement and the post-natal period....as well as adequate nutrition during pregnancy and lactation." At the same time, CRC provisions that protect maternity rights are also careful not to reinforce the role of women as caregivers of the family. For example, Article 24 of the CRC stresses the need to develop "preventive health care, guidance for **parents** (emphasis added) and family planning education and services."

Examples of how CRC and CEDAW have been Programmatically Linked:

- All codes adopted in Latin America contain provisions on the right of the child to health and also include provisions concerning the rights of mothers to prenatal health care and other maternity benefits.

Recommended Concrete Action to Implement Health Rights:

- Economic and social rights to health and education must become the entry point to challenge cultural practices, such as FGM, child marriage, sexual initiation, and child labour practices. Accordingly, Article 24 (3) of the CRC addresses the need to abolish traditional practices prejudicial to the health of children
- The CEDAW Committee has also focused on the need to treat termination of pregnancy as a health issue and justify review of criminal law to address infanticide committed by women in the context of family violence.
- The general standards on health and education in both Conventions and jurisprudence of the treaty bodies provide a basis for addressing HIV/AIDS as a human rights violation. A purely service delivery model which ignores the need to consider gender equality and rights education as the basis for addressing HIV/AIDS fails to address the root causes of the epidemic.

- CEDAW, CRC and the International Covenant on Economic, Social and Cultural Rights (ICESCR) provisions and their treaty body jurisprudence have enshrined the right to health and education as a guide to balanced public policies that reconcile privatization with social security concerns.
- Country reports to CEDAW and CRC must indicate whether health commitments have been harmonized with treaty obligations.
- Although it has been argued that children's rights to health care and nutrition marginalize women into caregiver roles, the maximum allocation of resources for health, nutrition and education of women and children according to the CRC promotes policy interventions that reconcile women's own health and nutrition needs with similar needs of children.

Access to these basic needs must be perceived as basic rights of women and children - as demonstrated by constitutional guarantees in South Africa and India and reform initiatives in Sri Lanka.

6. HIV/AIDS

“We must have HIV/AIDS programmes, but not only that. There must be programmes in all other development areas, which address equality, autonomy, encouraging girls and women to be independent and that must be extended to the political arena and every aspect of life.”

- Nafis Safik, UN Special Envoy to the Secretary-General on HIV/AIDS for Asia and the Pacific

People most at risk of human rights violations are also those most vulnerable to HIV/AIDS. Today women and girls account for more than half the 40 million people living with HIV worldwide.

Women and girls are doubly vulnerable to HIV/AIDS because of pervasive gender inequality and poverty. Poverty, early marriage, trafficking, sex work, migration, lack of education, gender discrimination and violence are some of the triggering factors affecting the spread of HIV/AIDS among women and girls. Complex social taboos make it difficult for those living with HIV/AIDS to access support. Multiple and intersecting grounds of discrimination against women can be attributed to the high incidence of HIV/AIDS in women.

Double standards in female/male sexual relations shape the accepted social norms that while men can have multiple partners, women have to be faithful to one partner. Apart from inequality in family relations, inequality in property results in women having limited access to financial resources. Thus, economic disempowerment makes women dependant on abusive male members in the family and community and restricts their capacity to take practice safe sex and access medical help.

More than any other disease, HIV/AIDS has exposed the discrimination that makes women more vulnerable to infection. An important obstacle to couple-negotiation of

contraceptive use and protection from sexually transmitted diseases is that most women have unequal access to resources and decision-making. Yet women are more vulnerable to the consequences of unplanned pregnancies and often HIV/STIs. For these reasons, countering the prevailing gender stereotypes that increase risky behaviours and decrease couple communication is a key strategy for promoting good reproductive health. Increasing a woman's educational level and control over financial resources can improve her status within the household, thereby increasing not only her role in decision-making, knowledge about health and services available to her, access to food and other resources that contribute to good health.

Women are also often pushed into the role of caregiver of persons with HIV/AIDS and continue to bear this unequal burden at enormous physical, mental and emotional costs.

"Human rights-based approaches to HIV/AIDS programming help realize human rights themselves as well as improve access to HIV/AIDS health care information, services and treatment. Policies, programs and responses are likely to be effective, sustainable, inclusive and more meaningful for people living with and affected by HIV/AIDS when they are based on the normative frame of international human rights."

-*HIV/AIDS and Human Rights in a Nutshell*, François-Xavier Bagnoud Center for Health and Human Rights, Harvard School of Public Health

Recommended Concrete Actions to Address HIV/AIDS:

- Programming on HIV/AIDS must pay particular attention to women's reproductive role and female subordination as factors that make women and girls vulnerable to sexually transmitted diseases, particularly HIV/AIDS.
- Programming should comply with the Beijing Declaration and Platform for Action's Strategic Objective C.3 which directs States "to undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/ AIDS and sexual and reproductive health issues."
- Care giving is generally assumed to be "women's work", and the role of caretaker creates a bigger burden on women's economic and social status. The role of caretaker needs to be examined from a gender perspective.

Other International Norms that Intersect Women and Children's Rights to Health

- In June 2001, the UN General Assembly Special Session on HIV/AIDS adopted an explicit gender approach to address the HIV/AIDS epidemic. Delegates from 180 countries agreed that gender equality and the empowerment of women are critical in reducing women's vulnerability to HIV/AIDS. They committed

themselves to “intensify efforts to...challenge gender stereotypes and attitudes, and gender inequalities in relation to HIV/AIDS, encouraging the active involvement of men and boys.” Paragraph 14 of the Declaration of Commitment stresses that “gender equality and the empowerment of women are fundamental elements in the reduction of the vulnerability of women and girls to HIV/AIDS.”

- 2000 Millennium Declaration and Development Goals: Goal 3 calls on nations to Promote gender equality and empower women” and Goal 6 is to “Combat HIV/AIDS, malaria and other diseases.”
- 1994 International Conference on Population and Development (ICPD), Programme of Action: Article c, Chapter 7 addresses sexually transmitted diseases and the prevention of HIV from the perspective of women’s and girls’ vulnerability to the epidemic, setting out key recommendations for addressing HIV through reproductive health services.
- 1993 Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights. Article 41 recognizes the importance of women’s right to enjoy the highest standard of physical and mental health throughout their life span. Throughout the document there are significant statements relating to women’s human rights and violence against women.

7. Reproductive Health

“Girls are particularly hard hit [by HIV/AIDS] as they are vulnerable due to biological factors and often have limited control over decision making in sexual relations. The Special Rapporteur was advised that both boys and girls may be equally at risk when they are very young. However, as they grow older, girls are more likely to face sexual coercion and rape than boys. Girls who are forced into prostitution are at a higher risk of infection.”

- The Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography.

Maternal health and child health are inextricably linked. According to the Population Action Council, “A mother's health affects the health of her children. Women who are in poor health or poorly nourished are more likely to give birth to unhealthy babies, and often cannot provide adequate care, diminishing the chances their children will survive and thrive. The reduction in women's productivity also places an economic burden on their families, communities and societies. Studies in Bangladesh show that when a mother dies after giving birth, her newborn baby has much lower chances of surviving until its first birthday. Children who survive a mother's death are less likely to receive adequate nourishment and health care. Older girls in families where the mother has died often drop out of school to care for younger siblings and do household chores. Gender inequities, sexual coercion, and violence by intimate partners undermine women's sexual and reproductive autonomy and jeopardize their health and well-being. Women who lack sexual autonomy often are powerless to refuse unwanted sex or to use conception and thus are at greater risk of unwanted pregnancies, STIs, and HIV. The

reproductive health field is attempting respond to the need to address the conditions of people's sexual lives by sensitizing and training health workers, developing referral, and developing negotiating skills in both women and men. At the community level, efforts to bring about more equitable gender relations are ever more common."

Recommended Concrete Action on Reproductive Rights:

- Review the relationship between NGOs, civil society, the private sector and other groups in forging new ways of collaboration and partnering in reproductive health within a framework of shared responsibility, and explore mechanisms for expanding successful NGO initiatives where Governments face constraints;
- Ensure that NGOs and civil society demonstrate a high level of transparency, accountability, good management and local participation;
- Where appropriate, involve NGOs in the planning and implementation of programmes relating to development, including issues related to population, sustainable development, poverty reduction, migration, ageing, gender reproductive health including the needs of adolescents, HIV/AIDS and resource mobilization;
- Programming should reach out to women, young people, the poor, the marginalized and those in extremely vulnerable situations such as street children, sex workers and those living with disability;
- Ensure universal access to affordable reproductive health care and services including family planning;
- Programming should promote the rights and ability of all adolescents married and unmarried to make informed choices and decisions on matters affecting their sexuality, their health and their lives through effective, affordable, youth friendly reproductive health services and comprehensive sexuality education.

8. Culture and Traditions

Traditions and customs which devalue the girl child's education have been condemned by CEDAW in several of its provisions. On the other hand, Article 29 of the CRC states unequivocally that the child's education shall be directed to preparing the child for a "responsible life in the spirit of...equality of sexes."

Article 10(c) of the CEDAW, as well as steps to implementing Article 5 of the CEDAW, recommends the revision of stereotypical texts in educational programmes and teaching methods. An integration of CRC and CEDAW then requires local teachers and schools to take positive steps to eliminate discrimination against the female child and encourage her to attend school and foster an environment of equality. CEDAW also addresses the specific cultural problems faced

by the female child. Article 10 of the CEDAW directs that all appropriate measures be taken to eliminate discrimination against women in order to ensure their equal rights to education.

General Recommendation 3 of the CEDAW concerning Article 5 urges all States to adopt educational programmes to eliminate prejudices and stereotypes and General Recommendation 19 calls on States to eliminate traditional practices such as family violence and abuse, forced marriage and female circumcision. The CEDAW Committee and other treaty bodies have stated clearly that core human rights cannot be sacrificed at the altar of culture. Culture and traditions cannot be manipulated to subvert core human rights guarantees. In an era of globalization, when States and non-State actors are held accountable to private acts of violence against women, cultural rights cannot be interpreted to subordinate non-discrimination rights.

Examples of how CRC and CEDAW have been Programmatically Linked:

- **Burkina Faso's, Ethiopia's, and Egypt's** campaigns on FGM are based on cross-sectoral community programmes with a range of partners, including village elders, religious leaders and health professionals.
- Campaigns against female feticide and infanticide in **Tamil Nadu** also adopt community based strategies that link with health professionals.
- Certain NGOs such as **Women Living under Islamic Law** undertake research, share comparative jurisprudence and strengthen each others efforts to understand and articulate a religious tradition in terms of basic norms of human dignity and equality.
- Programmes of international agencies also support national Task Forces of Community leaders and women activists and NGOs who are working to study religious or customary traditions from a human rights perspective.
- Civil society efforts to link CEDAW and the CRC have led to proposals for reform of Muslim personal law in **Sri Lanka**, and reform of the Family Code in **Maldives**.
- **Fiji's** women organized themselves in 1998 to challenge customary norms of mediation and reconciliation when they infringe standards on violence against women and children in the criminal law, and the constitutional norm of equality.
- Several African and Asian countries have adopted or strengthened legislation criminalizing harmful traditional practices such as child marriage, son preference, abortions based on foetal sex screening and female genital mutilation. **Africa** had adopted the African Charter on the Rights and Welfare of the Child which addresses the abovementioned categories of gender-based discrimination.

9. Education

In 1990, more than eighty heads of State met at the UN offices in New York to participate in the World Summit for Children. One of the outcomes was the drafting of the World Declaration on the Survival, Protection and Development of Children. The Declaration states that “[g]irls must be given equal treatment and opportunities from the very beginning.” It further notes that of the over 100 million children who are without basic schooling, two thirds of them are girls. As part of their commitment to children, participating governments pledged to “provide educational opportunities for all children, irrespective of their background and gender.”

Article 10 of the CEDAW provides women equal rights with men in the field of education. The CEDAW also charges States with the duty of reducing “female student drop-out rates and the organization of programmes for girls and women who have left school prematurely. Article 28 (e) of the CRC also echoes this principle and asks that measures be taken to “encourage regular attendance at schools and the reduction of drop-out rates.”

Article 29 (d) of the CRC stresses the need to prepare the child for a responsible life in the spirit of “equality of sexes.” Articles 29 (d) of the CRC and Article 5 (b) of the CEDAW are compatible with each other. While the CRC in Article 29 (d) call upon States Parties to foster the child in an environment of “equality of sexes”, in Article 5 of the CEDAW, States Parties are asked to “ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children.” Under Article 5, States Parties to the CEDAW are asked to consider what measures have been taken to develop educational programmes and school text books to reflect this provision. Article 10 of the CEDAW too calls for the revision of text books and school programmes and the adaptation of teaching methods in eliminating stereotypes and discrimination against women.

Examples of how CRC and CEDAW have been Programmatically Linked:

- Laws enshrining the right to education have been introduced in **Bangladesh, Lebanon, Jordan, Morocco, Pakistan, Sudan, Syria, Tunisia and Belarus, the Czech Republic, Poland, Slovenia and Russia. In Africa and Asia, Burkina Faso, Nigeria, Rwanda, South Africa, Togo, Sri Lanka and Viet Nam**, laws have been enacted or amended in the light of CRC. In other **African and Asian** countries national laws have been brought into compliance with CRC (these provisions include the right to be educated in the language of national minorities, requesting educators to respect the freedom of opinion of students, prohibiting the physical punishment of students and the expulsion of pregnant students) and by incorporating activities designed to enhance democracy, tolerance and gender equity into educational programmes.
- A collaboration between UNIFEM, the World Bank, ADB and UNDP in cooperation with the Ministry of Women’s and Veteran’s Affairs in Cambodia aims to ensure that all children complete primary education by 2010 and nine- year basic schooling by 2015 and reduce gender disparities in upper secondary and tertiary education . The gender-

responsive implementation of the Cambodian MDGs highlight basic education for all girls and recommend the following: keep girls in primary schools, and increase girls' enrolment in secondary school; ensure access to lower and upper secondary schools by including a higher proportion of women teachers, supported by gender-sensitive teaching materials; provide toilet facilities (separate for girls and boys), safe transport to and from schools, dormitories, scholarships and higher specific budget allocation, as well as more female teachers to significantly increase girls enrolment; increase the proportion of women in education management positions at national and provincial levels and as school principals; promote access to paid employment for girls with lower and upper secondary education; provide non-formal education to increase functional literacy for women; coordinate interventions from different sectors focused on attitudinal change, gender awareness and gender equity; develop a local concept of gender equality for promotion in schools.

Recommended Concrete Action to Advance Rights to Education without Gender Discrimination:

- Collect data on the overall literacy rates for males and females disaggregated by age group.
- Collect data as to whether the same curriculum is available to girls as well as boys.
- Compare teacher/student ration and per capita expenditures for subjects taught and research whether schools that are not co-educational have the same resources.
- Develop programmes where girls are encouraged to study subjects considered traditionally male studies such as science, technology, math and physical education and sports.
- Develop similar opportunities that are available to male students for female students to access higher education.
- Develop programmes for girls to have the same opportunities as boys to participate in sports and physical education in schools.
- Review sex stereotyping (such as depiction of women as secretaries rather than as managers) in curricular and textbooks.
- Specific obstacles to education faced by girls must be addressed through gender-responsive measures. These barriers include the lack of toilet facilities for adolescent girls, the absence of women teachers and female role-models in villages, distance to schools cause an impediment to a girl child's security, girls often become surrogate caregivers in the event of need in the family.

10. Nationality

CEDAW disallows States from discriminating against women in the acquisition and retention of nationality. The CEDAW, under Article 9, requires States to grant women equal rights with men with respect to the nationality of their children. This provision ensures that women and their children are not at risk of becoming stateless or being forced to take the nationality of the husband against their will. CRC Article 2 expressly declares that no child shall be subject to any discrimination based on “the child’s or his or her parent’s or legal guardian’s ...sex.” This, when read with Article 7 of the CRC which affirms the child’s right to acquire a nationality, Article 2 of the CRC requires equal citizenship rights for both parents.

In several countries in the world and throughout the Arab world, many women, their husbands and their children suffer hardships due to nationality laws that make it difficult or impossible for a woman married to a non-national to pass her nationality to children. This discrimination against women results in children often facing a stark denial of their rights to free education, health benefits as well to civil and political rights.

Examples of how CRC and CEDAW have been Programmatically Linked:

Organized by the UNDP Regional Bureau for Arab States and the Centre of Arab Women for Training and Research, experts, activists and scholars from seven Arab countries examined a study pertaining to gender and citizenship and how this impacts on millions of children in the Arab region affected by nationality restrictions.

11. Participation, Leadership and Human Resource Development

“The United Nations once dealt only with Governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today’s world, we depend on each other.”

- Kofi Annan, United Nations Secretary General

The CRC and CEDAW’s approach to rights awareness reinforce the participation of all rights holders including NGOs, children and women and the corporate sector. Both Conventions also address issues of cultural diversity and create space for dialogue among all participants.

This dialogic approach is inherent in the notion of the indivisibility of rights. Not only should the State protect the individual from rights violations, but it is the duty of the State to actively provide measures to fulfil those rights. This understanding of indivisibility of rights opens out space for partnerships between the State and civil society groups, including children and women to actively participate in the realization of human rights.

Examples of how CRC and CEDAW can be Programmatically Linked:

National Machineries

- Some countries in **Africa** have prioritized gender training and awareness for macro economic policy makers and planners. Gender budgeting and identifying the different resources allocated for ministries which deal with both women and children's affairs is part of this process.
- National machineries, such as Child Protection Authorities, Task Forces, Ombudspersons and Human Rights Commissions, with a focus on women and children's rights have been set up in different countries. More than 30 States have established independent children's rights commissioners and ombudspersons with legal authority to promote protect and monitor the human rights of children. Since **Norway** established the first Children's Ombudsman in 1981, many States in **Europe, Latin America, the Pacific** and other regions have established specialized institutions. A **European Network of Ombudspersons for Children** has already been formed. The European Network (ENOC) has addressed cross border issues such as trafficking and sexual exploitation. An Asia/Pacific region is in the process of forming such a collaboration. In some countries, national human rights commissions and ombudsman offices have developed focal points on children. For example, the **Ombudsperson for Children in Mauritius** promotes the compliance with Convention and strives to ensure that rights, needs and interests of children are given full consideration by public bodies, private authorities, individuals and associations.
- **The Asian Development Bank's** External Forum of Experts on Gender, assists the gender unit in strengthening the rights perspective in the Bank's development assistance work.

Civil Society Coalitions

- In **South Africa, Brazil and Philippines**, NGO coalitions with landless groups and rural communities have been forged to lobby for service delivery and plan for environmental protection and access to economic resources. In countries with religious laws that deny ownership for women of private land, advocacy for State housing and land guarantee women's equal access to resources, and impact positively on children's right to shelter and an improved standard of living.
- In some countries in the **Caribbean** and in **India**, women's groups focusing on an agenda of Early Child Development have used these programmes to strengthen the organizational capacity of women, so that they can lobby for removal of urban rural disparities in education, and service delivery in health, water and sanitation, education, and child care.
- **The Coalition for Child Rights** in the North West Frontier Province in **Pakistan** works with communities in remote areas on child abuse, forced marriage and women's rights.

- UNICEF has supported NGO advocacy which has led to the development of national plans of action, more balanced country reports to the CEDAW and CRC Committees, development of action plans to integrate CEDAW and CRC Committees concluding comments and observations into national plans of action, statistical data collection, and development of indicators for monitoring in some countries.

Peer Group Programmes

Peer group programmes create awareness of human rights norms of CEDAW and CRC, so as to undermine stereotypical social attitudes to gender roles. These programmes create an environment for reporting and detecting child abuse, and sexual abuse of girls including domestic violence. These programmes are testimony to the fact that reproductive health rights and personal security rights are now being recognized as public health issues.

These programmes include:

- BRAC'S Adolescent Peer Organized Network in **Bangladesh**.
- The Girl's Power Initiative in **Nigeria**.
- Youth Clinics in **Botswana** and **Benin** promote child to child interaction to understand gender equality, reproductive health and other child rights.

Male Participation Programmes

The participation of men in programmes is critical to the advancement of women's and children's rights. Women's studies programmes which promote a "woman only" focus rarely attract male students. It is important to focus on more broad-based gender issues.

The CRC and CEDAW provide an opportunity for the child to develop to her/his full potential and for the adolescent youth and woman to play an equal role with her male counterpart in the full flowering of public life.

Examples of some of these programmes include:

- UNICEF has supported integrating male participation into joint parenting programmes in the **Maldives**.
- The 'Stepping Stones' and "Men as Partners" programme which target promotion of reproductive health and HIV prevention through peer groups, and male participation, have been reported as having a positive impact on the incidence of violence against women and girls in **South Africa**, **Uganda** and **Gambia**.
- The Diploma in Forensic Medicine of the University of Colombo, **Sri Lanka** and the Human Rights Summer course of the UN University in **Tokyo**, which attract a large

number of both men and women students are examples of courses that focus on women, gender and children's issues.

Recommended Concrete Action on these Issues Include:

- Support for NGO shadow reports to treaty bodies.
- Individual and group complaints mechanisms under the optional protocols to CRC and CEDAW.
- Technical support for incorporating international human rights concepts into domestic judicial decision making.
- Support for youth participation in programming on HIV/AIDS, reproductive rights and juvenile justice.
- Developing programmes that use the CRC and CEDAW as vehicles for women and children to engage in peace initiatives and transitional justice.
- Gender analysis must inform poverty analysis and include women's equal access to land, housing, micro credit and inheritance in programming.
- States Parties must use their commitments under human rights conventions to address holistic poverty reduction policies and draw linkages between the two main sets of rights: civil and political versus economic, social and cultural rights.

12. Trafficking

Women and girls are particularly vulnerable to trafficking because of their low status, poverty and lack of educational professional opportunities. NGOs can play a helpful role in organizing educational and public awareness and human rights campaigns. A human rights based approach recognizes that human trafficking has profound human rights implications for the victim and the government and non-government organizations.

Example of how CRC and CEDAW have been Programmatically Linked:

The Thai Prevention and Suppression of Prostitution Act of 1996 was drafted to address the issue of child prostitution and to provide assistance to children and victims who are victims of trafficking, but also include protections for women as well. This demonstrates the mutually supportive framework of rights where children's rights can provide benefits to women while steps to better ensure women's rights can create positive change for children.

- Post-CRC laws that address child abuse and trafficking in **Ghana, Philippines, Thailand and Sri Lanka** have transformed the norms on violence against women, and strengthened

law enforcement on cross border trafficking and sexual exploitation by locals and foreigners.

Recommended Concrete Action

- NGOs can be supported as they engage in this work includes, data collection and analysis; training of criminal justice practitioners; advising on legislative reform; and developing victim assistance and witness-protection programmes.

If a girl learns how to assert her rights while she is still a child, she is more likely to be able to successfully exercise her rights as a woman.

Institution Building, Programming and Monitoring

“Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes, so that, before decisions are taken, an analysis is made of the effect on women and men.”

- Beijing Platform for Action, 1995 Para 81.

“The process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic, and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.”

- ECOSOC Conclusion 1997/2

A range of programmes adopted nationally or by international agencies, including UNICEF, demonstrate that CRC and CEDAW can be linked to effective programming. Such an approach, however, requires the establishment of institutions and monitoring mechanisms that are able to effectively support and monitor the process and ensure the participation of women and children as rights holders.

While specialist independent human rights institutions for children and women (including ombudspersons or commissioners for children's rights) are being established in a growing number of countries, the Committee on the Rights of the Child has recommended that the development of a broad-based national human rights institution that includes a specific focus on children is likely to constitute the best approach, particularly where resources are limited. This

could be done, for example, by including within the structure of the human rights institution either identifiable commissioners specifically responsible for children's rights and women's rights, or else specific sections or divisions responsible for such.

The critical importance of independent national human rights institutions to safeguard the rights of all, with appropriate powers set out by legislation, was highlighted at the 1993 World Conference on Human Rights. Since then numerous independent institutions for children's rights have been established either as stand alone institutions or folded within a human rights commission. The CRC Committee in 2002 observed that, "Every State needs an independent human rights institution with responsibility for promoting and protecting children's rights."¹ Furthermore, the Committee's principal concern was that "the institution, whatever its form, should be able, independently and effectively, to monitor, promote and protect children's rights"² in line with a set of principles known as the Paris Principles. These principles endorsed by the General Assembly identify the minimum criteria for the establishment of human rights institutions. The Committee's General Comment acknowledges that where resources are scarce, "consideration must be made ensuring that the available resources are used most effectively for the promotion and protection of everyone's human rights, including children's and in this context, development of a broad-based institution that includes a specific focus on children, is likely to constitute the best approach."³ Review of the concluding observations adopted by the Committee following examination of States Parties' reports shows that the Committee strongly advocates the establishment of independent institutions to States which do not already have one, guided by the Paris Principles and the CRC Committee's General Comment No. 2 on the Role of Human Rights Institutions.

Programmes that have successfully linked CRC and CEDAW invariably treat both women and children's rights as central to their work in addressing particularly, the issues of non-discrimination and gender-based violence. For example, in dealing with violence against women, professional programmes for doctors include developing codes of practice or laws on reporting child abuse and strengthening investigation and forensic procedures. These guidelines have a positive impact on detecting investigating and prosecuting violence against women. They can also strengthen capacity of health and legal professionals to monitor the conduct of law enforcement officials, and hold law enforcement authorities accountable under these regulations. On the other hand, courts have been effective tools in striking down gender discrimination in domestic laws. In this regard, judicial training has been very helpful and has led to the development of a proactive jurisprudence on women and children's rights in the Higher Courts of some South Asian, African and Latin American countries. In dismantling discrimination, these courts have incorporated international human rights norms into domestic jurisprudence.

UN agencies must support governments and peoples to realize the human rights based approach to development work as articulated in the UN and UNICEF Directives and guided by CRC and the CEDAW norms. While the complementarities in the two agendas must be strengthened in order to realize both women and children's rights, conflicts must be addressed in a way that does not reinforce stereotypes and prejudices against either group. The CRC and

¹ Committee on the Rights of the Child, General Comment No. 2, The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child, para. 7 (2002).

² *Id.* at para. 6.

³ *Id.* at paras. 6 and 7.

CEDAW intersect to provide a powerful human rights framework that can be used creatively to recognize both women and children as critical resources in development.

Recommended Concrete Action

State Accountability

- States, including local authorities and non-State actors, must be held accountable for violations of human rights guarantees.
- As the key guarantor of rights, the State must, in particular, be supported to develop social policies to eliminate discrimination and disparities of opportunity and life chances, as an inherent dimension of poverty reduction and sustainable economic growth.
- A holistic range of connected interventions must complement legislative reform. This should include: resource allocation, social policies, support services, safety nets and enforcement measures. Realising gender equality and human rights in the wide sense goes beyond putting in place social policies on poverty reduction, education and health and investing in these sectors. The new ideology of a rights based approach to development work and programming clarifies that economic achievements must be combined with human rights and gender analysis of laws and practice in order to realize the full complement of rights for women and children.
- Ensure that specific and adequate financial and other allocations are provided in the annual budgets and systematically disbursed to all ministries and agencies to implement national and ministry commitments to women.
- Ensure that new donor projects explicitly identify how each project will address gender disparities.
- Ensure that a specific and sufficient budget is allocated in each project to implement these measures.
- UN agencies must support the notion of universality and the indivisibility of human rights and assist treaty bodies in their efforts to review and urge the withdrawal of reservations.

Reporting Mechanisms Under Treaty Bodies

- The work of treaty bodies including the treaty bodies of CRC and CEDAW must be incorporated into human rights based programmes.
- Reporting mechanisms under human rights treaties are powerful tools to monitor and evaluate human rights programming. A participatory approach to monitoring human rights programming should be encouraged.

Strengthening the Courts and the Judiciary

- Domestic courts can be a powerful catalyst for enforcing claims of rights holders, and promoting accountability on the part of duty bearers. Efforts should be made to promote public interest litigation on behalf of women and children.

Human Rights Programming

- Economic, social and cultural rights must be integrated into international human rights programming at the domestic level. These programmes must address economic, social and cultural rights that can successfully challenge cultural relativist ideas which undermine gender equality and children's rights. Holistic achievements in economic growth and reduction of poverty cannot be achieved unless social policies and social investment are especially targeted to women and children.
- Human rights based programming must be multi-pronged and go beyond mere delivery of services to the poor and disadvantaged. It requires facilitating the elimination of discrimination and disparities. Gender analysis of budgets and equitable allocation of resources is important for the realization of economic, social and cultural as well as civil and political rights.
- International financial institutions must be made partners with U. N. agencies in realizing the rights agenda and States Parties must be encouraged to stand by their human rights commitments to women and children in negotiations with these institutions. They should take advantage of G8 meetings, WTO Summits and UN sponsored summits and events such as International Day for Poverty Eradication, engaging the Bretton Woods institutions in a coordinated campaign of global advocacy and political mobilization in support of gender-centred anti-poverty strategies through, for example, a joint initiative of the Secretary General with the President of the World Bank and the Managing Director of the IMF.
- Human rights education, community participation and participatory and consultative approaches must be built into programming. UN agencies must support both States Parties as duty bearers and civil society as rights holders in the realization of human rights on the ground. Community participation requires the participation of women and children in decision making.

During Armed Conflict

- Securing the rights of women and children in situations of armed conflict represent a special challenge. Programming which ensures the rights of women and children in armed conflict must address the difficult issues of gender-based violence and discrimination, and the realization of economic, social and cultural rights. In a rights-based approach, humanitarian laws and standards must stand side by side with the delivery of services. These programmes must also encourage and facilitate women's and youth participation in conflict management, conflict resolution, reintegration, development and transitional justice.

Conclusion

This paper seeks to advance the need to understand the international human rights framework in broader terms, particularly in respect to how women's rights and children's rights are necessarily linked. A critical feature of the CEDAW and CRC conventions is that they promote the rights of girls and women throughout the life cycle, from protection at birth, through childhood, motherhood and beyond. This linkage is clearly shown by the number of infant deaths attributable to the poor health and nutrition of the mother during pregnancy and post partum. On the other hand, son preference in many cultures often leads to female infanticide and poor care of the female infant. The cycle of discrimination against women starts off as discrimination against the girl child while discrimination and violence against women often spill over as violence and discrimination against children.

The paper also seeks to operationalize a rights perspective which pays attention to inequality and discrimination which are the underlying causes of children's and women's disadvantaged positions. Mainstreaming human rights into developmental work ensures that data is disaggregated by sex and ethnicity and making sure that women and children are visible in budgets to the "maximum extent of available resources" as required by the CRC. Further, the paper uses gender analysis as a means of identifying violations and obstacles to the realization of rights that might otherwise remain unacknowledged. Gender analysis then becomes an effective tool to map conditions that result in gender discrimination.

Finally, the paper seeks to integrate civil and political rights with economic, social, and cultural rights and explores the normative synergy between CRC and CEDAW at all levels. Indivisibility also requires that we look at the failure of "neutral" human rights norms to recognize and guarantee the rights of women and the girl child.

"Gender equality is a necessary condition for sound human development."

-Mahbul Ul Haq in Human Development in South Asia

